

**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)

**DISCLOSURE STATEMENT IN SUPPORT OF JOINT PLAN OF  
REORGANIZATION PROPOSED BY THE COMMITTEE AND THE DEBTORS**

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Dated: November 2, 2022

<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.



**DISCLAIMER**

**IF YOU ARE ENTITLED TO VOTE TO APPROVE THE PLAN, YOU WILL RECEIVE A BALLOT WITH YOUR COPY OF THIS DISCLOSURE STATEMENT. THE DEBTORS AND THE COMMITTEE URGE YOU TO VOTE TO ACCEPT THE PLAN.**

**EACH HOLDER OF A CLAIM AGAINST OR INTEREST IN THE DEBTORS ENTITLED TO VOTE TO ACCEPT OR REJECT THE PLAN SHOULD READ THIS DISCLOSURE STATEMENT AND THE PLAN IN THEIR ENTIRETY BEFORE VOTING. NO SOLICITATION OF VOTES TO ACCEPT OR REJECT THE PLAN MAY BE MADE EXCEPT PURSUANT TO THIS DISCLOSURE STATEMENT AND BANKRUPTCY CODE SECTION 1125. NO HOLDER OF A CLAIM SHOULD RELY ON ANY INFORMATION RELATING TO THE DEBTORS, THE DEBTORS' PROPERTY, OR THE PLAN OTHER THAN THAT CONTAINED IN THIS DISCLOSURE STATEMENT AND THE ATTACHED EXHIBITS.**

**THIS DISCLOSURE STATEMENT CONTAINS A SUMMARY OF CERTAIN PROVISIONS OF THE PLAN. ALTHOUGH THE DEBTORS AND THE COMMITTEE BELIEVE AND HAVE MADE EVERY EFFORT TO ENSURE THAT THIS SUMMARY PROVIDES ADEQUATE INFORMATION WITH RESPECT TO THE PLAN, THE SUMMARY DOES NOT PURPORT TO BE COMPLETE AND IS QUALIFIED TO THE EXTENT IT DOES NOT SET FORTH THE ENTIRE TEXT OF THE PLAN. IF THERE IS ANY INCONSISTENCY BETWEEN THE PLAN AND THE SUMMARY OF THE PLAN CONTAINED IN THIS DISCLOSURE STATEMENT, THE PLAN SHALL CONTROL. ACCORDINGLY, EACH HOLDER OF A CLAIM SHOULD REVIEW THE PLAN IN ITS ENTIRETY.**

**THIS DISCLOSURE STATEMENT HAS BEEN PREPARED IN ACCORDANCE WITH BANKRUPTCY CODE SECTION 1125 AND BANKRUPTCY RULE 3016 AND NOT IN ACCORDANCE WITH FEDERAL OR STATE SECURITIES LAW OR OTHER APPLICABLE NONBANKRUPTCY LAW. PERSONS OR ENTITIES TRADING IN OR OTHERWISE PURCHASING, SELLING, OR TRANSFERRING CLAIMS AGAINST THE DEBTORS SHOULD EVALUATE THIS DISCLOSURE STATEMENT AND THE PLAN IN LIGHT OF THE PURPOSE FOR WHICH IT WAS PREPARED. THIS DISCLOSURE STATEMENT SHALL NOT BE CONSTRUED TO BE ADVICE ON THE TAX, SECURITIES, OR OTHER LEGAL EFFECTS OF THE REORGANIZATION OF THE DEBTORS AS TO HOLDERS OF CLAIMS AGAINST THE DEBTORS.**

**HOLDERS OF CLAIMS AND INTERESTS SHOULD NOT CONSTRUE THE CONTENTS OF THE DISCLOSURE STATEMENT AS PROVIDING ANY LEGAL, BUSINESS, FINANCIAL, OR TAX ADVICE. THEREFORE, EACH SUCH HOLDER SHOULD CONSULT WITH ITS OWN LEGAL, BUSINESS, FINANCIAL, AND TAX ADVISORS AS TO ANY SUCH MATTERS CONCERNING THE PLAN AND THE TRANSACTIONS CONTEMPLATED HEREBY.**

**THERE HAS BEEN NO INDEPENDENT AUDIT OF THE FINANCIAL INFORMATION CONTAINED IN THE DISCLOSURE STATEMENT EXCEPT AS**

**EXPRESSLY INDICATED HEREIN. THE DISCLOSURE STATEMENT WAS COMPILED FROM INFORMATION OBTAINED FROM NUMEROUS SOURCES BELIEVED TO BE ACCURATE TO THE BEST OF THE DEBTORS' AND THE COMMITTEE'S KNOWLEDGE, INFORMATION, AND BELIEF. NO GOVERNMENTAL AUTHORITY HAS PASSED ON, CONFIRMED, OR DETERMINED THE ACCURACY OR ADEQUACY OF THE INFORMATION CONTAINED HEREIN.**

**AS TO CONTESTED MATTERS, ADVERSARY PROCEEDINGS, AND OTHER ACTIONS OR THREATENED ACTIONS, THIS DISCLOSURE STATEMENT SHALL NOT CONSTITUTE OR BE CONSTRUED AS AN ADMISSION OF ANY FACT OR LIABILITY, STIPULATION, OR WAIVER, BUT RATHER AS THE DEBTORS' STATEMENT OF THE STATUS OF THE RESPECTIVE MATTER.**

**ALL OF THE PROJECTED RECOVERIES TO CREDITORS CONTAINED IN THIS DISCLOSURE STATEMENT ARE BASED UPON THE ANALYSES PERFORMED BY THE DEBTORS AND THE COMMITTEE AND THEIR PROFESSIONALS. ALTHOUGH THE DEBTORS AND THE COMMITTEE HAVE MADE EVERY EFFORT TO VERIFY THE ACCURACY OF THE INFORMATION PRESENTED HEREIN AND IN THE EXHIBITS ATTACHED HERETO, THE DEBTORS AND THE COMMITTEE CANNOT MAKE ANY REPRESENTATIONS OR WARRANTIES REGARDING THE ACCURACY OF THE INFORMATION.**

**THE DEBTORS AND THE COMMITTEE RECOMMEND THAT CREDITORS SUPPORT AND VOTE TO ACCEPT THE PLAN. IT IS THE OPINION OF THE DEBTORS AND THE COMMITTEE THAT THE TREATMENT OF CREDITORS UNDER THE PLAN CONTEMPLATES A GREATER RECOVERY THAN THAT WHICH IS LIKELY TO BE ACHIEVED UNDER OTHER ALTERNATIVES FOR THE REORGANIZATION OR LIQUIDATION OF THE DEBTORS. ACCORDINGLY, THE DEBTORS AND THE COMMITTEE BELIEVE THAT CONFIRMATION OF THE PLAN IS IN THE BEST INTERESTS OF CREDITORS.**

**EXHIBITS**

- Exhibit 1 Joint Plan of Reorganization Proposed by the Committee and the Debtors
- Exhibit 2 Liquidation Analysis
- Exhibit 3 Financial Projections

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## I. EXECUTIVE SUMMARY

This Executive Summary provides a general overview of this Disclosure Statement and the material terms of, and the transactions proposed by, the *Joint Plan of Reorganization Proposed by the Committee and the Debtors* [Docket No. 750] (as may be amended, supplemented, or otherwise modified from time to time, the “**Plan**”), dated November 2, 2022, which Northwest Senior Housing Corporation d/b/a Edgemere (“**Edgemere**”), Senior Quality Lifestyles Corporation (“**SQLC**” and together with Edgemere, the “**Debtors**”), and the Official Committee of Unsecured Creditors (the “**Committee**” and together with the Debtors, the “**Plan Proponents**”) are seeking to have confirmed by the Bankruptcy Court.<sup>2</sup> A copy of the Plan is attached hereto as Exhibit 1.<sup>3</sup> The Plan Proponents urge all parties to read this Executive Summary in conjunction with the remainder of this Disclosure Statement and the Plan. The rules of interpretation set forth in Section 1.B. of the Plan shall govern the interpretation of this Disclosure Statement.

### A. Introduction

Edgemere is a not-for-profit corporation that owns and operates a best-in-class continuing care retirement community (the “**Community**”) on land owned by the Landlord in Dallas, Texas.<sup>4</sup> Edgemere built the Community with construction substantially completed by December 2001. The Community offers residents a continuum of care in a campus-style setting, providing living accommodations and related health care and support services to persons aged 62 or older. The Community is currently home to 376 Residents.

As discussed in greater detail below, prior to the Petition Date, the Debtors have experienced liquidity constraints due to several factors. After the Petition Date, the Debtors, the Sponsor, and the Trustee worked toward a resolution, including a restructuring of the obligations under the Original Bonds, subject to certain milestones established by the Final DIP Order. In addition to negotiating a restructuring of the Original Bonds, securing additional support from the Sponsor, and obtaining new funds from certain of the holders of the Original Bonds, Edgemere zealously prosecuted the Landlord Litigation, which was a key component of negotiations between the Debtors and the Trustee. Indeed, the consummation of the refinancing transaction proposed in the Debtors’ Initial Plan (as defined below) was conditioned upon the occurrence of a Successful Outcome (as defined in the Initial Plan) with respect to the Landlord Litigation. Due to certain developments in these Chapter 11 Cases and the Landlord Litigation, the Debtors have negotiated a resolution that is no longer contingent on the Landlord Litigation, which the Plan Proponents propose to transfer to a litigation trust pursuant to the terms of the Plan.

The Plan Proponents believe the Plan, as amended, provides the Debtors with a long-term resolution of their financial distress so that the Debtors can, among other things, right size the Debtors’ balance sheet through the elimination of significant indebtedness under the Original

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<sup>2</sup> Capitalized terms used not defined herein shall have the meanings ascribed to them in the Plan.

<sup>3</sup> Copies of the Plan, the Disclosure Statement, and all other documents related to the Chapter 11 Cases are available for review without charge on the bankruptcy case website at <https://kccllc.net/edgemere>.

<sup>4</sup> SQLC is a legacy entity with no business operations but is an obligor under the Original Bonds, and thus, a member of the Obligated Group. Pursuant to Section 4.4 of the Plan, SQLC will be dissolved and will not be a Reorganized Debtor.

Bonds while continuing to fulfill Edgemere's charitable mission as a continuing care retirement community and honor its life care commitments to the Residents. As explained more fully below and as set forth in the Plan, the Debtors propose to (i) offer current Residents Replacement Residency Agreements, which are traditional life care agreements, to replace their existing Residency Agreements, which are refundable life care residency agreements; and (ii) refund each Resident forty percent (40%) of the amount of the initial Entrance Fee paid by the Resident, which reflects the approximate difference in Entrance Fee required for a traditional life care agreement and return of capital life care agreement.

Former Residents will also receive forty percent (40%) of initial Entrance Fees paid pursuant to the terms of the applicable Residency Agreements. Payments to current and former Residents will be made in two installments, with half paid on the Effective Date, or as soon as practicable thereafter, and the other half paid on the fifth anniversary of the Effective Date, or as soon as practicable thereafter. Significantly, these payments will be made to Residents as provided by the Plan, half on the Effective Date and half five (5) after the Effective Date, permitting Residents to obtain a partial recovery now rather than as provided under existing Residency Agreements.

## **B. Overview of Financial Challenges Precipitating the Chapter 11 Filings**

As discussed in greater detail herein, Edgemere historically relied on revenue generated by Residents to, among other things, maintain day-to-day operations, service debt obligations and pay Refund Obligations. However, as has become common in the senior living industry, and, in particular, among CCRCs, Edgemere faced challenges that have threatened the Debtors' ability to pay long-term debt obligations and maintain operational stability. To address certain of those issues, in June 2019, Lifespace Communities, Inc. (the "**Sponsor**") became the Debtors' new manager, pursuant to the Management Agreement, and, as such, immediately implemented initiatives to control operating costs and improve service quality. However, due to competitive market conditions in Dallas and surrounding areas, as well as other factors, Edgemere continued to face financial pressure. As a result, the Debtors defaulted on obligations under the Original Bonds. Additionally, the Debtors' financial distress has been further exacerbated by actions taken by the Landlord, which gave rise to Edgemere's claims asserted in the Landlord Litigation.

## **C. Proposed Refinancing Transaction**

Through the Plan, the Plan Proponents propose the following transactions (together, the "**Refinancing Transaction**"):

- Obtaining Sponsor Support consisting of a Sponsor Contribution of \$20,000,000 in Cash on the Effective Date, additional liquidity support from the Sponsor in the forms of a Liquidity Support Agreement in the unfunded amount of \$20,000,000 (the "**LSA**"), a Debt Service Support Agreement in the annual amount of \$9,000,000 for seven (7) years (the "**DSSA**"), and waived and deferred overhead allocation charges totaling approximately \$17,400,000;



- Entering into the Bond Transaction that includes the issuance of the 2023 Bonds that will provide approximately \$88,900,000 in new capital to the Reorganized Debtor; and
- Transferring Assets, including, without limitation, the Avoidance Actions and the Landlord Litigation, into the Litigation Trust on the Effective Date, or as soon as practicable thereafter, to be prosecuted and litigated for the benefit of holders of Allowed Claims in Classes 4, 5, 6, and 8.

The Refinancing Transaction described above is based on certain assumptions, including, without limitation, that Edgemere will assume the Lease, subject to the Bankruptcy Court's determination of the appropriate Cure amount, if any, and the timing of payment to the extent required by the Bankruptcy Court. Through substantial funding provided by the Sponsor and the issuance of 2023 Bonds, the Debtors will, among other things:

- satisfy the outstanding indebtedness under the Original Bonds, in full, with \$43,674,000 of the net proceeds of the issuance of the 2023 Bonds pursuant to the Plan;
- pay the Debtors' Chapter 11 exit costs, including Allowed DIP Facility Claims, Allowed Administrative Claims, and Allowed Professional Claims
- satisfy the Reorganized Debtor's ongoing capital expenditure needs in the approximate amount of \$42,081,000 while funding a reserve in the approximate amount of \$14,400,000 for future capital expenditures;
- make Distributions to holders of Allowed Unsecured Claims, including the Bond Deficiency Claims, Former Resident Claims, and Current Resident Claims; and
- meet go-forward operating expenses and debt service obligations. Moreover, the Plan permits Edgemere to continue to operate as a CCRC in perpetuity through the establishment of the Replacement Reserve that may be used only to fund the construction of a replacement campus for Edgemere.<sup>5</sup>

## 1. Sponsor Support

Subject to confirmation of the Plan, the Sponsor will provide the Sponsor Support, which includes:

### a. Effective Date Support.

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<sup>5</sup> The Plan proposes a distribution waterfall that provides for the payment of operating expenses and debt service, as well as funding certain reserves. After such use of revenues, any Excess Cash shall be deposited into the Replacement Reserve.

- 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>6</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

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<sup>6</sup> This estimation assumes an Effective Date of March 2023. 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.

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

## 2. Issuance of 2023 Bonds and Repayment and Cancellation of Original Bonds

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 cancelled 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, as set forth more fully below. 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.
- c. **2023 Bonds.** On the Effective Date, the Reorganized Debtor will cause the Issuer to issue the 2023 Bonds, the primary economic terms of which are set forth under Section 4.1.3 of the Plan. The new money bonds shall be comprised of the 2023 Bonds, which will raise approximately \$88,900,000 in new capital for the Debtors and the Reorganized Debtor. The outstanding Original Bonds in the aggregate principal amount of \$109,185,000 shall be repaid, in full satisfaction, with \$43,674,000 of the net proceeds of the issuance of the 2023 Bonds pursuant to the Plan.

## 3. Litigation Trust

For the sole and exclusive benefit of the Litigation Trust Beneficiaries, the Plan Proponents propose to create a Litigation Trust, which shall be governed by the Litigation Trust Agreement that will be submitted with the Plan Supplement.

#### **D. Entrance Fee Escrow**

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. The Entrance Fee Escrow funds will be used to satisfy Refund Obligations in accordance with Section 4.2.2 of the Plan.

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.

#### **E. Purpose of the Disclosure Statement**

The Plan Proponents prepared this Disclosure Statement in accordance with Bankruptcy Code section 1125 and Bankruptcy Rule 3016(c). It is being distributed to assist holders of Claims and Interests in evaluating the feasibility of the Plan, the manner in which Claims and Interests will be treated under the Plan, and whether the Plan satisfies the requirements for confirmation set forth under Bankruptcy Code section 1129. The purpose of this Disclosure Statement is to assist those entitled to vote on the Plan to make an informed judgment when choosing whether to accept or reject the Plan.

This Disclosure Statement describes the background of the Debtors and the significant events leading up to the filing of their Chapter 11 Cases on the Petition Date. It also summarizes the Plan, which divides Claims and Interests into Classes and provides for the treatment of Allowed Claims.

**THE BANKRUPTCY COURT'S APPROVAL OF THIS DISCLOSURE STATEMENT DOES NOT CONSTITUTE A DETERMINATION WITH RESPECT TO THE MERITS OF THE PLAN. ALL CREDITORS ARE ENCOURAGED TO READ THIS DISCLOSURE STATEMENT AND ITS EXHIBITS CAREFULLY AND IN THEIR ENTIRETY BEFORE DECIDING TO VOTE TO ACCEPT OR REJECT THE PLAN.**

The summary of the Plan provided herein is qualified in its entirety by reference to the Plan. To the extent that the information provided in this Disclosure Statement and the Plan (including any Plan Supplements) conflict, the terms of the Plan (including any Plan Supplements) will control.

## **F. The Solicitation Package**

Following the filing hereof but not later than November 6, 2022, the Plan Proponents will file a motion to request entry of an order approving, among other things, solicitation procedures with respect to the Plan and any competing plan that is filed on November 2, 2022, pursuant to the Bankruptcy Court's ruling authorizing each of the Trustee, the Debtors, and Lifespace to propose a Chapter 11 plan, with the Committee supporting one of the plans as a plan proponent. *See* Docket Nos. 705 and 738.

With respect to the Plan, only record holders of Claims in Classes 2, 4, 5, 6, and 8 (collectively, the "**Voting Classes**") are entitled to vote to accept or reject the Plan. Holders of Claims in Voting Classes will receive a solicitation package that will include the following materials (collectively, the "**Solicitation Materials**"):

- a Ballot, which will include voting instructions, a postage-prepaid return envelope, and the opportunity to opt out of third-party releases and other provisions set forth under Section 8 of the Plan;
- a copy of this Disclosure Statement with all exhibits, including the Plan, and any other supplements or amendments to these documents, and the Disclosure Statement Order, excluding exhibits;
- a copy of the Confirmation Hearing Notice; and
- any supplemental documents filed with the Bankruptcy Court and any documents that the Bankruptcy Court orders to be included in the Solicitation Materials, including any letters in support of the Plan.

Subject to approval of the Bankruptcy Court, in lieu of the foregoing Solicitation Materials, the Plan Proponents intend to distribute the following materials to holders who are not in Voting Classes:

- a form of non-voting status;
- a form permitting holders to opt out of third-party releases and other provisions set forth under Section 8 of the Plan; and
- a copy of the Confirmation Hearing Notice.

## **G. The Plan.**

### **1. Purpose and Effect of the Plan**

Chapter 11 of the Bankruptcy Code allows debtors to reorganize or to liquidate and wind up their affairs for the benefit of the debtors and their creditors. Upon the commencement of a Chapter 11 case, an estate is created comprised of all the legal and equitable interests of a debtor as of the date the petition is filed, which typically remain in control of the debtor as a debtor-in-possession.

Pursuant to Bankruptcy Code section 362, the filing of a Chapter 11 petition imposes an automatic stay of all attempts by creditors or third parties to collect or enforce prepetition claims against a debtor or otherwise interfere with its property or business, unless relief from the automatic stay is obtained from the bankruptcy court.

The Bankruptcy Code is designed to encourage the parties-in-interest in a Chapter 11 proceeding to negotiate the terms of a chapter 11 plan so that it may be confirmed. A Chapter 11 plan is the vehicle for satisfying or otherwise addressing the claims against and the interests in the debtor. Confirmation of a Chapter 11 plan makes it binding on the debtor and all of its creditors and the prior obligations owed by the debtor to such parties are compromised in exchange for the obligations specified in the plan.

## **2. Feasibility of the Plan.**

To establish the feasibility of the Plan for purposes of Bankruptcy Code section 1129(a)(11), the Debtors and their management team and advisors, have developed financial projections (the “**Financial Projections**”) that are attached hereto as Exhibit 4. The Financial Projections set forth the projected financial performance of the Reorganized Debtor over a defined period of time based upon a number of assumptions and factors.

## **3. Analysis of Recoveries to Holders of Claims and Interests under the Plan and Recommendation of the Plan Proponents**

The Plan provides for a comprehensive restructuring of the Debtors’ obligations under the Original Bonds.

After a careful review of current operations and liquidity, prospects as an ongoing business, and estimated recoveries to creditors in an alternative (i.e., sale) scenario, the Plan Proponents have concluded that the Estates will maximize recoveries for stakeholders by reorganizing as a going concern through the Refinancing Transaction embodied in the Plan. The Plan Proponents believe that any alternative to confirmation of the Plan, such as liquidation, a partial sale of assets, or a sale of all or substantially all of the Debtors’ Assets, would result in materially lower recoveries for stakeholders, significant delays, protracted litigation, and greater administrative costs. For these reasons, the Plan Proponents believe that Edgemere’s business and Assets have significant value that would not be realized in a forced sale or, liquidation, either in whole or in substantial part, or alternative use and that the value of the Estates is considerably greater as a going concern.

As set forth more fully below, the Plan Proponents believe that the Plan provides the best recoveries possible for the Debtors’ stakeholders and recommend that, if you are entitled to vote, you vote to accept the Plan.

**4. Classification and Treatment of Claims and Interests Under the Plan**

Section 3 of the Plan describes the Classes of Claims and Interests and their treatment under the Plan, which is summarized herein. Allowed Claims (other than Administrative Claims, Professional Claims, Priority Tax Claims, DIP Facility Claims, and U.S. Trustee Fees) are placed in the following Classes and will receive the following treatment under the Plan:

*Summary of Classification and Treatment of Claims Under the Plan*

<b>Class</b>	<b>Claim</b>	<b>Estimated Allowed Claims</b>	<b>Status</b>	<b>Voting Rights</b>
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>7</sup>	Impaired	Entitled to Vote
9	Interests in Debtors	N/A	Unimpaired	Deemed to Accept

**5. Summary of Voting Requirements for Plan Confirmation.**

**a. In General.**

Creditors should refer only to this Disclosure Statement and the Plan to determine whether to vote to accept or reject the Plan. Under the Bankruptcy Code, only holders of Claims that are “impaired” are entitled to vote to accept or reject the Plan. Under Bankruptcy Code section 1124 of the, a class of claims or interests is deemed to be “impaired” unless (1) the plan leaves unaltered the legal, equitable and contractual rights to which such claim or interest entitles the holder thereof; or (2) notwithstanding any legal right to an accelerated payment of such claim or interest, the plan, among other things, cures all existing defaults (other than defaults resulting from the occurrence of events of bankruptcy) and reinstates the maturity of such claim or interest as it existed before the default. An Impaired class of creditors votes to accept a plan if the holders of at least two-thirds (2/3) in dollar amount, and more than one-half (1/2) in number, of those creditors that actually cast

<sup>7</sup> Amounts relating to Resident and/or Rejection Damages Claims are not included in this estimated total.

ballots vote to accept such plan. *See* 11 U.S.C. § 1124. Classes that are not Impaired are not entitled to vote and are deemed to accept a plan. Classes that are not entitled to a Distribution and will not retain property under a plan are deemed to reject a plan.

A class of interest holders is deemed to accept a plan if the holders of at least two-thirds (2/3) in amount of those interest holders that actually cast ballots vote to accept such plan. A class of interest holders is Impaired, not entitled to vote, and deemed to reject the plan if the plan treats such holders by providing that they will retain no property and receive no distributions under the plan.

Pursuant to the Bankruptcy Code, only holders of Claims and Interests who *actually* vote on the Plan will be counted for purposes of determining whether the required number of acceptances have been obtained. Failure to deliver a properly completed Ballot to the Voting Agent by the Voting Deadline will result in an abstention, which means such vote will not be counted.

#### **6. Impaired Classes Entitled to Vote.**

Holders of Claims in Classes 4, 5, 6, 7 and 8 are Impaired; however, holders of Class 7 Claims (Intercompany Claims) are affiliated with the Debtors and, thus, are not entitled to vote. Accordingly, only holders of Claims in Classes 4, 5, 6, and 8 are entitled to vote to accept or reject the Plan.

#### **7. Unimpaired Classes Deemed to Accept the Plan.**

The holders of Claims in Classes 1, 2, and 3 and holders of Interests in Class 9 are Unimpaired under the Plan and, thus, such holders are not entitled to vote as such Classes are deemed to accept the Plan.

#### **8. Voting Deadline.**

The Voting Agent will assist the Plan Proponents with the transmission of the Solicitation Materials and the tabulation of votes with respect to the Plan. Holders of Claims classified in voting Classes will have the right to vote to accept or reject the Plan. To be counted, votes *must* be submitted in accordance with the voting instructions, which require such votes to be made in writing and prior to January 3, 2023 at 4:00 p.m. (prevailing Central Time) (the “**Voting Deadline**”). The record date for determining which holders may vote on the Plan is November 30, 2022 (the “**Voting Record Date**”).

#### **9. Voting Instructions.**

Bankruptcy Code section 1126(c) defines “acceptance” of a plan by a class of claims as acceptance by creditors in that class that hold at least two-thirds in dollar amount and more than one-half in number of the allowed claims in that class, counting only those claims that actually vote to accept or to reject such plan. *See* 11 U.S.C. § 1126(c).

As stated above, to be counted as votes to accept or reject the Plan, all Ballots must be properly executed, completed, and timely delivered by the Voting Deadline.



Most holders of Claims related to the Original Bonds will submit votes by completing a Ballot and returning it to their specified bank, broker, nominee or other intermediary (a “**Nominee**”). Each Nominee may provide specific instructions to beneficial holders of Bond Claims related with respect to how to complete and submit a Ballot. Such holders will be instructed to return their Ballot to the Nominee to enable the Nominee to complete and submit a master Ballot to the Voting Agent so that it is received by the Voting Deadline. Beneficial holders of Claims related to the Original Bonds should carefully follow the instructions that accompany their Ballot to ensure that it is properly received by the Nominee with sufficient time for the Nominee to complete a master Ballot that can be delivered to the Voting Agent by the Voting Deadline. Voting instructions are more fully described in the Ballots.

Unless otherwise directed by the Bankruptcy Court, all questions as to the validity, form, eligibility (including time of receipt), acceptance, revocation, or withdrawal of Ballots will be determined by the Debtors in their sole discretion, and such determination will be final and binding unless otherwise ordered by the Bankruptcy Court. Once a party delivers a valid Ballot for the acceptance or rejection of the Plan, such party may not withdraw or revoke such acceptance or rejection without the Debtors’ written consent or an order of the Bankruptcy Court. The Debtors also reserve the right to reject any and all Ballots not in proper form, if the acceptance of which would, in the opinion of the Debtors with the advice of its counsel, be unlawful.

The Debtors further reserve the right to waive any defects or irregularities or conditions of delivery as to any particular Ballot. The interpretation (including the Ballot and the respective instructions therein) by the Debtors, unless otherwise directed by the Bankruptcy Court, will be final and binding on all parties. Unless waived, any defects or irregularities in connection with deliveries of Ballots must be cured within such time as the Debtors (or the Bankruptcy Court) determines. Neither the Debtors nor any other person will be under any duty to provide notification of defects or irregularities with respect to deliveries of Ballots nor will any of them incur any liabilities for failure to provide such notification. Unless otherwise directed by the Bankruptcy Court, delivery of such Ballots will not be deemed to have been made until such irregularities are cured or waived. Ballots previously furnished (and as to which any irregularities have not theretofore been cured or waived) will be invalidated.

If a holder of a Claim casts more than one Ballot with respect to the same Claim prior to the Voting Deadline, the last valid Ballot timely received shall be deemed to reflect the voter’s intent and shall supersede and revoke any earlier received Ballot. If a holder of a Claim simultaneously casts inconsistent duplicate Ballots with respect to the same Claim, such Ballots shall not be counted.

## **10. Additional Information.**

KCC, as Voting Agent, will assist with the solicitation of the Plan and any competing plan that is filed in these Cases. Although the Bankruptcy Court has not yet entered an order establishing solicitation procedures with respect to the Plan and any competing plan to be filed, KCC will address any questions relating to the solicitation process. Specifically, if you have any questions about (i) the procedure for voting with respect to your Claim, (ii) Solicitation Materials or non-voting status materials distributed in lieu thereof, or (iii) obtaining or replacing a Ballot, the Plan, this Disclosure Statement, or any exhibits to such documents, please contact the Voting Agent by

(a) calling (866) 967-0269 (toll free) or +1 (310) 751-2669 (international); (b) writing to Northwest Senior Housing Corporation Solicitation, c/o Kurtzman Carson Consultants LLC, 222 N. Pacific Coast Highway, Suite 300, El Segundo, CA 90245; or (c) emailing at [EdgemereInfo@kccllc.com](mailto:EdgemereInfo@kccllc.com) with a reference to “Edgemere” in the subject line.

## **11. The Confirmation Hearing**

The Bankruptcy Court has scheduled a hearing to consider confirmation of the Plan (the “**Confirmation Hearing**”), which shall be conducted on **January 10, 2023 at 9:30 a.m.** (prevailing Central Time). Following the filing of this Disclosure Statement, no later than November 6, 2022, the Debtors will file a motion requesting entry of an order approving this Disclosure Statement and proposed solicitation procedures, including, without limitation, approval, in form and substance, of the Plan Proponents’ proposed notice of Confirmation Hearing. Subject to the Bankruptcy Court’s approval, the Plan Proponents will provide such notice to all necessary parties in accordance with applicable law.

The Confirmation Hearing may be continued from time to time without further notice other than an adjournment announced in open court or a notice of adjournment filed with the Bankruptcy Court and served on any master service list ordered by the Bankruptcy Court and any entities which filed objections to the Plan, without further notice to parties in interest. The Bankruptcy Court, in its discretion and prior to the Confirmation Hearing, may put in place additional procedures governing the Confirmation Hearing. The Plan may be modified, if necessary, prior to, during, or as a result of the Confirmation Hearing, without further notice to parties in interest.

## **12. Effect of Confirmation and Consummation of the Plan.**

Following Confirmation, subject to the occurrences of certain conditions precedent set forth under Section 9 of the Plan, the Plan will be consummated on the Effective Date. Among other things, on the Effective Date, certain release, injunction, exculpation and discharge provisions set forth in Section 8 of the Plan will become effective and will bind any parties that do not affirmatively elect to opt out by submitting opt out forms. As such, it is important to read the provisions contained in Section 8 of the Plan very carefully so that you understand how confirmation and consummation of the Plan will affect you and any Claim you may hold against the Debtors. **Regardless of whether you are entitled to vote on the Plan, if you do *not* wish to be a “Releasing Party” as defined in the Plan and/or you do *not* wish to be bound by the releases, injunctions, and exculpation provisions under Section 8 of the Plan, you *MUST* affirmatively take action and elect to opt-out by filling out and timely submitting an “OPT-OUT FORM” with the opt-out box clearly checked.**

Following the Effective Date, the Original Bonds will be cancelled, and in return, holders of the Original Bonds will receive Distributions contemplated in the Plan. Additionally, following the Effective Date, the 2023 Bond Documents and the governing documents related to the 2023 Bonds shall constitute legal, valid, binding, and authorized obligations of the Reorganized Debtor.

## **II. BACKGROUND INFORMATION**

### **A. Overview of Edgemere’s Business.**

Edgemere is an upscale and well-established CCRC that offers senior residents a continuum of care in a luxury campus-style setting, providing living accommodations and related health care and support services to a target market of seniors aged sixty-two (62) and older. Edgemere consists of approximately 304 independent living (“**IL**”) apartment-style residences in one, two and three-bedroom configurations. Edgemere also houses 68 residential-style assisted living (“**AL**”) suites, 45 memory support (“**MS**”) assisted living suites and a skilled nursing Community (“**SNF**”) with 87 skilled nursing beds, all located on a 16.25 acre campus. As of October 19, 2022, 219 IL units were occupied (72.04% occupancy), 39 AL units were occupied (57.35% occupancy), 21 MS units occupied (46.67% occupancy), and 54 SNF units were occupied (62.07% occupancy). As stated above, as of the date of the filing of this Disclosure Statement, the Community is home to 376 Residents.

As is common practice in the CCRC industry, Edgemere primarily receives revenue from Entrance Fee Deposits and monthly service fees. Historically, the Residents have been required to enter into Residency Agreements to move into the Community. As of the Petition Date, Edgemere offered the following types of Residency Agreements: Life Care Agreements, Assisted Living Residency Agreements, and SNF Residency Agreements. Organizational Structure of the Debtors.

## **1. Corporate Governance.**

The Debtors are governed by their respective Boards of Directors that are elected by the Sponsor, the sole corporate member of the Debtors and a non-profit corporation chartered under the laws of the State of Iowa, a tax-exempt organization under section 501(c)(3) of the Internal Revenue Code of 1986, as amended (the “**IRC**”).

## **2. Management by Sponsor.**

Pursuant to the Management Agreement, the Sponsor serves as the exclusive manager of the day-to-day operations of Edgemere. The services provided by the Sponsor include: (a) determining operating policies, procedures, and standards; (b) developing advertising, marketing, and sales plan, (c) establishing food and beverage policies; (d) establishing all employment policies, including wage and salary terms, benefits, retirement plan, and bonuses; (e) hiring, promoting, supervising, directing, training, transferring, and discharging all of Edgemere’s employees; (f) negotiating and consummating such agreements as the Sponsor deems necessary or advisable for furnishing all utilities, services, supplies, food, beverages, equipment, and other materials and supplies for the maintenance and operation of the Community; (g) establishing such bank accounts as needed for operation and maintenance of the Community according to GAAP; (h) developing an annual business plan and an annual budget, specifically including, but not limited to, (i) capital improvements, (ii) furniture, fixtures, and equipment, (iii) employee compensation and taxes, (iv) Community operating costs and administrative expenses, (v) taxes, insurance, bonds, and other expenses, (vi) revenues, and (vii) fees, rates, and other costs and charges to Residents; (j) managing and overseeing the Community’s investment portfolio, if any, through an investment advisor selected by the Sponsor; (k) providing cash management, accounting, bookkeeping and record keeping software and services for the Community, specifically including, but not limited to (i) Resident billings, (ii) accounts payable, (iii) accounts receivable, and (iv) general ledger records; (l) risk management and compliance services; and (m) other services as may be required by the Community and mutually agreed to by

the parties to the Management Agreement from time to time in connection with the operation of the Community's business.

Pursuant to the Management Agreement, Edgemere pays to the Sponsor the Sponsor Fee, also commonly referred to as a "Corporate Overhead Fee", as compensation for the foregoing listed services, as set forth in the Management Agreement. The Sponsor has deferred its right to collect the Sponsor Fee that has accrued since the Petition Date during these Chapter 11 Cases in the approximate amount of \$1,179,564.84 and has agreed to waive Sponsor Fees totaling approximately \$17,400,000 that will accrue after the Effective Date and be otherwise payable pursuant to the Management Agreement.

### **3. CCRC Regulators.**

The CCRC industry nationwide is regulated by various state and federal agencies. Each state has a different regulatory scheme governing CCRCs. As a Medicare-certified CCRC operating in the State of Texas, Edgemere is regulated by, among others, the Centers for Medicare and Medicaid Services, Texas Health and Human Services, the Texas Department of Insurance.

## **B. Prepetition Capital Structure.**

As of April 14, 2022, on a book value basis, Edgemere had approximately \$15,970,551 in Assets consisting of approximately: (i) \$796,262 in Cash and Cash equivalents; (ii) \$284,388 in prepayments and deposits; (iii) \$1,270,849 in accounts receivable; (iv) \$503,151 in investments, (v) \$84,106 in inventory or supplies; (vi) \$1,569,198 in furniture and fixtures; (vii) \$10,823,611 in intangibles, including Residency Agreements; and (viii) \$638,986 of other Assets.<sup>8</sup>

As of April 14, 2022, Edgemere had approximately \$268,000,000 of liabilities, which consisted of approximately: (i) \$1,321,000 of trade accounts payable; (ii) \$1,500,000 of non-contingent Resident Refund Obligations; (iii) \$158,000,000 of Entrance Fee refund liabilities (including contingent and untriggered liabilities); (iv) \$109,185,000 of principal indebtedness under the Original Bonds; and (v) \$5,351,798.91 of liabilities to non-debtor Affiliates.

### **1. Original Bond Obligations.**

The development of the Community was financed through the issuance of bonds. At the request of Edgemere and pursuant to that certain Indenture of Trust, dated May 1, 2015 (the "**2015 Bond Indenture**"), between the Tarrant County Cultural Education Facilities Finance Corporation (the "**Issuer**") and the Bank of New York Mellon Trust Company, National Association, as initial bond trustee, the Issuer authorized and issued the Retirement Community Revenue Bonds (Northwest Senior Housing Corporation – Edgemere Project) consisting of: (a) Series 2015A bonds in the original aggregate principal amount of \$53,600,000 (the "**Series 2015A Bonds**"); and (b) Series 2015B bonds in the original aggregate principal amount of \$40,590,000 (the "**Series 2015B Bonds**") and together with the Series 2015A Bonds, the "**Series 2015 Bonds**").

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<sup>8</sup> For the avoidance of doubt, the value of the Community, including the building and all improvements, is not included or reflected herein.

Contemporaneously with the issuance of the Series 2015 Bonds, the Issuer loaned the proceeds of the Series 2015 Bonds to Edgemere, pursuant to a Loan Agreement between Edgemere and the Issuer (the “**2015 Loan Agreement**”), for the purpose of financing and refinancing certain costs relating to the Community, including (a) the refunding of all of the Issuer’s Retirement Community Revenue Bonds (Northwest Senior Housing Corporation – Edgemere Project) Series 2006B, (b) refunding of a portion of the Issuer’s Retirement Community Revenue Bonds (Northwest Senior Housing Corporation – Edgemere Project) Series 2006A, (c) funding a portion of interest during construction, (d) funding debt service reserve funds, and (e) paying a portion of the cost of the issuances.

At the request of Edgemere and pursuant to that certain Indenture of Trust, dated March 1, 2017 (the “**2017 Bond Indenture**”), between the Issuer and the Bank of New York Mellon Trust Company, National Association, as initial bond trustee, the Issuer authorized and issued the Retirement Community Revenue Bonds (Northwest Senior Housing Corporation – Edgemere Project) consisting of Series 2017 bonds in the original aggregate principal amount of \$21,685,000 (the “**Series 2017 Bonds**” and together with the Series 2015 Bonds, the “**Original Bonds**”).

Contemporaneously with the issuance of the Series 2017 Bonds, the Issuer loaned the proceeds of the Series 2017 Bonds to Edgemere, pursuant to a Loan Agreement between Edgemere and the Issuer (the “**2017 Loan Agreement**”), for the purpose of financing and refinancing certain costs relating to the Community, including (a) the refunding of all of the Issuer’s Retirement Community Revenue Bonds (Northwest Senior Housing Corporation – Edgemere Project) Series 2006A, (b) funding debt service reserve fund, and (c) paying a portion of the cost of the issuance.

Prior to the Petition Date, Edgemere defaulted under the Original Bond Documents by, among other things, failing to meet the Historical Debt Service Coverage Ratio covenant in 2019 and 2020. Failing to satisfy this covenant for two consecutive fiscal years constitutes an event of default under the Original Bond Documents. Additionally, to preserve liquidity, Edgemere ceased making payments on its obligations under the Original Bonds in October 2021.

As noted above, as of the Petition Date, the outstanding principal amount owed by the Obligated Group on account of the Original Bonds under the Original Bond Documents (as defined in the Plan) is approximately \$109,185,000.

### III. EVENTS LEADING TO THE CHAPTER 11 CASES

The Debtors rely on revenue generated by Residents to, among other things, maintain day-to-day operations, service debt obligations and honor Refund Obligations. However, like other communities and facilities in the senior living industry, especially CCRCs, for years Edgemere has faced challenges that have threatened its ability to honor long-term debt obligations and maintain operational stability, including optimal occupancy levels.

In June 2019, the Sponsor, a non-profit owner and operator of a nationwide portfolio of CCRCs became the new sole member and manager of the Edgemere.<sup>9</sup> The Sponsor immediately

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<sup>9</sup> Debtor SQLC, a member of the Obligated Group, is not an owner or operator of the Community or a party to the Lease.

took steps to revitalize and improve the Community only to then be tasked with navigating uncharted waters of the COVID-19 pandemic, which severely disrupted the senior living industry, especially because older adults are particularly vulnerable to the effects of COVID-19. To protect Edgemere's Residents, Edgemere incurred significant, additional costs, including those necessary to retain qualified staff and purchase additional personal protective equipment. In addition to draining Edgemere's cash, the pandemic caused occupancy rates to drop. In response, Edgemere engaged professionals, including prior restructuring counsel, who retained consultants, including FTI Consulting, Inc. ("**FTI**"), to assist with efforts to stabilize Edgemere's operations and financial circumstances. Since February 2021, FTI has worked with Edgemere to evaluate the Debtors' capital structure, including significant liabilities, and strategic options. With the assistance of their advisors, including FTI, the Debtors determined that taking steps toward accomplishing a restructuring and reduction of their obligations under the Original Bonds and the Lease would help to stabilize the Debtors' finances. With respect to the Lease, Edgemere discovered numerous problems with the Lease, including that the Lease provides for a contractual monthly rent amount that is significantly above market.

In addition to negotiating with the Trustee and the Landlord toward a restructuring of the debt under the Original Bonds and the Lease, Edgemere implemented an escrow structure to allow the Community to continue marketing while providing assurance to new Residents who choose to enter into an Entrance Fee Residency Agreement that their deposits and Entrance Fees would be protected while Edgemere pursued a financial restructuring. As of September 27, 2021, any new Entrance Fees received were deposited into an escrow account pursuant to Escrow Agreement Addendums and the associated Escrow Agreements. This change is typical among distressed "entrance fee model" CCRCs as a safeguard to protect new Resident deposits and Entrance Fees and encourage and promote new sales.

As a result of the Sponsor's efforts, by the fourth quarter of 2021, Edgemere's sales performance had improved significantly in comparison to the fourth quarter of 2020 and Edgemere was poised to experience continued improvement in sales in 2022. Nevertheless, liquidity constraints persisted, in part, because deposits and Entrance Fees received on or after September 27, 2021 were paid into escrow and, thus, not available to cover operating expenses.

In September 2021, Edgemere did not make the monthly rent payment to the Landlord. Following the Lease default, the parties agreed to commence negotiations regarding a potential Lease restructuring. To evaluate such a restructuring, the Landlord requested that Edgemere provide confidential information that Edgemere was only willing to provide pursuant to a nondisclosure agreement. The parties entered into that certain Confidentiality and Non-Disclosure Agreement, dated September 7, 2021 (the "**NDA**") and agreeing, among other things, to refrain from using Edgemere's confidential information except to the extent necessary to evaluate a potential restructuring of the Lease (or obligations under the Original Bonds) and as otherwise expressly set forth therein.

With the executed NDA in place, over the next several months, Edgemere, the Sponsor, the Trustee, and the Landlord engaged in discussions regarding the Original Bonds and the Lease, with the aim of reaching a global restructuring that would permit the Community to stabilize and continue its mission while also satisfying obligations to the Landlord and the Trustee. Throughout this negotiation process, in reliance on the NDA, Edgemere shared a substantial volume of highly

confidential and proprietary information about Edgemere with the Landlord. Edgemere, the Sponsor, the Trustee, and the Landlord also negotiated a forbearance agreement to facilitate the restructuring discussions. This forbearance agreement required, among other things, that Edgemere would provide a Lease restructuring term sheet to the Landlord and, in turn, the Landlord would provide substantive responses thereto. Edgemere complied by providing the contemplated term sheet; the Landlord did not respond. After the Landlord received the monetary benefits under the forbearance agreement and obtained Edgemere's confidential information, subject to the NDA, the Landlord repudiated the forbearance agreement and refused to provide a substantive response to the term sheet.

Additionally, as alleged in the Complaint commencing the Landlord Litigation, the Landlord, directly or through its financial consultant, Kong Capital, LLC ("**Kong**"), improperly disclosed and otherwise used Edgemere's confidential information in violation of the NDA, including causing the Dallas Morning News to write and publish negative news articles about Edgemere based on confidential information inappropriately provided by the Landlord and/or Kong. Immediately after the first DMN article was published, inquiries from prospective residents completely ceased. As a result, the Debtors filed these Chapter 11 Cases with the support of the Trustee and the Sponsor.

#### **IV. THE CHAPTER 11 CASES**

##### **A. First Day Pleadings.**

On the Petition Date, the Debtors commenced the Chapter 11 Cases by Filing voluntary petitions for relief under Chapter 11 of the Bankruptcy Code. In conjunction therewith, the Debtors filed certain "first day motions" to preserve relationships with Residents, vendors, and employees. Among other things, the Debtors requested that the Bankruptcy Court enter orders: (i) protecting Resident and patient confidentiality; (ii) authorizing the Debtors to continue their cash management system, including intercompany accounting protocol and procedure; (iii) permitting the Debtors to pay employees on account of prepetition work and services rendered and to continue benefit and compensation programs throughout the Chapter 11 Cases; (iv) prohibiting utility companies from discontinuing services; (v) allowing the Debtors to continue to escrow Entrance Fees and maintain Resident refund programs; (vi) pay prepetition taxes and fees; and (vii) maintain insurance policies and pay related obligations. *See* Docket Nos. 10, 11, 15, 17, 18, 19, and 20. These motions were supported by the *Declaration of Nick Harshfield in Support of Chapter 11 Petition and First Day Pleadings* [Docket No. 7].

The Bankruptcy Court conducted hearings and entered interim and Final Orders with respect to each of the first day motions. *See* Docket Nos. 93, 94, 95, 96, 98, 99, 100, 219, 220, 221, 222, 223, 224, 275, 323, 324, and 393.

##### **B. Cash Collateral and DIP Financing**

In addition to the "first day motions" described above, on the Petition Date, the Debtors filed the *Debtors' Motion for Entry of Interim and Final Orders (I) Authorizing the Use of Cash Collateral, (II) Authorizing Post-Petition Financing, (III) Granting Adequate Protection, (IV) Modifying the Automatic Stay, (V) Scheduling the Final Hearing and Approving the Form and*

*Method of Notice thereof, and (VI) Granting Related Relief. See Docket No. 35. Thereafter, the Bankruptcy Court entered the DIP Orders, including the Final DIP Order. See Docket Nos. 112, 228, 350, 398, 415, and 421. The Final DIP Order, among other things, provides for the Debtors to (i) use the Trustee's Cash Collateral to maintain the Community and pay necessary business operations expenses, and (ii) obtain financing on the terms set forth in the DIP Credit Agreement, including the requirement to meet certain milestones in these Chapter 11 Cases. See Docket No. 421.*

Subsequent to the entry of the Final DIP Order, the Debtors, in consultation with the DIP Lender, determined to amend the budget approved by the Final DIP Order. Accordingly, on August 15, 2022, the Debtors filed their *Notice of Amended DIP Budget*, projecting the Debtors' financial and operating needs through November 13, 2022. *See Docket No. 546.*

On July 12, 2022, the Committee (as defined below) filed the Original Complaint, commencing Adversary No. 22-03073-mvl as a challenge of the Trustee's Bond Claims and related Liens under Bankruptcy Code section 544. Likewise, numerous challenges were filed by former residents and their estates (collectively, the "**Former Resident Challengers**"). *See Docket Nos. 448, 449, 456, 457, 467, 544.* On August 23, 2022, the Trustee and the Former Resident Challengers filed the *Agreed Motion to Adjourn Former Residents Challenges*, which requested the Bankruptcy Court enter an order that would abate all deadlines and reserve all rights regarding the challenges pending further notification of the parties. *See Docket No. 562.* On September 2, 2022, the Bankruptcy Court entered an order granting the agreed motion. *See Docket No. 605.*

On July 18, 2022, the Debtors gave notice that the Debtors, the Trustee and the DIP Lender reached an agreement, as permitted by the Final DIP Order, to extend the Debtors' deadline to file a plan and disclosure statement to July 22, 2022. *See Docket No. 463.* Thereafter, the Debtors, the Trustee and the DIP Lender agreed to further extend this milestone, and, as a result, the Debtors filed the *Debtors' Motion for Entry of an Order Amending the Final Order (1) Authorizing Debtors in Possession to Obtain Post-Petition Financing; (2) Authorizing Debtors in Possession to Use Cash Collateral; (3) Providing Adequate Protection; and (4) Granting Liens, Security Interests and Superpriority Claims* (the "**DIP Amendment Motion**"), requesting entry of an order amending the Final DIP Order pertaining to certain modified milestones in these Chapter 11 Cases and to further provide for the termination of exclusivity in favor of the Trustee in the event that Debtors settled the Landlord Litigation with the Trustee's consent. *See Docket No. 512.* On August 22, 2022, the Committee (as defined below) objected to amendment concerning the termination of exclusivity in favor of the DIP Lender. *See Docket No. 557.* On August 24, 2022, the Bankruptcy Court conducted a hearing on the DIP Amendment Motion, which was adjourned to September 29, 2022. *See Docket No. 574.* On September 29, 2022, the hearing on the DIP Amendment Motion was further adjourned to a date to be determined. *See Docket No. 671.*

### **C. Schedules, Statements, and Rule 2015.3 Reports**

On April 19, 2022, following a hearing on the Debtors' motion requesting an extension of the filing deadline, the Bankruptcy Court entered its *Order Extending the Time to File (I) Schedules of Assets and Liabilities, (II) Statements of Financial Affairs, and (III) Reports of Financial Information Required under Bankruptcy Rule 2015.3* [Docket No. 90].



On May 17, 2022, the Debtors filed their Schedules and Statements of Financial Affairs. *See* Docket Nos. 240 and 241; Case No. 22-30660, Docket Nos. 19 and 20. On June 1, 2022, Edgemere filed its *Initial Periodic Report of Debtors pursuant to Bankruptcy Rule 2015.3* [Docket No. 346]. On June 24, 2022, SQLC filed its *Initial Periodic Report of Debtors Senior Quality Lifestyles Corporation pursuant to Bankruptcy Rule 2015.3* [Case No. 22-30660, Docket No. 23].

#### **D. Appointment of the Patient Care Ombudsman**

The U.S. Trustee appointed Susan N. Goodman as the Patient Care Ombudsman (the “PCO”) in these Chapter 11 Cases pursuant to Bankruptcy Code section 333. *See* Docket No. 137. On June 2, 2022, the PCO filed the *Patient Care Ombudsman’s First Interim Report*. *See* Docket No. 364. On August 2, 2022, the PCO filed the *Patient Care Ombudsman’s Second Interim Report*. *See* Docket No. 504. On October 4, 2022, the PCO filed the *Patient Care Ombudsman’s Third Interim Report*. *See* Docket No. 681.

#### **E. Appointment of the Committee**

The U.S. Trustee appointed the Committee pursuant to Bankruptcy Code section 1102(a)(1). *See* Docket Nos. 135, 142, and 150. The Committee is comprised of the following: Donald R. Trice, James Eckelberger, James A. Smith, Erle A. Nye, Jane Sommerhalder Wilson, and Steve Helbing.<sup>10</sup>

#### **F. Retention of Professionals**

The Bankruptcy Court has approved the Debtors’ retention and employment of the following Professionals in these Chapter 11 Cases: (i) Polsinelli PC, as restructuring counsel [Docket No. 226]; (ii) FTI Consulting, Inc., as financial advisor [Docket No. 227]; (iii) Kurtzman Carson Consultants LLC as claims, noticing, and solicitation agent [Docket Nos. 110]; (iv) Assessment Technologies, Ltd. d/b/a A.T. Tax Advisory, as property tax consultant [Docket No. 434]; and (v) Jezerinac Group PLLC, to provide structural condition assessment services [Docket No. 649].

On October 7, 2022, the Bankruptcy Court also authorized the Debtors’ retention and employment of GlassRatner Advisory & Capital Group, LLC dba B. Riley Advisory Services as a consulting and/or testifying expert in connection with the Landlord Litigation. *See* Docket No. 698.

On June 30, 2022, the Bankruptcy Court approved the retention and employment of Foley & Laudner LLP (“Foley”) as counsel for the Committee. *See* Docket No. 429. On August 5, 2022, the Bankruptcy Court approved the retention and employment of Ankura Consulting Group, LLC as financial advisor to the Committee. *See* Docket No. 514.

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<sup>10</sup> Pamela Siviglia is no longer a member of the Committee.

## F. Contested Matters<sup>11</sup>

### 1. Adequate Protection Motion of Landlord.

On April, 17, 2022 and April 27, 2022, the Landlord filed *Intercity Investment Properties, Inc.'s Motion for Adequate Protection* [Docket No. 60] and *Intercity Investment Properties, Inc.'s Supplement to Motion for Adequate Protection* [Docket No. 133] (collectively, the “**Adequate Protection Motion**”) requesting the Bankruptcy Court enter an order granting the Landlord certain adequate protections and assurances including, among other things, weekly rent payments, monthly payments of the Landlord’s professional fees, and the ability to enforce purported inspection rights. Responses were filed by the Trustee, the Committee and the Debtors. *See* Docket Nos. 143, 144, 167, and 235.

On June 10, 2022, the Bankruptcy Court issued a bench ruling on the Adequate Protection Motion. *See* Docket No. 399. The Bankruptcy Court’s ruling and order, which was entered on June 27, 2022, required Debtors to: (i) escrow post-petition rent at the contract rate, notwithstanding dispute with respect thereto, along with any applicable late fees; and (ii) allow the Landlord one reasonable inspection of the Community. *See id.*; Docket No. 423.

### 2. Debtors’ Motion to Abate Rent.

On April 25, 2022, the Debtors’ filed the *Debtors’ Motion for Entry of an Order (I) Authorizing the Debtors to Suspend the Payment of Rent under 11 U.S.C. § 365(D)(3) and (II) Granting Related Relief* [Docket No. 127] (the “**Abatement Motion**”), requesting entry of an order suspending the payment of rent to the Landlord during the first sixty days (60) days of the Chapter 11 Cases. Numerous responsive and related pleadings were filed, including the Landlord’s objection, asserting that the Lease is not a non-residential lease within the meaning of Bankruptcy Code section 365. *See* Docket Nos. 152, 182, 235, 247, 277, 283, 284. As a result, subject to the Bankruptcy Court’s willingness to accept the parties’ stipulation that the Lease is a residential lease for purposes of Bankruptcy Code section 365, the Debtors withdrew the Abatement Motion, reserving all rights, on the record. *See* Docket No. 317.

### 3. Debtors’ Motion to Extend Exclusivity.

On August 11, 2022, with the consent and support of the Trustee and DIP Lender, the Debtors filed the *Motion of Debtors for Entry of an Order Extending the Exclusivity Period for the Filing of a Chapter 11 Plan* [Docket No. 534] (the “**Exclusivity Motion**”), requesting entry of an order extending the Debtors’ period within which they have the exclusive right to file a chapter 11 plan 180 days through and including February 8, 2023.

The Landlord, the Committee, the Trustee and DIP Lender each objected to the Exclusivity Motion, with the Committee and the Trustee asserting, among other things, that submission of alternative plans should be permitted. *See* Docket Nos. 602, 634, and 639.

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<sup>11</sup> Due to the considerable extent of contested matters that have been heard in these Chapter 11 Cases, the Debtors have not included an exhaustive list.

On September 29, 2022, the Bankruptcy Court conducted a hearing on the Exclusivity Motion, granting certain relief requested in the Exclusivity Motion and setting a status conference with respect to go forward plan process, on October 26, 2022. *See* Docket No. 672. The Bankruptcy Court’s order provided the Debtors with additional exclusivity through October 26, 2022, and authorized each of the Trustee, the Debtors, and Lifespace to propose a Chapter 11 plan, with the Committee supporting one of the plans as a plan proponent, as of October 27, 2022. *See* Docket No. 705.

On October 26, 2022, the Bankruptcy Court conducted a status hearing and the parties announced that competing plans would be filed. At the October 26<sup>th</sup> hearing, the Bankruptcy Court established a confirmation schedule for the competing plan process. *See* Docket No. 738. Among other things, the Bankruptcy Court set: (i) November 2, 2022 as the deadline to for authorized plan proponents to file disclosure statements and Chapter 11 plans; (ii) the hearing to consider approval of the disclosure statements for November 30, 2022 at 1:30 p.m. (prevailing Central Time); and (iii) the Confirmation Hearing on January 10, 2023 at 9:30 a.m. (prevailing Central Time).

#### **4. Landlord’s Motion to Dismiss Chapter 11 Cases.**

On August 12, 2022, the Landlord filed: (i) *Intercity Investment Properties, Inc.’s Motion to Dismiss Chapter 11 Cases under 11 U.S.C. § 1112(b)* [Docket No. 541] (the “**Motion to Dismiss**”), requesting dismissal of the Chapter 11 Cases, contending that the Initial Plan filed just nine (9) days earlier was allegedly “unconfirmable” and the Debtors were purportedly “suffering substantial, continuing losses.” The Landlord set the Motion to Dismiss for a status conference on August 24, 2022. *See* Docket No. 542. On August 23, 2022, the Debtors filed the *Debtors’ Preliminary Objection to Motion to Dismiss Chapter 11 Cases under 11 U.S. C. § 1112(b)* on August 23, 2022, arguing, among other things, the Motion to Dismiss was a “premature, disguised objection to confirmation of the [Initial] Plan” and “another intentional attack on Edgemere’s business” through the Landlord’s continued “campaign to damage the Debtors’ reorganization prospects” by generating additional negative media coverage. *See* Docket No. 564, ¶ 11. At the status conference the Court set the Motion to Dismiss for hearing on September 29, 2022.

At the September 29<sup>th</sup> hearing, counsel for the Landlord adjourned the Motion to Dismiss to October 5, 2022 and it was further adjourned to October 26, 2022. *See* Docket Nos. 668 and 686. Because the Motion to Dismiss hinges on whether there is a reasonable likelihood of rehabilitation that is based on the Initial Plan, it is the Debtors’ belief and understanding that the Motion to Dismiss, based on the Initial Plan, will become moot upon the filing of the Plan Proponents’ Plan. *See* October 26 Hr’g. Transcript at 43:6-19.

#### **5. Landlord’s Administrative Expense Application.**

On October 5, 2022, the Landlord filed *Intercity Investment Properties, Inc.’s Motion Seeking an Order (I) Allowing Administer Expense Claim for Postpetition Rent under 11 U.S.C. § 503(b)(1); (II) Directing Escrow Agent to Release Escrowed Funds and Terminating Rent Escrow Agreement; and (III) Requiring Debtors to Pay Postpetition Rent in the Ordinary Course* [Docket No. 691] (the “**Administrative Expense Application**”), requesting, among other things, approval of an administrative expense claim in the amount of \$2,254,641.42.

The Bankruptcy Court set the expedited Administrative Expense Application for hearing on October 26, 2022, at the request of the Landlord. *See* Docket No. 701. On October 23, 2022, the Debtors filed an objection to the Administrative Expense Application, arguing, among other things, that: (i) the Landlord is adequately protected by Debtors' continued escrow of the rent and late fee amounts in accordance with the Bankruptcy Court's order; (ii) the amount of the Landlord's claim is in dispute with respect to both whether late fees should be included at all whether the contract or market rate should be used to assess the rent amounts included in the claim; (iii) immediate payment of an administrative expense claim would greatly prejudice the Debtors by preventing them from exercising their business judgment to implement a preferred lease and assumption Cure strategy; (iv) the Administrative Expense Application presupposes the assumption of the Lease; and (v) the Landlord incorrectly asserts the Chapter 11 Cases are either administratively insolvent. *See* Docket No. 721. Thereafter, the parties agreed the Administrative Expense Application would go forward on October 26, 2022 as a status conference.

At the status conference, a briefing schedule was established to permit the Landlord to file a reply and the Debtors to file a sur-reply. The matter was adjourned to November 29, 2022.

#### **G. Extension of Deadline for Removal of Civil Actions**

On October 3, 2022, the Bankruptcy Court granted Debtors' request and entered an order extending the Debtors' deadline to file notices of removal of civil actions to November 10, 2022. *See* Docket No. 680.

#### **I. Initial Plan and Initial Disclosure Statement**

On August 3, 2022, in compliance with the plan and disclosure statement filing milestone under the Final DIP Order, as amended by agreement between the Debtors and the DIP Lender, the Debtors filed the *Debtor's Plan of Reorganization* [Docket No. 508] (the "**Initial Plan**") and the *Debtors' Disclosure Statement for Debtor's Plan of Reorganization* [Docket No. 509] (the "**Initial Disclosure Statement**").

On August 9, 2022, the Debtors filed a notice of hearing, scheduled for September 29, 2022, on the Initial Disclosure Statement. *See* Docket No. 530. On September 1, 2022, the Debtors filed a motion seeking approval of the Initial Disclosure Statement. *See* Docket No. 603.

On August 15, 2022, the Landlord filed the Motion to Stay, which sought to move the proposed hearing on the Initial Disclosure Statement. At the hearing on September 12, 2022, following the announcement that the Trustee and DIP Lender would agree to waive the milestone requiring an order approving the Initial Disclosure Statement, the Bankruptcy Court continued, without date, the hearing with respect to the Debtors' Initial Disclosure Statement and stayed all response deadlines with respect thereto pending reset date. *See* Docket No. 620.

On October 26, 2022, the Bankruptcy Court: (i) established November 2, 2022 as the deadline for filing the Plan, this Disclosure Statement, and a notice of the Disclosure Statement Hearing; and (ii) scheduled the Disclosure Statement Hearing for November 30, 2022 at 1:30 p.m. (prevailing Central Time). *See* Docket No. 738.

#### **J. The Landlord Litigation Adversary Proceeding**

On April 14, 2022, Edgemere filed the Complaint against the Landlord and Kong (collectively, the **Defendants**”), commencing Adversary Case No. 22-03040, asserting claims for breach of contract, promissory fraud, tortious interference with existing and prospective contractual and business relations, civil conspiracy, equitable subordination of claims, and reformation of the Lease. *See* Adv. Dkt. No. 1. The Trustee filed a motion for leave to intervene and file its own complaint in the adversary proceeding, which the Defendants and the Committee objected to and the Bankruptcy Court denied on June 27, 2022. *See* Adv. Dkt. Nos. 14, 31, 32, and 61.

On June 1, 2022, the Defendants filed a motion to dismiss the Complaint, asserting that Edgemere failed to state a claim with respect to each of the counts asserted. *See* Docket Nos. 34-36. On June 24, 2022, Edgemere filed *Plaintiff’s Response to Defendants’ Motion to Dismiss for Failure to State a Claim* wherein, among other things, Edgemere agreed that Count 3 of the Complaint – the claim for tortious interference with existing contractual or business relations – would be dismissed but reserved the right to seek to amend Count 3 after conducting additional discovery. *See* Adv. Dkt. No. 58.

On August 23, 2022, Edgemere filed Plaintiff’s Motion to Compel Defendants to Respond to Discovery Requests, requesting, among other things, entry of an order overruling assertions of privilege over communications among and between the Defendants that are central to certain of Edgemere’s claims against the Defendants and directing the Defendants to immediately produce communications and documents inappropriately withheld. *See* Adv. Dkt. No. 98.

On August 24, 2022, the Bankruptcy Court entered the *Order Granting in Part the Defendants’ Motion to Dismiss the Complaint for Failure to State a Claim* that denied Defendants’ motion to dismiss in every respect except for Count 4 – the claim for tortious interference with prospective contractual or business relations – which the Bankruptcy Court dismissed without prejudice to Plaintiff seeking “leave to amend to reassert its tortious interference claim or plead a similar cause of action.” *See* Adv. Dkt. No. 99 at § IV.C. Edgemere intends to amend the Complaint to replead Count 4.

On September 7, 2022, the Defendants filed the *Defendants’ Original Answer, Affirmative Defenses, Counterclaims, and Request for Fees* [Adv. Dkt. No. 130], and on September 28, 2022, Edgemere, as Counter-Defendant, filed the *Counter-Defendant’s Answer and Affirmative Defenses to Counter-Plaintiff’s Counterclaims* [Adv. Dkt. No. 168].

On September 9, 2022, Edgemere filed its *Motion to Modify Amended Scheduling Order*, which requested modification of certain deadlines, including, without limitation the discovery cutoff date and the trial date. *See* Adv. Dkt. No. 137. As of the date hereof, docket call for trial will be held on April 4, 2023 at 1:15 p.m. (prevailing Central Time) and trial has been set to occur the week of April 10, 2023, and all other dates and deadlines established under the Amended Scheduling Order (that would have occurred following September 30, 2022) have been vacated and held in abeyance pending further order of the Bankruptcy Court. *See* Docket No. 216.

## V. THE CHAPTER 11 PLAN

**THIS SECTION PROVIDES A SUMMARY OF THE STRUCTURE, CLASSIFICATION, TREATMENT AND IMPLEMENTATION OF THE PLAN, AND IS QUALIFIED IN ITS ENTIRETY BY REFERENCE TO THE PLAN, WHICH IS ATTACHED TO THIS DISCLOSURE STATEMENT AS EXHIBIT 1.**

The Claims against the Debtors are divided into Classes according to their seniority and other criteria. The Classes of Claims and Interests against the Debtors and their Estates and the funds and other property to be distributed under the Plan are described more fully below.

**THE PLAN PROPONENTS BELIEVE THAT THE PLAN AFFORDS CREDITORS THE POTENTIAL FOR THE GREATEST REALIZATION OF THE VALUE OF THE DEBTORS' ASSETS. ADDITIONALLY, THE PLAN PROPONENTS BELIEVE THAT THE PLAN AVOIDS SIGNIFICANT HARDSHIP TO RESIDENTS THAT WOULD OTHERWISE OCCUR AS A RESULT OF AN ALTERNATIVE, INCLUDING LIQUIDATION.**

**A. Treatment of Claims and Interests Under the Plan.**

**1. Unclassified Administrative and Priority Claims.**

**a. 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 the Plan on account of an Administrative Claim that is not otherwise Allowed by the 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 the 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.

**b. 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 Section 2.2 of the Plan shall be deemed disallowed under the 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.

**c. 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 Section 2 of the 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.

**d. 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.

**e. DIP Facility Claims.**

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

**2. Classification of Claims and Interests.**

Except as set forth in the Plan, 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 the 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 the 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 Section 3 of the Plan, subject to all other applicable provisions of the Plan (including Distribution provisions). The 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.

The following table designates the Classes of Claims against and Interests in the Debtors and specifies which of those Classes are: (i) Impaired or Unimpaired by the Plan; (ii) entitled to vote to accept the Plan; or (iii) deemed to reject the Plan; or (iv) deemed to accept the Plan.

<b>Class</b>	<b>Claim</b>	<b>Estimated Allowed Claims</b>	<b>Status</b>	<b>Voting Rights</b>
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>12</sup>	Impaired	Entitled to Vote
9	Interests in Debtors	N/A	Unimpaired	Deemed to Accept

**3. Treatment of Claims and Interests.**

**a. Other Priority Claims (Class 1).**

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

<sup>12</sup> Amounts relating to Resident and/or Rejection Damages Claims are not included in this estimated total.



provided by any agreement or arrangement between the Debtors and the holder of the Allowed Other Priority Claim against the Debtors.

**b. Secured Bond Claims (Class 2).**

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 if the Trustee, for the benefit of the holders of the Allowed 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 V.B. of this Disclosure Statement and Section 3.3.1 of the Plan.

**c. Other Secured Claims (Class 3).**

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 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.

**d. Bond Deficiency Claims (Class 4).**

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 20% of their Allowed Class 4 Claim(s), less any amount paid in satisfaction of the Class 2 Secured Bond Claims, (ii) a new note in an amount equal to 20% of such Allowed Class 4 Claim(s), less any amount paid in satisfaction of the Class 2 Secured Bond Claims, 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).

**e. Former Resident Claims (Class 5).**

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.

**f. Current Resident Claims (Class 6).**

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.

**g. Intercompany Claims (Class 7).**

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.

**h. General Unsecured Claims (Class 8).**

Class 8 is Impaired and entitled to vote on 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.

**i. Interests in Debtors (Class 9).**

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 the Plan, shall be cancelled to the extent necessary and appropriate to effectuate such dissolution.

**B. The Bond Claims and Potential Section 1111(b) Election.**

**1. Bond Claims and Potential Section 1111(b) Election.**

Class 2 consists 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 Allowed Secured Bond Claims shall have the opportunity, until the conclusion of the hearing on this Disclosure Statement, to make the election, pursuant to the 1111(b) Election, which is the election provided to undersecured creditors pursuant to Bankruptcy Code section 1111(b) and Bankruptcy Rule 3014.

**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.* Interest shall accrue on the 1111(b) Note 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. *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.
- vii. *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.
- viii. *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.

### **C. Cramdown**

If all applicable requirements for confirmation of the 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.

### **D. Means for Implementation of the 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.

#### **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 the 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 the 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.

**a. Sponsor Support**

Subject to confirmation of the Plan, the Sponsor agrees to provide substantial financial support to the Reorganized Debtor as set forth herein.

i. **Effective Date Support.**

- *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.
- *Litigation Trust Contribution.* The Cash Contribution will be used to contribute an initial \$1,000,000 in Cash to fund the Litigation Trust.
- *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>13</sup> The aggregate amount of the Sponsor Fees being waived as of the Effective Date will be approximately \$4,200,289.74.

ii. **Ongoing Support.**

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<sup>13</sup> This estimation assumes an Effective Date of March 2023. 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.

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

**b. Bond Transaction.**

i. Cancellation of the Original Bonds.

Except as otherwise provided in the Plan or the Confirmation Order, on the Effective Date, the Original Bonds shall be cancelled, 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).

ii. 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 are being extended and shall be deemed to have been extended in good faith and for legitimate business purposes and 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 the 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.

iii. 2023 Bonds.<sup>14</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.

c. **Litigation Trust.**

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<sup>14</sup> The information set forth herein is solely for summary purposes. To the extent there is any discrepancy between the information set forth in the Plan and the 2023 Bond Documents, the 2023 Bond Documents will control.

i. 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 the Exculpated Parties.

ii. 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 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 paid Pro Rata to the Litigation Trust Beneficiaries.

iii. 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.

iv. 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, the Sponsor, 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.

v. 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.



## **2. Entrance Fee Escrow**

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. The Entrance Fee Escrow funds will be used to satisfy Refund Obligations in accordance with Section 4.4.2 of the Plan.

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.

## **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. 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.

## **5. 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.

## **6. Reorganized Debtor's Officers.**

The existing officers of the Debtors shall continue to be officers of the Reorganized Debtor.

**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.

**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 the 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 the 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.

**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.

#### **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.

#### **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 Liquidating 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 Liquidating 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 the 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 the Plan. For the avoidance of doubt, nothing in Section 4 the Plan shall affect or impair the releases provided in Section 8 of the Plan.

**E. Executory Contracts and Unexpired Leases.**

**1. Rejection 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.

**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.

**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. For the avoidance of doubt, Section 5 of the Plan shall apply to all Executory Contracts and Unexpired Leases except as otherwise provided herein and to the extent addressed and decided by an order of the Bankruptcy Court.

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.

#### **4. Rejection Claims Based on Executory Contracts or Unexpired Leases.**

All Proofs of Claim with respect to 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, any Claims arising from the rejection of an Executory Contract or Unexpired Lease that is not timely filed with the Bankruptcy Court will be automatically disallowed and forever barred from assertion and shall not be enforceable against the Debtors, the 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. 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.

**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.

**7. Indemnifications.**

On and as of the Effective Date, the Indemnification Provisions will be assumed and irrevocable and will survive the effectiveness of the 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.

**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.

**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.

**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.

**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.

**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.

**F. Provisions Governing Distributions**

**1. Timing and Calculation of Amounts to Be Distributed.**

Except as otherwise provided in Section 6 of the 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.

## **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.

## **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 the Plan.

## **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.

## **5. Special Rules for Distributions to Holders of Disputed Claims.**

Notwithstanding any other provision of the 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. 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.

**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.

**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.

**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.

**10. Insurance Claims.**

No Distributions under the 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.

**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.

**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.

**13. Interest of 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.

**G. Procedures for Resolving Contingent, Unliquidated, and Disputed Claims.**

**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.

**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).

### **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.

### **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.

## **H. Effect of Confirmation, including Settlement, Release, Injunction and Related Provisions.**

### **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 the 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 the 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 in the Plan or herein, the 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.

## **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.**

**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.**

**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 SECTION 8.4 OF THE PLAN AGAINST ANY EXCULPATED PARTY.**

**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.**

**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, THE 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.**

**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 the Plan.

**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.

**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.

**I. Conditions Precedent to Confirmation and the Effective Date.**

**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 the 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.

## **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 the 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 the 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 the 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.

### **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.

### **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.

## **J. Modification, Revocation or Withdrawal of the Plan.**

### **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 Section 10.1 of the Plan shall be deemed to supplant or supersede the requirements of Bankruptcy Rule 3019.

**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.

**3. Revocation or Withdrawal of the 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.

**K. 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 the 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.

**L. Miscellaneous Provisions.**

**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

**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.

**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.

**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.

**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.

**6. Successor 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.

**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 the Plan, and, therefore, will have no liability for the violation of any applicable law, rule, or regulation governing the solicitation of votes on the Plan or the offer, issuance, sale, or purchase of the 2023 Bonds offered under the Plan.

## **8. Closing of the 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.

## **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:  
POL SINELLI 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: Steven A. McCartin  
2021 McKinney Avenue, Ste. 1600  
Dallas, Texas 75201  
[smccartin@foley.com](mailto: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: Steven 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.

## **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.

## **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. 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.

## **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.

## **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.

## **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).

## **VI. RISK FACTORS IN CONNECTION WITH THE PLAN**

The holders of Claims against the Debtors should read and carefully consider the following risk factors, as well as the other information set forth in this Disclosure Statement (and the documents delivered together herewith), before deciding whether to vote to accept or reject the Plan. These risk factors should not, however, be regarded as constituting the only risks associated with the Plan and its implementation.

### **A. Bankruptcy Considerations.**

Although the Plan Proponents believe the Plan will satisfy all requirements necessary for confirmation by the Bankruptcy Court, there can be no assurance that the Bankruptcy Court will confirm the Plan as proposed. Moreover, there can be no assurance that modifications of the Plan will not be required for confirmation or that such modifications would not necessitate the re-solicitation of votes.

In addition, the occurrence of the Effective Date is conditioned on the satisfaction (or waiver) of the conditions precedent set forth in Section 9 of the Plan, and there can be no assurance that such conditions will be satisfied or waived. In the event the conditions precedent described in the Plan have not been satisfied, or waived (to the extent possible) by the Debtors or applicable parties (as provided for in the Plan) as of the Effective Date, then the Confirmation Order will be vacated, no Distributions will be made pursuant to the Plan, and the Debtors and all holders of Claims and Interests will be restored to the status quo ante as of the day immediately preceding the Confirmation Date as though the Confirmation Date had never occurred.

Bankruptcy Code section 1122 provides that a plan may place a claim or an equity interest in a particular class only if such claim or equity interest is substantially similar to the other claims or equity interests in such class. The Plan Proponents believe that the classification of Claims and Interests under the Plan complies with the requirements set forth in the Bankruptcy Code because each Class of Claims and Interests encompass Claims or Interests, as applicable, that are substantially similar to the other Claims and Interests in each such Class. Nevertheless, there can be no assurance that the Bankruptcy Court will reach the same conclusion.

## **B. Risks Related to the Debtors' Business and Industry**

### **1. Even if the Plan is confirmed, the extent of the Reorganized Debtor's remaining indebtedness may impair its financial condition and the Reorganized Debtor's ability to grow and compete.**

As of the date hereof, debt in the amount of approximately \$109 million has been asserted against the Debtors' Estates as a Secured Claim. The Plan Proponents anticipate that the Plan will significantly decrease the annual debt service requirements of the Debtors and, over time, increase liquidity. Nevertheless, the Reorganized Debtors' balance sheet will still reflect a significant level of debt upon consummation of the Plan. The Debtors' secured debt has important consequences for its financial condition, that are commonly faced by similarly situated CCRC operators that limit their ability to obtain additional financing or trade credit and subject the Debtors to general adverse economic and industry conditions.

### **2. Servicing the Reorganized Debtor's debt will require a significant amount of Cash, and the Reorganized Debtor's ability to generate sufficient Cash depends upon many factors, some of which are beyond its control.**

The Debtors' ability to make payments on and refinance their debt, fund planned capital expenditures and execute their business strategy depends on their ability to generate cash flow in the future. To some extent, this is subject to general economic, financial, competitive and other factors that are beyond the Debtors' control. Even if the Plan is consummated, there can be no assurance that the Reorganized Debtor's business will continue to generate cash flows at or above

current levels or that it will be able to meet its cash needs. If the Reorganized Debtor is unable to service its debt or experiences a significant reduction in liquidity, the Reorganized Debtor could be forced to reduce or delay planned capital expenditures and other initiatives, sell assets, restructure or refinance debt or seek additional equity capital, and the Reorganized Debtor may be unable to take any of these actions on satisfactory terms or in a timely manner, or at all. Further, any of these actions may not be sufficient to allow the Reorganized Debtor to service debt obligations or may have a materially adverse effect on their results of operations and financial condition. The Reorganized Debtor's failure to generate sufficient operating cash flows to pay its debts or refinance its indebtedness could have a material adverse effect on their results of operations and financial condition. If the Reorganized Debtor cannot make scheduled payments on its debt, the Reorganized Debtor would be in default, and as a result, holders of such debt could declare all outstanding principal and interest to be due and payable and the Reorganized Debtor's existing and future lenders could, under certain circumstances, terminate their commitments to lend the Reorganized Debtor money and foreclose against the assets securing borrowings.

**3. The Reorganized Debtor may fail to maintain turnover or occupancy.**

The economic feasibility of the Community depends upon the ability of the Community to attract new Residents and to maintain substantial occupancy of the Community.

If the Reorganized Debtor does not achieve the required levels of occupancy for the Community, the revenues anticipated by the Community from monthly fees and other charges could be adversely affected. Additionally, if a substantial number of Residents live beyond the life expectancies anticipated by the Debtors, new residents will be admitted at a slower rate and the receipt of additional, Entrance Fees will be curtailed with a consequent impairment of the Community's cash flow. Even if the anticipated attrition levels are realized and maintained, no assurance can be given that remarketing of vacated units will take place as quickly as assumed by the Debtors.

**4. The Reorganized Debtor may be faced with competition from other similar facilities.**

The Debtors face competition from similar facilities operating in or near its market area, from other residential facilities for older adults and from existing facilities offering custodial, intermediate and skilled nursing care. The Reorganized Debtor may face additional competition in the future as a result of the construction of new, or the renovation or expansion of existing, housing and nursing care facilities for elderly persons in the area served by the Community as well as in the areas surrounding the area served by the Community.

**5. The Plan and the related transactions, which contemplate transactions that will modify the Reorganized Debtor's capital structure, are based in large part upon assumptions and analyses developed by the Debtors. If these assumptions and analyses prove to be incorrect, the Plan may be unsuccessful in its execution of the restructuring and the Reorganized Debtor may be unable to continue as a going concern.**

The Plan and the transactions related thereto, which contemplate transactions that will affect the Reorganized Debtor's capital structure, are premised upon assumptions and analyses of the Debtors that are based upon the Debtors' experience and perception of historical trends, current conditions and expected future developments, as well as other factors that it considers appropriate under the circumstances. Whether actual future results and developments will be consistent with the Debtors' expectations and assumptions depend on a number of factors.

In addition, the Plan relies upon financial forecasts, including with respect to revenue growth, improved earnings before interest, taxes, depreciation and amortization, improved interest margins, and growth in cash flow. Financial forecasts are necessarily speculative, and it is likely that one or more of the assumptions and estimates that are the basis of these financial forecasts will not be accurate. The Reorganized Debtor's actual financial condition and results of operations may differ, perhaps materially, from what it anticipated. Consequently, there can be no assurance that the results or developments contemplated by the Plan will occur or, even if they do occur, that they will have the anticipated effects on the Reorganized Debtor's business or operations. The failure of any such results or developments to materialize as anticipated could materially adversely affect the successful execution of the transactions contemplated by the Plan.

**6. Uncertainties related to the Debtors' business may impact its ability to attract new residents.**

The Reorganized Debtor's success depends on its ability to consistently, accurately and effectively provide living accommodations and related healthcare and support services to seniors. Should seniors perceive that the uncertainties related to the Edgemere's business have adversely affected its services, there will a decrease in new residents attracted to its Community.

**7. Uncertainties related to the Reorganized Debtor's business may create a distraction for or cause a loss of personnel and may otherwise adversely affect its ability to attract new personnel.**

The market for qualified personnel is competitive and the Reorganized Debtor's future success will depend upon, among other factors, its ability to attract and retain key personnel. In addition, uncertainties about the future prospects and viability of its business is impacting and is likely to continue to impact Edgemere's ability to attract and retain key personnel, and is a distraction for existing personnel. If Edgemere loses the services of key personnel, if one or more of them decides to join a competitor or otherwise compete with it or if personnel continue to be distracted due to the uncertainties about the future prospects and viability of its business, Edgemere may not be able to effectively implement its business strategy and its business could suffer. The loss of the services of any of Edgemere's other key management personnel or the failure to attract and retain personnel could have a material adverse effect on its results of operations and financial condition due to disruptions in its leadership and the continuity of its business relationships.

**8. Third party reimbursement may be reduced or eliminated.**

The health care industry, in general, is subject to regulation by a number of governmental agencies, including those which administer the Medicare reimbursement program, and other federal, state and local governmental agencies. As a result, the Debtors are sensitive to legislative

and regulatory changes in such programs and is affected by reductions in governmental spending for such programs. Congress has in the past enacted a number of provisions which affect health care providers, and additional legislative changes can be expected. Previous legislative actions have included limitation of payments to nursing homes under the Medicare program.

Future legislation, regulation or actions by the federal government are expected to continue the trend toward more restrictive limitations on reimbursement for long-term care services. At present, no determination can be made concerning whether, or in what form, such legislation would be introduced and enacted into law. Similarly, the impact of future cost control programs and future regulations upon Edgemere's financial performance cannot be determined at this time.

Edgemere may receive reimbursement from non-governmental third-party payors, such as commercial insurers, employers under self-insurance programs, health maintenance organizations, and preferred provider organizations. Most of these programs make payments at rates which are less than actual charges. Accordingly, there can be no assurance that payments made under such programs will be adequate to cover actual costs incurred.

#### **9. The income of the elderly may diminish.**

A large percentage of the monthly income of the Residents of the Community is fixed income derived from pensions and social security or income from investments. If, due to inflation or otherwise, substantial increases in monthly fees are required to cover increases in operating costs, wages, benefits and other expenses, Residents may have difficulty paying such monthly fees. Furthermore, investment income of the Residents may be adversely affected by declines in the stock market and sustained historically low market interest rates, also resulting in payment difficulties.

#### **10. Landlord Litigation**

The Refinancing Transaction involves the creation of the Litigation Trust and the transfer of Assets, including, among other things, the Landlord Litigation, into the Litigation Trust for the benefit of: (i) first, the Sponsor, to the extent of the \$3,000,000 in recovery proceeds and (ii) second, Litigation Trust Beneficiaries. Litigation, by its nature, is uncertain and the Debtors cannot predict or guaranty specific outcomes with respect to the Landlord Litigation or any other claims and causes of action that may be pursued by the Litigation Trustee.

#### **11. Other Possible Risk Factors.**

The occurrence of any of the following events, or other unanticipated events, could adversely affect the financial condition or results of operations of the Reorganized Debtor:

- a.** reinstatement of or establishment of mandatory governmental wage, rent or price controls;
- b.** adoption of federal, state or local legislation or regulations having an adverse effect on the future operating or financial performance of the Reorganized Debtor;

- c.** events adversely affecting the operation of the Community, including enactment of legislation imposing ceilings on increases in health care charges, changes in Medicare or comparable regulations or attempts by third-party payors administering health care cost reimbursement plans to control or restrict the operations of certain health care facilities;
- d.** a decline in the population, a change in the age composition of the population or a decline in the economic conditions of Edgemere's market area;
- e.** developments or events affecting the federal or state exemption of the Debtors' income from taxation;
- f.** suspension or revocation of or failure to renew any license, certificate or approval to operate the Community, or any portion thereof, or any restriction on new admissions to licensed beds;
- g.** changes in key management personnel;
- h.** reductions in utilization of continuing care retirement and assisted living facilities as a result of preventive medicine, improved occupational health and safety, development and utilization of medical and scientific research and technological advances and other developments;
- i.** changes in reimbursement procedures or in contracts under public or private insurance programs;
- j.** increased costs of attracting and retaining, or decreased availability of a sufficient number of, health professionals, including trained nurses vital to the Community;
- k.** increases in costs, including costs associated with, among other things, salaries, wages and fringe benefits, supplies, technology and equipment, insurance, energy and other utilities, the attraction and retention of nurses and other personnel, compliance with or violation of environmental laws and regulations, and other costs that could result in a sizable increase in expenditures without a corresponding increase in revenues;
- l.** inability of the Reorganized Debtor to obtain future governmental approvals to undertake additional projects necessary to remain competitive as to rates, charges and the quality and scope of care or any limitation on the availability of tax-exempt or other financing for future projects; and
- m.** the occurrence of natural disasters, including floods, hurricanes, tornadoes and earthquakes, could damage the Community, interrupt utility service or otherwise impair the operations of the Debtors and the generation of revenues from the Community. The Community is required to be covered by general property insurance in amounts which management of the Debtors

considers to be sufficient to provide for the replacement of such Community in the event of a natural disaster.

**C. Additional Factors**

**1. No Duty to Update Disclosures.**

The Plan Proponents have no duty to update the information contained in this Disclosure Statement as of the date hereof, unless otherwise specified herein, or unless the Plan Proponents are required to do so pursuant to an order of the Bankruptcy Court. Delivery of the Disclosure Statement after the date hereof does not imply that the information contained herein has remained unchanged.

**2. Representations Outside this Disclosure Statement.**

This Disclosure Statement contains representations concerning or related to the Debtors and the Plan that are subject to approval by the Bankruptcy Court. Please be advised that any representations or inducements outside this Disclosure Statement and any related documents which are intended to secure your acceptance or rejection of the Plan should not be relied upon by holders of Claims that are entitled to vote to accept or reject the Plan.

**3. No Admission.**

The information and representations contained herein shall not be construed to constitute an admission of, or be deemed evidence of, any legal effect of the Plan on the Plan Proponents or holders of Claims and Interests.

**4. Tax and Other Related Considerations.**

A discussion of potential tax consequences of the Plan is provided in Section IX hereof; however, the content of this Disclosure Statement is not intended and should not be construed as tax, legal, business or other professional advice. Holders of Claims and/or Interests should seek advice from their own independent tax, legal or other professional advisors based on their own individual circumstances.

**VII. PLAN CONFIRMATION AND CONSUMMATION**

**A. The Confirmation Hearing.**

Bankruptcy Code section 1128(a) requires the Bankruptcy Court, after appropriate notice, to hold a Confirmation Hearing. On October 26, 2022, the Bankruptcy Court scheduled the Confirmation Hearing for **January 10, 2022 at 9:30 a.m. (prevailing Central Time)**. Following approval of the Plan Proponents' form of notice of the Confirmation Hearing, such notice will be provided to all known Creditors or their representatives. The Confirmation Hearing may be adjourned from time to time by the Bankruptcy Court without further notice except for an announcement of the adjourned date made at the Confirmation Hearing or any subsequent adjourned Confirmation Hearing.

Pursuant to Bankruptcy Code section 1128(b), any party in interest may object to confirmation of a plan of reorganization or liquidation. Any objection to confirmation of the Plan must be in writing, must conform to the Bankruptcy Rules, must set forth the name of the objector, the nature and amount of Claims or Interests held or asserted by the objector against the Debtors, the basis for the objection and the specific grounds of the objection, and must be filed with the Bankruptcy Court, together with proof of service thereof, and served upon: (i) counsel for the Debtors, Polsinelli PC, 2950 N. Harwood, Suite 2100, Dallas, TX 75201, Attn: Trinitee G. Green and 600 3rd Avenue, 42nd Floor, New York, NY 10016, Attn: Jeremy R. Johnson; (ii) counsel for Sponsor, Cooley LLP, 110 North Upper Wacker Drive, Suite 4200, Chicago, Illinois 60606, Attn: Eric. E. Walker; (iii) counsel for the Committee, Foley & Lardner, 2021 McKinney Avenue, Ste. 1600, Dallas, Texas 75201, Attn. Stephen A. McCartin, Thomas C. Scannell, and Mark C. Moore; (iv) the Office of the United States Trustee, 1100 Commerce St, Room 976, Dallas, Texas 75242-1699, Attn: Lisa Lambert; and (v) such other parties as the Bankruptcy Court may order, so as to be actually received no later than the date and time designated in the Confirmation Hearing Notice.

Bankruptcy Rule 9014 governs objections to confirmation of the Plan.

**UNLESS AN OBJECTION TO CONFIRMATION OF THE PLAN IS TIMELY SERVED UPON THE PARTIES LISTED ABOVE AND FILED WITH THE BANKRUPTCY COURT, IT MAY NOT BE CONSIDERED BY THE BANKRUPTCY COURT IN DETERMINING CONFIRMATION OF THE PLAN.**

**B. Plan Confirmation Requirements Under the Bankruptcy Code.**

In order for the Plan to be confirmed, the Bankruptcy Code requires that the Bankruptcy Court determine that the Plan complies with the technical requirements of Chapter 11 and that the disclosures concerning the Plan have been adequate and have included information concerning all payments made or promised in connection with the Plan and the Chapter 11 Cases. The Bankruptcy Code also requires that: (1) the Plan be accepted by the requisite votes of Creditors except to the extent that confirmation despite dissent is available under Bankruptcy Code section 1129(b); (2) the Plan is feasible (that is, there is a reasonable probability that the Debtors will be able to perform their obligations under the Plan without needing further financial reorganization not contemplated by the Plan); and (3) the Plan is in the “best interests” of all Creditors (that is, Creditors will receive at least as much under the Plan as they would receive in a hypothetical liquidation case under chapter 7 of the Bankruptcy Code). To confirm the Plan, the Bankruptcy Court must find that all of the above conditions are met, unless the applicable provisions of Bankruptcy Code section 1129(b) are employed to confirm the Plan, subject to satisfying certain conditions, over the dissent or deemed rejections of Classes of Claims.

**1. Best Interests of Creditors.**

The Bankruptcy Code requires that, with respect to an Impaired class of claims or interests, each holder of an Impaired claim or interest in such class either (i) accepts the plan or (ii) receives or retains under the plan property of a value, as of the effective date of the plan, that is not less than the amount (value) such holder would receive or retain if the debtor was liquidated under chapter 7 of the Bankruptcy Code on the Effective Date.



The Debtors, with the assistance of their professionals, have prepared the Liquidation Analysis attached hereto as Exhibit 2. The Liquidation Analysis is based upon a hypothetical liquidation in a chapter 7 case. In preparing the Liquidation Analysis, the Debtors have taken into account the nature, status and underlying value of its Assets, the ultimate realizable value of its Assets, and the extent to which such Assets are subject to liens and security interests. In addition, the Liquidation Analysis also reflects the required time and resources necessary to effectuate an orderly wind down of the Community, which provides critical care to residents and must comply with numerous federal and state regulations.

Based upon the Liquidation Analysis, the Plan Proponents believe that liquidation under chapter 7 would result in smaller distributions, if any, being made to Creditors than those provided for in the Plan because of: (a) the likelihood that the Debtors' Assets would have to be sold or otherwise disposed of in an orderly fashion; (b) additional administrative expenses attendant to the appointment of a trustee and the trustee's employment of attorneys and other professionals; and (c) additional expenses and Claims, some of which would be entitled to priority, which would be generated during the liquidation and from the rejection of leases and other executory contracts in connection with a cessation of the Debtors' operations. In the opinion of the Plan Proponents, the recoveries projected to be available in a chapter 7 liquidation are not likely to afford the holders of Claims as great a realization potential as afforded to them under the Plan.

Accordingly, the Plan Proponents believe that in a chapter 7 liquidation, holders of Claims would receive less than such holders would receive under the Plan. There can be no assurance, however, as to values that would actually be realized in a chapter 7 liquidation, nor can there be any assurance that a Bankruptcy Court would accept the Plan Proponents' conclusions or concur with such assumptions in making its determinations under Bankruptcy Code section 1129(a)(7).

## **2. Feasibility of the Plan.**

Pursuant to Bankruptcy Code section 1129(a)(11), a debtor must demonstrate that confirmation of a plan is not likely to be followed by the liquidation or need for further financial reorganization of the debtor or its successor under the plan, unless such liquidation or reorganization is proposed under the plan.

In order to establish the feasibility of the Plan for purposes of Bankruptcy Code section 1129(a)(11), the Debtors and their management team and advisors, have developed the Financial Projections attached hereto as Exhibit 3. The Financial Projections set forth the projected financial performance of the Reorganized Debtor over a defined period of time based upon a number of assumptions and factors. The Financial Projections are unaudited. Impaired creditors and other interested parties should review Section VI of this Disclosure Statement for a discussion of certain factors that may affect the future financial performance of the Reorganized Debtor.

The Plan Proponents anticipate that the Financial Projections will show that the Reorganized Debtor will have a viable operation following the Chapter 11 Cases and that confirmation of the Plan is not likely to be followed by liquidation or the need for further reorganization.

## **3. Acceptance by Impaired Classes.**

The Bankruptcy Code requires, as a condition to confirmation, that, except as described below, each class of claims or equity interests that is Impaired under a plan, accept the plan. A class that is not “impaired” under a plan is deemed to have accepted the plan and, therefore, solicitation of acceptances with respect to such class is not required. As a general matter under the Bankruptcy Code, a class is “impaired,” unless the plan: (a) leaves unaltered the legal, equitable and contractual rights to which the claim or the equity interest entitles the holder of such claim or equity interest; (b) cures any default and reinstates the original terms of such claim or equity interest; or (c) provides that, on the consummation date, the holder of such claim or equity interest receives cash equal to the allowed amount of that claim or, with respect to any equity interest, any fixed liquidation preference to which the holder of such equity interest is entitled to any fixed price at which the debtor may redeem the security.

Section 1126(c) of the Bankruptcy Code defines acceptance of a plan by a class of Impaired claims as acceptance by holders of at least two-thirds (2/3) in dollar amount and more than one-half (1/2) in number of claims in that class, but for that purpose counts only those who actually vote to accept or to reject the plan. Thus, a class of claims will have voted to accept the plan only if two-thirds (2/3) in amount and a majority in number actually voting cast their ballots in favor of acceptance. A vote may be disregarded if the Bankruptcy Court determines, after notice and a hearing, that acceptance or rejection was not solicited or procured in good faith or in accordance with the provisions of the Bankruptcy Code.

Any Class of Claims that is not occupied as of the commencement of the Confirmation Hearing by an Allowed Claim or a Claim temporarily Allowed under Bankruptcy Rule 3018 shall be deemed eliminated from the Plan for purposes of voting to accept or reject the Plan and for purposes of determining acceptance or rejection of the Plan by such Class pursuant to section 1129(a)(8) of the Bankruptcy Code. If no votes to accept or reject the Plan are received with respect to a Class whose votes have been solicited under the Plan (other than a Class that is deemed eliminated under the Plan), such Class shall be deemed to have voted to accept the Plan.

#### **4. Additional Requirements for Nonconsensual Confirmation.**

The Bankruptcy Code permits confirmation of a plan even if it is not accepted by all Impaired classes, as long as: (a) the plan otherwise satisfies the requirements for confirmation; (b) at least one Impaired class of claims has accepted it without taking into consideration the votes of any insiders in such class; and (c) the plan is “fair and equitable” and does not “discriminate unfairly” as to any Impaired class that has not accepted the plan. These so called “cramdown” provisions are set forth in Bankruptcy Code section 1129(b).

#### **5. No Unfair Discrimination.**

The “no unfair discrimination” test requires that the plan not provide for unfair treatment with respect to classes of claims or interests that are of equal priority, but are receiving different treatment under the plan.

#### **6. Fair and Equitable.**

The fair and equitable requirement applies to classes of claims of different priority and status, such as secured versus unsecured. The plan satisfies the fair and equitable requirement if

no class of claims receives more than 100% of the allowed amount of the claims in such class. Further, if a class of claims is considered a dissenting class (“Dissenting Class”), i.e., a Class of Claims that is deemed to reject the Plan because the required majorities in amount and number of votes is not received from the Class, the following requirements apply:

**a. Class of Secured Claims.**

Each holder of an Impaired secured claim either: (i) retains its liens on the subject property, to the extent of the allowed amount of its secured claim and receives deferred cash payments having a value, as of the effective date of the plan, of at least the allowed amount of such claim; (ii) has the right to credit bid the amount of its claim if its property is sold and retains its liens on the proceeds of the sale (or if sold, on the proceeds thereof); or (iii) receives the “indubitable equivalent” of its allowed secured claim.

**b. Class of Unsecured Creditors.**

Either (i) each holder of an Impaired unsecured claim receives or retains under the plan property of a value equal to the amount of its allowed claim or (ii) the holders of claims and interests that are junior to the claims of the Dissenting Class will not receive any property under the plan.

**c. Class of Interests.**

Either (i) each interest holder will receive or retain under the plan property of a value equal to the greater of (a) the fixed liquidation preference or redemption price, if any, of such stock and (b) the value of the stock, or (ii) the holders of interests that are junior to the interests of the Dissenting Class will not receive any property under the plan.

The Plan Proponents believe the Plan does not “discriminate unfairly” and will satisfy the “fair and equitable” requirement notwithstanding that certain Classes of Interests are deemed to reject the Plan because no Class that is junior to such Class will receive or retain any property on account of the Claims and Interests in such Class and the Plan does not provide for unfair treatment with respect to Classes of Claims or Interests that are of equal priority.

## **VIII. ALTERNATIVES TO CONFIRMATION AND CONSUMMATION OF THE PLAN**

The Plan Proponents believe the Plan is in the best interests of its Creditors and should accordingly be accepted and confirmed. If the Plan as proposed, however, is not confirmed, the following alternatives may be available to the Debtors: (i) a liquidation of the Debtors’ Assets pursuant to chapter 7 of the Bankruptcy Code; or (ii) an alternative plan of reorganization or liquidation may be proposed and confirmed.

### **A. Chapter 7 Liquidation.**

If a plan pursuant to chapter 11 of the Bankruptcy Code is not confirmed by the Bankruptcy Court, the Chapter 11 Cases may be converted to liquidation cases under chapter 7 of the Bankruptcy Code, in which a trustee would be elected or appointed, pursuant to applicable provisions of chapter 7 of the Bankruptcy Code, to liquidate the Assets of the Debtors for

Distribution in accordance with the priorities established by the Bankruptcy Code. The Debtors believe that such a liquidation would result in smaller distributions being made to the Debtors' creditors than those provided for in the Plan because: (a) the likelihood that other Assets of the Debtors would have to be sold or otherwise disposed of in an orderly fashion; (b) additional administrative expenses attendant to the appointment of a trustee and the trustee's employment of attorneys and other professionals; and (c) additional expenses and Claims, some of which would be entitled to priority, which would be generated during the liquidation and from the rejection of leases and other executory contracts in connection with a cessation of the Debtors' operations. The Debtors have found that confirmation of the Plan will provide each holder of an Allowed Claim with a recovery that is not less than such holder would receive pursuant to liquidation of the Debtors under chapter 7 of the Bankruptcy Code.

#### **B. Alternative Plan Pursuant to Chapter 11 of the Bankruptcy Code.**

If the Plan is not confirmed, the Plan Proponents may propose a different plan, which might involve an alternative means for the reorganization or liquidation of the Debtors' Assets. However, the Plan Proponents believe that the terms of the Plan provide for an orderly and efficient restructuring of the Debtors' obligations and will result in the realization of the most value for holders of Claims against the Debtors' Estates.

### **IX. CERTAIN FEDERAL TAX MATTERS RELATING TO THE 2023 BONDS**

**A GENERAL DESCRIPTION OF CERTAIN U.S. FEDERAL INCOME TAX CONSEQUENCES OF THE PLAN IS PROVIDED BELOW. NO RULING HAS BEEN REQUESTED FROM THE INTERNAL REVENUE SERVICE ("IRS"), NO OPINION HAS BEEN REQUESTED FROM THE DEBTORS' COUNSEL CONCERNING ANY TAX CONSEQUENCE OF THE PLAN, AND NO TAX OPINION IS GIVEN BY THIS DISCLOSURE STATEMENT. THERE CAN BE NO ASSURANCE THAT THE IRS WILL NOT CHALLENGE ANY OR ALL OF THE TAX CONSEQUENCES DESCRIBED BELOW, OR THAT SUCH A CHALLENGE, IF ASSERTED, WOULD NOT BE SUSTAINED.**

**THE FOLLOWING SUMMARY OF CERTAIN U.S. FEDERAL INCOME TAX CONSEQUENCES IS FOR INFORMATIONAL PURPOSES ONLY AND IS NOT A SUBSTITUTE FOR CAREFUL TAX PLANNING AND ADVICE BASED UPON THE INDIVIDUAL CIRCUMSTANCES PERTAINING TO A HOLDER OF A CLAIM. ALL HOLDERS OF CLAIMS ARE URGED TO CONSULT THEIR OWN TAX ADVISORS FOR THE U.S. FEDERAL, STATE, LOCAL, ESTATE, GIFT, AND NON-U.S. TAX CONSEQUENCES OF THE PLAN.**

**THE OCCURRENCE OF THE EFFECTIVE DATE IS CONDITIONED ON THE 2023 BOND TRUSTEE RECEIVING AN OPINION OF A NATIONALLY RECOGNIZED BOND COUNSEL, IN FORM AND SUBSTANCE REASONABLY ACCEPTABLE TO THE 2023 BOND TRUSTEE, THAT INTEREST ON THE 2023 BONDS IS EXCLUDABLE FROM THE GROSS INCOME OF THE HOLDERS THEREOF FOR PURPOSES OF U.S. FEDERAL INCOME TAXATION AND INCOME TAXATION UNDER THE LAWS OF THE STATE OF TEXAS.**

**A. Other Tax Consequences**

**1. Sale, Exchange or Retirement of 2023 Bonds.**

Upon the sale, exchange or retirement (including redemption) of the 2023 Bonds after the Effective Date of the Plan, an owner of the 2023 Bonds generally will recognize gain or loss in an amount equal to the difference between the amount of cash and the fair market value of any property received on the sale, exchange or retirement of the 2023 Bonds (other than in respect of accrued and unpaid interest) and such owner's adjusted tax basis in the 2023 Bonds. To the extent the 2023 Bonds are held as a capital asset, such gain or loss will be capital gain or loss and will be long-term capital gain or loss if the 2023 Bonds have been held for more than twelve (12) months at the time of sale, exchange or retirement.

**2. Reporting Requirements.**

In general, information reporting requirements will apply to certain payments of principal, interest and premium paid on the 2023 Bonds, and to the proceeds paid on the sale of the 2023 Bonds, other than certain exempt recipients (such as corporations and foreign entities). A backup withholding tax will apply to such payments if the owner fails to provide a taxpayer identification number or certification of foreign or other exempt status or fails to report in full dividend and interest income. The amount of any backup withholding from a payment to an owner will be allowed as a credit against the owner's federal income tax liability.

**3. Collateral Federal Income Tax Consequences.**

Prospective purchasers of the 2023 Bonds should be aware that ownership of the 2023 Bonds may result in collateral federal income tax consequences to certain taxpayers, including, without limitation, financial institutions, property and casualty insurance companies, individual recipients of Social Security or Railroad Retirement benefits, certain S corporations with "excess net passive income," foreign corporations subject to the branch profits tax, life insurance companies, and taxpayers who may be deemed to have incurred or continued indebtedness to purchase or carry or have paid or incurred certain expenses allocable to the 2023 Bonds. Bond Counsel expresses no opinion regarding these tax consequences. Holders of the Original Bonds should consult their tax advisors as to federal, state, and local tax consequences of the exchange of Original Bonds for 2023B Bonds on the Effective Date of the Plan, the applicability of the collateral federal income tax consequences referenced in this paragraph, and other federal income tax consequences of the exchange of the Original Bonds for the 2023B Bonds, and the purchase, ownership and disposition of the 2023 Bonds, including the possible application of state, local, foreign and other tax laws.

**X. RECOMMENDATION AND CONCLUSION**

The Plan Proponents believe the Plan is in the best interests of the Estates, creditors and other interested parties and urge the holders of Claims entitled to vote to accept the Plan and to evidence such acceptance by properly voting and timely returning their Ballots.

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

**Exhibit 1**  
**Plan**

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

COUNSEL TO THE DEBTORS AND  
DEBTORS IN POSSESSION

---

<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

<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:  
POL SINELLI 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

**Exhibit 2**  
**Liquidation Analysis**



**Exhibit 3**  
**Financial Projections**

**Edgemere**  
**Financial Projections**  
**For Years Ending 12/31**  
**\$ in Thousands**

	<b>2023</b>	<b>2024</b>	<b>2025</b>	<b>2026</b>	<b>2027</b>
<b><u>Occupancy</u></b>					
Independent Living Ending Occupancy	202	206	215	227	240
<i>% Occupied</i>	66.3%	67.7%	70.9%	74.7%	79.0%
Assisted Living Ending Occupancy	35	40	52	56	56
<i>% Occupied</i>	51.7%	59.3%	76.2%	82.4%	82.4%
Memory Care Ending Occupancy	32	33	40	40	40
<i>% Occupied</i>	71.3%	73.1%	88.9%	88.9%	88.9%
Skilled Nursing Average Occupancy	48	57	65	68	68
<i>% Occupied</i>	54.8%	65.2%	74.9%	78.6%	78.6%
<b>Total</b>	<b>316</b>	<b>336</b>	<b>372</b>	<b>391</b>	<b>405</b>
<i>% Occupied</i>	62.8%	66.6%	73.9%	77.6%	80.3%
<b><u>Operating Revenues</u></b>					
Independent Living	\$17,290	\$17,527	\$18,681	\$20,261	\$22,147
Assisted Living	3,310	3,973	5,188	6,259	6,502
Memory Support	2,904	3,382	4,049	4,398	4,530
Health Center	8,286	9,997	11,591	12,446	12,719
Other Revenue	177	182	190	200	212
<b>Total Operating Revenue</b>	<b>31,966</b>	<b>35,060</b>	<b>39,699</b>	<b>43,563</b>	<b>46,110</b>
<b><u>Operating Expenses</u></b>					
Wages & Benefits	15,849	16,669	17,669	18,970	19,611
Culinary	3,341	3,502	3,733	3,954	4,143
Environmental Services	170	176	183	190	197
General & Administration	4,485	4,541	3,639	4,178	4,339
Plant	2,706	2,787	2,871	2,957	3,046
Taxes	2,117	2,181	2,246	2,314	2,383
Other	2,483	2,717	2,823	2,929	3,027
<b>Total Operating Expenses</b>	<b>31,153</b>	<b>32,574</b>	<b>33,164</b>	<b>35,491</b>	<b>36,746</b>
<b>EBITDARM</b>	<b>814</b>	<b>2,486</b>	<b>6,535</b>	<b>8,072</b>	<b>9,364</b>
<i>EBITDARM Margin %</i>	2.5%	7.1%	16.5%	18.5%	20.3%
Home Office Allocation ("H/O Allocation")	-	-	1,588	1,743	1,844
<b>EBITDAR</b>	<b>814</b>	<b>2,486</b>	<b>4,947</b>	<b>6,329</b>	<b>7,520</b>
<i>EBITDAR Margin %</i>	2.5%	7.1%	12.5%	14.5%	16.3%
Ground Lease	4,429	4,562	4,699	4,840	4,985
<b>Net Operating Income</b>	<b>(3,616)</b>	<b>(2,076)</b>	<b>248</b>	<b>1,490</b>	<b>2,535</b>
<i>Net Operating Margin %</i>	(11.3)%	(5.9)%	0.6%	3.4%	5.5%

**Edgemere**  
**Cash Flow Projections**  
**For Years Ending 12/31**  
**\$ in Thousands**

	<b>2023</b>	<b>2024</b>	<b>2025</b>	<b>2026</b>	<b>2027</b>
Beginning Cash	31,181	10,746	11,091	11,619	12,220
EBITDAR	814	2,486	4,947	6,329	7,520
Ground Lease	(4,429)	(4,562)	(4,699)	(4,840)	(4,985)
Net Entrance Fees	6,761	11,420	13,861	15,568	17,836
Investment Income	-	430	444	465	489
<b>FADS</b>	<b>3,145</b>	<b>9,773</b>	<b>14,553</b>	<b>17,522</b>	<b>20,860</b>
CapEx	(6,434)	(7,170)	(6,369)	(6,647)	(6,938)
<b>FADS - CapEx</b>	<b>(3,289)</b>	<b>2,604</b>	<b>8,183</b>	<b>10,875</b>	<b>13,922</b>
Debt Service - Principal	(1,737)	(1,894)	(2,064)	(2,250)	(2,452)
Debt Service - Interest	(7,999)	(7,843)	(7,672)	(7,487)	(7,284)
<b>Total Debt Service</b>	<b>(9,736)</b>	<b>(9,736)</b>	<b>(9,736)</b>	<b>(9,736)</b>	<b>(9,736)</b>
Release of CapEx/Replacement Reserves	5,000	4,000	3,000	2,400	-
Sponsor Contribution to Fund Cash Shortfall	-	3,477	-	-	16,523
add/less Deferred/(Repaid Deferred) HO Allocation	-	-	-	-	1,844
Evergreen Debt Service Support	-	-	-	-	9,000
Deferred Claims Reserve (Funding)/Release	(12,410)	-	(918)	(2,938)	18,567
Deferred Claims Paid	-	-	-	-	(55,426)
<b>Ending Cash</b>	<b>10,746</b>	<b>11,091</b>	<b>11,619</b>	<b>12,220</b>	<b>6,913</b>