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March 12, 2024

Nassau County Industrial Development Agency
1 West Street, 4th Floor
Mineola, New York 11501

Attn: Sheldon L. Shrenkel, Chief Executive Officer/Executive Director

***Re: Application of LCS Harborside LLC for Financial Assistance
Acquisition of The Harborside
300 East Overlook, Port Washington, NY 11050***

Dear Mr. Shrenkel:

This firm represents LCS Harborside LLC (“Applicant”) in connection with the enclosed Application for Financial Assistance requested from the Nassau County Industrial Development Agency (the “Agency”) regarding the acquisition of 300 East Overlook, Port Washington, NY 11050 (“The Harborside”), the performance of certain major renovations and installation of furniture, fixtures and equipment thereto for operation as a continuing care retirement community (the “Project”). Please share this Application and this letter, which should be considered part of the Application, with the IDA Chairman and the members of the Agency board.

OVERVIEW

Applicant plans to acquire substantially all of the assets of The Harborside from its current owner, Amsterdam House Continuing Care Retirement Community, Inc. (“Amsterdam”). The proposed acquisition follows years of significant financial struggles at The Harborside, including several attempts to restructure The Harborside’s debt and return it to financial stability. The Applicant has carefully studied the financial situation and outlook for The Harborside and has developed concrete plans to improve The Harborside’s finances while avoiding the debt situation that contributed to its current financial struggles.

Following the anticipated change of ownership, the Applicant intends to honor all continuing care retirement community (“CCRC”) contracts currently in place between the Amsterdam and residents of The Harborside. Going forward, in an effort to further the financial viability of The Harborside, the Applicant will offer new residents three CCRC contract options.

THE HARBORSIDE HISTORY/BANKRUPTCY

The Harborside first opened in 2009, after the Agency issued tax-exempt bonds for the financing of the original development project and the Agency and Amsterdam entered into a Payment in Lieu of Taxes (“PILOT”) Agreement for the original project. Since then, The Harborside has undergone two restructurings of its bond debt: first in 2014 and more recently in 2021, and an amendment to the PILOT, in efforts to keep the facility operational. On March 22, 2023, the Amsterdam filed a voluntary petition for relief under Chapter 11 of the U.S. Bankruptcy Code. Following a lengthy bidding and auction process, Life Care Services Communities LLC D/B/A LCS Real Estate (“LCS Real Estate”), an affiliate of the Applicant, was selected to acquire The Harborside. On December 27, 2023, the Bankruptcy Court issued an Order formally approving the sale of The Harborside to LCS Real Estate (which will assign its rights thereunder to the Applicant).

APPLICANT

The Applicant is part of the LCS family of companies, which has a long track record of excellence in the operation of CCRCs nationwide and is one of the most experienced CCRC operators in the United States. LCS’s management arm, Life Care Services, currently manages 73 CCRCs nationwide, of which LCS has ownership interest in 16. The Applicant will engage Life Care Services to provide management services at The Harborside pursuant to the terms of a Consulting Services Agreement.

Life Care Services is relentlessly committed to crafting exceptional resident experiences. Its team of experts closely follows industry trends to remain at the forefront of innovation within its offerings. All programming and amenities are designed to support the health and well-being of every resident, and Life Care Services continually seeks feedback from residents and their families to provide a personalized experience for each of its residents.

Life Care Services has been recognized by J.D. Power’s U.S. Senior Living Satisfaction Study as #1 in Resident Satisfaction among Independent Senior Living Communities for five consecutive years and, in 2023, was also ranked #1 for Customer Satisfaction among Assisted Living/Memory Care Communities. In addition to managing LCS-owned seniors housing communities, Life Care Services manages senior housing communities for both not-for-profit and for-profit operators, treating both types of communities with equal levels of care, attention, and quality. While LCS provides management services for ownership groups of various structures, its commitment to service, quality and care never changes. The service offerings, contract structures, and pricing evaluation process remain the same across both for-profit and not-for-profit communities.

LCS has strong experience in turning around financially distressed communities, including through the conversion from a not-for-profit to for-profit structure. In fact, much of LCS’s growth over the years can be attributed to stepping in and assisting distressed communities steer themselves back to financial stability, either through management services or an ownership investment. The Applicant will leverage this invaluable experience as it works to return The Harborside to financial stability and increase its resident census.

PROJECT DESCRIPTION

With the Agency's assistance, the Applicant is proposing to invest over \$100 million in order to acquire, renovate and equip The Harborside, and make the necessary investments to stabilize it.

In connection with the acquisition, the existing bond financing will be retired, and no external debt will be placed upon the Project. This will relieve the burden of having to make costly debt service payments at a time when the Project is generating a low level of income due to low occupancy, and when expenses for the Project exceed revenues generated.

As noted above, Applicant intends to honor all CCRC contracts with existing residents of The Harborside. This constitutes a substantial financial commitment at a time when The Harborside is struggling to get out of bankruptcy.

NEED FOR FINANCIAL ASSISTANCE

Given the past history and current state of low occupancy percentages, this investment will require a great degree of capital expenditure and patience by Applicant to bring The Harborside's occupancy to a successful and sustainable level.

Due to the imminent sharp increases anticipated for the existing PILOT Agreement, the Applicant, The Harborside and the current residents are faced with a risky outlook, especially if the occupancy level grows slowly. Without further financial assistance from the Agency, the Project would become less financially viable, the service offerings to residents would diminish, and the path to restabilizing The Harborside would remain challenged. This would be a missed opportunity for the Applicant and the County.

FINANCIAL ASSISTANCE REQUESTED/ ANTICIPATED BENEFITS

Applicant requests the following assistance from the Agency:

1. Modification and extension of the existing PILOT, or a new PILOT, over a term of twenty (20) years going forward, stabilizing the PILOT payments on the facility at or near the current PILOT payment level, and thereafter providing for a reasonable escalation of same for the remaining term.
2. Sales tax exemption for the materials required for the renovation and equipping of the facility, and a mortgage recording tax exemption to the extent that the financing of the acquisition, renovations and equipping is secured by a mortgage (expected to be with a related entity).

We greatly appreciate your consideration of the foregoing and we look forward to meeting with the IDA Board to present our application and move this Project forward.

Mr. Sheldon L. Shrenkel

March 12, 2024

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Very truly yours,

FORCHELLI DEEGAN TERRANA LLP

By: *John P. Gordon*

JOHN P. GORDON

JPG

Enclosures

cc: Andrew D. Komaromi, Esq.

**NASSAU COUNTY INDUSTRIAL
DEVELOPMENT AGENCY**

APPLICATION FOR FINANCIAL ASSISTANCE

APPLICATION OF:

LCS Harborside LLC

APPLICANT NAME

Please respond to all questions in this Application for Financial Assistance (the "Application") by, as appropriate:

- filling in blanks;
- checking the applicable term(s);
- attaching additional text (with notation in Application such as "see Schedule H, Item # 1", etc.); or
- writing "N.A.", signifying "not applicable".

All attachments responsive to questions found in this Application should be clearly labeled and attached as Schedule I to the Application. If an estimate is given, enter "EST" after the figure. One signed original and one photocopy of the Application (including all attachments) must be submitted.

The following amounts are payable to the Nassau County Industrial Development Agency (the "Agency") at the time this Application is submitted to the Agency: (i) a \$1,500 non-refundable application fee (the "Application Fee"); (ii) a \$3,500 expense deposit for the Agency's Transaction/Bond Counsel fees and expenses (the "Counsel Fee Deposit"), (iii) a \$4,500 expense deposit for the cost/benefit analysis with respect to the project contemplated by this Application (the "Cost/Benefit Deposit"), and (iv) a \$500 expense deposit for the real property tax valuation analysis, if applicable, with respect to the project contemplated by this Application (the "Valuation Deposit"). The Application Fee will not be credited against any other fees or expenses which are or become payable to the Agency in connection with this Application or the project contemplated herein (the "Project"). In the event that the subject transaction does not close for any reason, the Agency may use all or any part of the Counsel Fee Deposit, the Cost/Benefit Deposit and/or the Valuation Deposit to defray the cost of Transaction/Bond Counsel fees and expenses, the cost of obtaining a cost/benefit analysis and/or the cost of obtaining a real property tax valuation with respect to the Project. In the event that the subject transaction does close, the Counsel Fee Deposit, the Cost/Benefit Deposit and the Valuation Deposit shall be credited against the applicable expenses incurred by the Agency with respect to the Project.

Every signature page comprising part of this Application must be signed by the Applicant or this Application will not be considered complete or accepted for consideration by the Agency.

The Agency's acceptance of this Application for consideration does not constitute a commitment on the part of the Agency to undertake the proposed Project, to grant any financial assistance with respect to the proposed Project or to enter into any negotiations with respect to the proposed Project.

Information provided herein may be subject to disclosure under the New York Freedom of Information Law (New York Public Officers Law § 84 et seq.) ("FOIL"). If the Applicant believes that a portion of the material submitted with this Application is protected from disclosure under FOIL, the Applicant should mark the applicable section(s) or page(s) as "confidential" and state the applicable exception to disclosure under FOIL.

March 12, 2024

DATE

PART I. APPLICANT

A. APPLICANT FOR FINANCIAL ASSISTANCE:

Name: LCS Harborside LLC

Address: 400 Locust Street, Suite 820, Des Moines, IA 50309-2334

Fax: [REDACTED]

NY State Dept. of Labor Reg #: _____ Federal Employer ID #: [REDACTED]

NAICS Code #: 623000

Website: theharborside.org

Name of CEO or Authorized Representative Certifying Application: Joel D. Nelson

Title of Officer: CEO

Phone Number: [REDACTED] E-Mail: LCSNotices@lcsnet.com

B. BUSINESS TYPE (Check applicable status. Complete blanks as necessary):

Sole Proprietorship General Partnership Limited Partnership

Limited Liability Company Privately Held Corporation

Publicly Held Corporation Exchange listed on _____

Not-for-Profit Corporation

Income taxed as: Subchapter S Subchapter C *X N/A - Disregarded entity*

501(c)(3) Corporation Partnership

State and Year of Incorporation/Organization: Delaware, 2023

Qualified to do Business in New York: Yes No N/A

C. APPLICANT COUNSEL:

H. Has the Applicant (or any parent company, subsidiary, affiliate or related entity or person) been involved in, applied for or benefited by any prior industrial development financing in the municipality in which this Project is located, whether by the Agency or another issuer, or in a contiguous municipality? ("Municipality" herein means city, town or village, or, if the Project is not in an incorporated city or village, Nassau County.) If YES, describe:

YES _____ NO X

I. Is the Applicant (or any parent company, subsidiary, affiliate or related entity or person) or any principal(s) of the Applicant or its related entities involved in any litigation or aware of any threatened litigation that would have a material adverse effect on the Applicant's financial condition or the financial condition of said principal(s)? If YES, attach details at Schedule I.

YES _____ NO X

J. Has the Applicant (or any parent company, subsidiary, affiliate or related entity or person) or any principal(s) of the Applicant or its related entities, or any other business or concern with which such entities, persons or principal(s) have been connected, ever been involved, as debtor, in bankruptcy, creditors rights or receivership proceedings or sought protection from creditors? If YES, attach details at Schedule I.

YES _____ NO X

K. Has the Applicant (or any parent company, subsidiary, affiliate or related entity or person) or any principal(s) of the Applicant or its related entities, ever been convicted of any felony or misdemeanor (other than minor traffic offenses), or have any such related persons or principal(s) held positions or ownership interests in any firm or corporation that has been convicted of a felony or misdemeanor (other than minor traffic offenses), or are any of the foregoing the subject of a pending criminal proceeding or investigation? If YES, attach details at Schedule I.

YES _____ NO X

L. Has the Applicant (or any parent company, subsidiary, affiliate or related entity or person) or any principal(s) of the Applicant or its related entities, or any other business or concern with which such entities, persons or principal(s) have been connected, been cited for (or is there a pending proceeding or investigation with respect to) a civil violation of federal, state or local laws or regulations with respect to labor practices, hazardous wastes, environmental pollution, taxation, or other operating practices? If YES, attach details at Schedule I.

YES _____

NO x

M. Is the Applicant (or any parent company, subsidiary, affiliate or related entity or person) or any principal(s) of the Applicant or its related entities, or any other business or concern with which such entities, persons or principal(s) have been connected, delinquent or have any of the foregoing persons or entities been delinquent on any New York State, federal or local tax obligations within the past five (5) years? If YES, attach details at Schedule I.

YES _____

NO x

N. Complete the following information for principals (including, in the case of corporations, officers and members of the board of directors and, in the case of limited liability company, members and managers) of the Applicant:

| <u>Name</u> | <u>Title</u> | <u>Other Business Affiliations</u> |
|--------------------------|---|------------------------------------|
| <u>Joel Nelson</u> | <u>CEO</u> | <u>various</u> |
| <u>Diane Bridgewater</u> | <u>Executive Vice President and Secretary</u> | <u>various</u> |
| <u>Chris Bird</u> | <u>President and Chief Operating Officer</u> | <u>various</u> |
| <u>Jason Victor</u> | <u>Senior Vice President and Treasurer</u> | <u>various</u> |

Do any of the foregoing principals hold elected or appointive positions with New York State, any political division of New York State or any other governmental agency? If YES, attach details at Schedule I.

YES _____

NO x

Are any of the foregoing principals employed by any federal, state or local municipality or any agency, authority, department, board, or commission thereof or any other governmental or quasi-governmental organization?

YES _____

NO x

O. Operation at existing location(s) (Complete separate Section O for each existing location):

1. (a) Location: N/A - newly-formed entity

(b) Number of Employees: Full-Time: _____ Part-Time: _____

(c) Annual Payroll, excluding benefits: _____

(d) Type of operation (e.g. manufacturing, wholesale, distribution, retail, etc.) and products or services: _____

(e) Size of existing facility real property (i.e., acreage of land): _____

(f) Buildings (number and square footage of each): _____

(g) Applicant's interest in the facility

FEE Title: ___ Lease: ___ Other (describe below):

2. Will the completion of the proposed Project result in the removal of a plant or facility of the Applicant, or of a proposed user, occupant or tenant of the Project, or a relocation of any employee of the Applicant, or any employee of a proposed user, occupant or tenant of the Project, from one area of the State of New York (but outside of Nassau County) to a location in Nassau County or in the abandonment of such a plant or facility located in an area of the State of New York outside of Nassau County? If YES, complete the attached Anti-Raiding Questionnaire (Schedule D).

YES _____

NO X

3. Will the proposed Project result in the removal or abandonment of a plant or facility of the Applicant, or of a proposed user, occupant or tenant of the proposed Project, or a relocation of any employee of the Applicant, or any employee of a proposed user, occupant or tenant of the proposed Project, located within Nassau County? If YES, identify the location of the plant or facility and provide explanation.

YES _____

NO X

- P. Has the Applicant considered moving to another state or another location within New York State? If YES, explain circumstances.

YES _____

NO X

- Q. Does any one supplier or customer account for over 50% of Applicant's annual purchases or sales, respectively? If YES, attach name and contact information for supplier and/or customer, as applicable:

YES _____

NO X

R. Does the Applicant (including any related entity or person) or any principal(s) of the Applicant or its related entities, or any other business or concern with which such entities, persons or principal(s) have been connected, have any contractual or other relationship with the Agency or the County of Nassau? If YES, attach details at Schedule I.

YES _____ NO X

S. Nature of Applicant's business (e.g., description of goods to be sold, products manufactured, assembled or processed, services rendered):

The applicant will operate a continuing care retirement community, which consists of

independent living, assisted living and skilled nursing services, along with associated service offerings.

T. ANY RELATED PARTY PROPOSED TO BE A USER OF THE PROJECT:

Name: N/A

Relationship to Applicant: _____

Provide the information requested in Questions A through S above with respect to each such party by attachment at Schedule I.

PART II. PROPOSED PROJECT

A. Types of Financial Assistance Requested:

- Tax-Exempt Bonds
- Taxable Bonds
- Refunding Bonds
- Sales/Use Tax Exemption
- Mortgage Recording Tax Exemption
- Real Property Tax Exemption
- Other (specify): _____

B. Type of Proposed Project (check all that apply and provide requested information):

- New Construction of a Facility
Square footage: _____
- Addition to Existing Facility
Square footage of existing facility: _____
Square footage of addition: _____
- Renovation of Existing Facility
Square footage of area renovated: 924,233
Square footage of existing facility: 924,233
- Acquisition of Land/Building
Acreage/square footage of land: 8.94 acres
Square footage of building: 924,233
- Acquisition of Furniture/Machinery/Equipment
List principal items or categories:
Building materials and FF&E

- Other (specify): _____

C. Briefly describe the purpose of the proposed Project, the reasons why the Project is necessary to the Applicant and why the Agency's financial assistance is necessary, and the effect the Project will have on the Applicant's business or operations:

The Project consists of the acquisition of The Harborside in a Chapter 11 Bankruptcy process and the related renovation and equipping of the facility.

The Project is necessary to keep The Harborside operational into the future, and to ensure that all existing agreements with residents are honored. Financial assistance is needed in order to make the project financially feasible.

D. Is there a likelihood that the proposed Project would not be undertaken by the Applicant but for the granting of the financial assistance by the Agency? (If yes, explain; if no, explain why the Agency should grant the financial assistance with respect to the proposed Project)

YES X NO

The financial assistance will incentivize the Applicant to undertake the Project, deploy its capital and expertise in the County and commit to making the investment needed in order to deliver the level and quality of service to make the Harborside a going concern and successful facility.

E. If the Applicant is unable to arrange Agency financing or other Agency financial assistance for the Project, what will be the impact on the Applicant and Nassau County? Would the Applicant proceed with the Project without Agency financing or other Agency financial assistance? Describe.

Without the requested financial assistance from the Agency, the Project would become less financially viable, the service offerings to residents would diminish, and the path to restablizing the Harborside would remain challenged.

F. Location of Project:

Street Address: 300 East Overlook, Port Washington, NY 11050

City/Village(s): N/A

Town(s): North Hempstead

School District(s): Port Washington - 4

Tax Map Section: 6 Block: 53 Lot: 1066

Census Tract Number: 3010.00

G. Present use of the Project site: Continuing Care Retirement Community

H. (a) What are the current real estate taxes on the Project site? (If amount of current taxes is not available, provide assessed value for each):

General: \$ exempt
School: \$ exempt
Village: \$ N/A

(b) Are tax certiorari proceedings currently pending with respect to the Project real property? If YES, attach details at Schedule I including copies of pleadings, decisions, etc.

YES _____

NO X

- I. Describe proposed Project site ownership structure (*i.e.*, Applicant or other entity):
Will be owned and operated by Applicant.
-

- J. To what purpose will the building or buildings to be acquired, constructed or renovated be used by the Applicant? (Include description of goods to be sold, products to be manufactured, assembled or processed and services to be rendered.)
The applicant will operate a continuing care retirement community, which consists of independent living, assisted living and skilled nursing services, along with associated service offerings.
-

- K. If any space in the Project is to be leased to or occupied by third parties (*i.e.*, parties not related to the Applicant), or is currently leased to or occupied by third parties who will remain as tenants, provide the names and contact information for each such tenant, indicate total square footage of the Project to be leased to each tenant, and describe proposed use by each tenant:
Portions of project will be occupied by residents of facility.
-

- L. Provide, to the extent available, the information requested, in Part I, Questions A, B, D and O, with respect to any party described in the preceding response.
N/A
-

- M. Does the proposed Project meet zoning/land use requirements at proposed location?

YES X

NO _____

1. Describe present zoning/land use: Planned Unit Development - Senior Residential Community

2. Describe required zoning/land use, if different: N/A

3. If a change in zoning/land use is required, please provide details/status of any request for change of zoning/land use requirements:

N/A

N. Does the Applicant, or any related entity or person, currently hold a lease or license on the Project site? If YES, please provide details and a copy of the lease/license.

YES _____ NO X

O. Does the Applicant, or any related entity or person, currently hold fee title to (i.e. own) the Project site?

YES _____ NO X

If YES, indicate:

- (a) Date of purchase: N/A
- (b) Purchase price: \$ _____
- (c) Balance of existing mortgage, if any: \$ _____
- (d) Name of mortgage holder: _____
- (e) Special conditions: _____

If NO, indicate name of present owner of Project site: AMSTERDAM HOUSE
CONTINUING CARE RETIREMENT COMMUNITY, INC.

P. Does the Applicant or any related person or entity have an option or a contract to purchase the Project site and/or any buildings on the Project site?

YES X NO _____

If YES, attach copy of contract or option at Schedule I and indicate:

- (a) Date signed: December 20, 2023
- (b) Purchase price: \$ 64,450,000 (including operating escrow)
- (c) Closing date: tbd

Is there a relationship legally or by virtue of common control or ownership between the Applicant (and/or its principals) and the seller of the Project (and/or its principals)?

If YES, describe:

YES _____ NO X

Q. Will customers personally visit the Project site for either of the following economic activities? If YES with respect to either economic activity indicated below, complete the attached Retail Questionnaire (Schedule E).

Sales of Goods: YES _____ NO Sales of Services: YES _____ NO

R. Describe the social and economic conditions in the community where the Project site is or will be located and the impact of the proposed Project on the community (including impact on infrastructure, transportation, fire and police and other government-provided services):

The facility site is currently operated as a continuing care retirement community, which is currently in bankruptcy due to low occupancy and high debt. The Project is expected to assist the local economy by increasing occupancy and

stabilizing operations at the facility site, honoring existing resident refund obligations (over \$90M) – all other bidders would have wiped out a key source of wealth in the local economy, and adding the jobs projected.

S. Identify the following Project parties (if applicable):

Architect: N/A
Engineer: N/A
Contractors: tbd

T. Will the Project be designed and constructed to comply with Green Building Standards? (if YES, describe the LEED green building rating that will be achieved):

YES _____ NO

U. Is the proposed Project site located on a Brownfield? (if YES, provide description of contamination and proposed remediation)

YES _____ NO

V. Will the proposed Project produce a unique service or product or provide a service that is not otherwise available in the community in which the proposed Project site is located?

YES NO _____

W. Is the proposed Project site currently subject to an IDA transaction (whether through the Agency or otherwise)? If yes, explain.

YES x

NO _____

Current IDA PILOT and bond financing. The bonds will be paid. Applicant is requesting a modification and extension of the existing PILOT or a new PILOT stabilizing the current payment schedule.

PART III. CAPITAL COSTS OF THE PROJECT

A. Provide an estimate of cost of all items listed below:

| | <u>Item</u> | <u>Cost</u> |
|-----|---|-----------------------|
| 1. | Land and/or Building Acquisition | \$ <u>64,450,000</u> |
| 2. | Building Demolition | \$ _____ |
| 3. | Construction/Reconstruction/Renovation | \$ <u>10,000,000</u> |
| 4. | Site Work | \$ _____ |
| 5. | Infrastructure Work | \$ _____ |
| 6. | Architectural/Engineering Fees | \$ _____ |
| 7. | Applicant's Legal Fees | \$ <u>1,750,000</u> |
| 8. | Financial Fees | \$ _____ |
| 9. | Other Professional Fees | \$ <u>2,000,000</u> |
| 10. | Furniture, Equipment & Machinery Acquisition (not included in 3. above) | \$ <u>2,500,000</u> |
| 11. | Other Soft Costs (describe) | \$ <u>4,100,000</u> |
| 12. | Other (describe) | \$ <u>15,905,041</u> |
| | Total | \$ <u>100,705,041</u> |

B. Estimated Sources of Funds for Project Costs:

- a. Tax-Exempt IDA Bonds: \$ _____
- b. Taxable IDA Bonds: \$ _____
- c. Conventional Mortgage Loans: \$ _____
- d. SBA or other Governmental Financing: \$ _____
Identify: _____
- e. Other Public Sources (e.g., grants, tax credits): \$ _____
Identify: _____

| | | |
|----|---|-----------------------|
| f. | Other Loans: | \$ <u>98,737,415</u> |
| g. | Equity Investment: (excluding equity attributable to grants/tax credits) | \$ <u>2,267,626</u> |
| | TOTAL | \$ <u>100,705,041</u> |

What percentage of the total project costs are funded/financed from public sector sources: 0 %

C. Have any of the above costs been paid or incurred (including contracts of sale or purchase orders) as of the date of this application? If YES, describe particulars on a separate sheet.

YES X NO

D. Are items of working capital, moving expenses, work in progress, or stock in trade included in the proposed uses of the bond proceeds (if applicable)? If YES, provide details:

YES NO NOT APPLICABLE X

E. Will any of the funds to be borrowed through the Agency's issuance of bonds, if applicable, be used to repay or refinance an existing mortgage, outstanding loan or an outstanding bond issue? If YES, provide details:

YES NO NOT APPLICABLE X

F. Has the Applicant made any arrangement for the marketing or the purchase of the bonds or the provision of other third party financing (if applicable)? If YES, indicate with whom (subject to Agency approval) and provide a copy of any term sheet or commitment letter issued with respect to such financing.

YES NO NOT APPLICABLE X

G. Construction Cost Breakdown:

Total Cost of Construction: \$ 10,000,000 (sum of 2-5 and 10 in Question A above)

Cost for materials: \$ 2,925,000
 % Sourced in County: 25 %

% Sourced in State: 50 % (incl. County)

Cost for labor: \$ 3,575,000
 % Sourced in County: 75 %
 % Sourced in State: 95 % (incl. County)

Cost for "other": \$ 3,500,000
 % Sourced in County: 25 %
 % Sourced in County: 50 % (incl. County)

The Applicant acknowledges that the transaction/bond documents may include a covenant by the Applicant to undertake and document the total amount of capital investment as set forth in this Application.

PART IV. COST/BENEFIT ANALYSIS

A. If the Applicant presently operates in Nassau County, provide the current annual payroll. Estimate projected payroll at the Project site in First Year, Second Year and Third Year after completion of the Project:

| | <u>Present</u> | <u>First Year</u> | <u>Second Year</u> | <u>Third Year</u> |
|-------------------------|----------------|----------------------|----------------------|----------------------|
| Full-time: | \$ <u>N/A</u> | \$ <u>13,027,000</u> | \$ <u>13,697,000</u> | \$ <u>14,008,000</u> |
| Part-time: ¹ | | | | |

List the average salaries or provide ranges of salaries for the following categories of jobs (on a full-time equivalency basis) projected to be retained/created in Nassau County as a result of the proposed Project:

| <u>Category of Jobs to be Retained:</u> | <u>Average Salary or Range of Salary:</u> | <u>Average Fringe Benefits or Range of Fringe Benefits</u> |
|---|---|--|
| Management | \$42,000 - \$117,300 | \$8,500 - \$23,500 |
| Professional | \$22,000 - \$100,000 | \$4,400 - \$20,000 |
| Administrative | \$41,600 - \$300,000 | \$8,320 - \$60,000 |
| Production | \$23,000 - \$100,000 | \$4,600 - \$20,000 |
| Supervisor | \$41,300 - \$57,200 | \$8,300 - \$11,500 |
| Laborer | \$31,200 - 40,000 | \$6,000 - \$8,000 |

¹ NOTE: The Agency converts part-time jobs into FTE's for evaluation and reporting purposes by dividing the number of part-time jobs by two (2).

| | | |
|-------------------------------------|--|--|
| Independent Contractor ² | | |
| Other | | |

| <u>Category of Jobs to be Created:</u> | <u>Average Salary or Range of Salary:</u> | <u>Average Fringe Benefits or Range of Fringe Benefits</u> |
|--|---|--|
| Management | \$43,600 - \$114,400 | \$8,700 - \$23,000 |
| Professional | \$38,400 - \$99,900 | \$7,600 - 20,000 |
| Administrative | \$80,000 - \$140,000 | \$16,000 - \$28,000 |
| Production | \$41,600 - \$98,000 | \$8,300 - \$19,600 |
| Supervisor | \$43,600 - \$72,800 | \$8,700 - \$14,600 |
| Laborer | \$36,000 - \$46,000 | \$7,000 - \$9,200 |
| Independent Contractor ³ | | |
| Other | | |

The Agency may utilize the foregoing employment projections and the projections set forth in Schedule C, among other things, to determine the financial assistance that will be offered by the Agency to the Applicant. The Applicant acknowledges that the transaction/bond documents may include a covenant by the Applicant to retain the number of jobs, types of occupations and amount of payroll with respect to the Project set forth in this Application.

- B. (i) Will the Applicant transfer current employees from existing location(s)? If YES, describe, please describe the number of current employees to be transferred and the location from which such employees would be transferred:

YES _____ NO X _____

- (ii) Describe the number of estimated full time equivalent construction jobs to be created as a result of undertaking the project, to the extent any:

3

² As used in this chart, this category includes employees of independent contractors.

³ As used in this chart, this category includes employees of independent contractors.

C. What, if any, is the anticipated increase in the dollar amount of production, sales or services following completion of the Project?

\$ 9,400,000

What percentage of the foregoing amount is subject to New York sales and use tax?

<1 %

What percentage of the Applicant's total dollar amount of production, sales or services (including production, sales or services rendered following completion of the Project) are made to customers outside the economic development region (i.e., Nassau and Suffolk Counties)?

0 %

Describe any other municipal revenues that will result from the Project (excluding the above and any PILOT payments):

N/A

D. What is the estimated aggregate annual amount of goods and services to be purchased by the Applicant for each year after completion of the Project and what portion will be sourced from businesses located in the County and the State (including the County):

| | <u>Amount</u> | <u>% Sourced in County</u> | <u>% Sourced in State</u> |
|--------|----------------------|----------------------------|---------------------------|
| Year 1 | <u>\$ 9,951,000</u> | <u>33%</u> | <u>75%</u> |
| Year 2 | <u>\$ 10,840,000</u> | <u>33%</u> | <u>75%</u> |
| Year 3 | <u>\$ 11,440,000</u> | <u>33%</u> | <u>75%</u> |

E. Notice to Applicant under Section 224-a(8)(d) of the New York Labor Law and acknowledgment of Applicant:

Please note that incentives from the NCIDA are considered "public funds" unless otherwise excluded under Section 224-a(3) of the New York Labor Law. Other than the estimates of incentives if awarded pursuant hereto, NCIDA makes no representations or covenants with respect to the total sources of "public funds" received by you in connection with your project.

By completing this Section of the Application, Applicant (i) acknowledges that the estimated sales tax exemption benefit, the estimated mortgage recording tax benefit and the estimated PILOT benefit amount, if any, as so identified in this Application and if awarded constitute "public funds" unless otherwise excluded under Section 224-a(3) of the New York Labor Law (ii) confirms that it has received notice from the Agency pursuant to Section 224-a(8)(d) of the New York Labor Law and (iii) acknowledges its obligations pursuant to Section 224-a(8)(a) of the New York

Labor Law.

F. Estimated Value of Requested Financial Assistance:

Estimated Value of Sales Tax Benefit: \$ 252,281.25
(i.e., gross amount of cost of goods and services
that are subject to state and local sales and use taxes
multiplied by 8.625%)

Estimated Value of Mortgage Tax Benefit: \$ 740,530.50
(i.e., principal amount of mortgage loans
loans multiplied by [0.75%])

Estimated Property Tax Benefit:

Will the proposed Project utilize a property tax
exemption benefit other than from the Agency: No
(if so, please describe)

Term of PILOT Requested: 20 Years

Existing Property Taxes on Land and Building: \$ exempt

Estimated Property Taxes on completed Project: \$ no change to existing
(without Agency financial assistance)

NOTE: Upon receipt of this Application by the Agency,
the Agency's staff will create a PILOT schedule and estimate
the amount of PILOT Benefit/Cost utilizing anticipated
tax rates and assessed valuation, and attach such information
as Exhibit A hereto.

G. Describe and estimate any other one-time municipal revenues (not including fees payable
to the Agency) that the Project will create:

N/A

PART V. PROJECT SCHEDULE

A. If applicable, has construction/reconstruction/renovation work on the Project begun? If YES, indicate the percentage of completion:

- 1. (a) Site clearance YES _____ NO X _____ % complete
- (b) Environmental Remediation YES _____ NO X _____ % complete
- (c) Foundation YES _____ NO X _____ % complete
- (d) Footings YES _____ NO X _____ % complete
- (e) Steel YES _____ NO X _____ % complete
- (f) Masonry YES _____ NO X _____ % complete
- (g) Masonry YES _____ NO X _____ % complete
- (h) Interior YES _____ NO X _____ % complete
- (i) Other (describe below): YES _____ NO X _____ % complete

2. If NO to all of the above categories, what is the proposed date of commencement of construction, reconstruction, renovation, installation or equipping of the Project?

Renovations to commence following acquisition.

B. Provide an estimate of time schedule to complete the Project and when the first use of the Project is expected to occur:

3 years to complete planned renovations, which will take place while occupied.

PART VI. ENVIRONMENTAL IMPACT

A. What is the expected environmental impact of the Project? (Complete the attached Environmental Assessment Form (Schedule G)).

No environmental impact expected.

B. Is an environmental impact statement required by Article 8 of the N.Y. Environmental Conservation Law (i.e., the New York State Environmental Quality Review Act)?

YES _____ NO x _____

C. Please be advised that the Agency may require at the sole cost and expense of the Applicant the preparation and delivery to the Agency of an environmental report in form and scope satisfactory to the Agency, depending on the responses set forth in the Environmental Assessment Form. If an environmental report has been or is being prepared in connection with the Project, please provide a copy.

D. The Applicant authorizes the Agency to make inquiry of the United States Environmental Protection Agency, the New York State Department of Environmental Conservation or any other appropriate federal, state or local governmental agency or authority as to whether the Project site or any property adjacent to or within the immediate vicinity of the Project site is or has been identified as a site at which hazardous substances are being or have been used, stored, treated, generated, transported, processed, handled, produced, released or disposed of. The Applicant will be required to secure the written consent of the owner of the Project site to such inquiries (if the Applicant is not the owner), upon request of the Agency.

THE UNDERSIGNED HEREBY CERTIFIES, under penalties of perjury, that the answers and information provided above and in any schedule, exhibit or statement attached hereto are true, accurate and complete, to the best of the knowledge of the undersigned.

Name of Applicant: LCS Harborside LLC
Signature: *Diane C. Bridgewater*
Name: Diane Bridgewater
Title: Executive Vice President and Secretary
Date: 3/12/24

Sworn to before me this 12
day of March, 2024

Tina Bagenstos
Notary Public



**CERTIFICATIONS AND ACKNOWLEDGMENTS
OF THE APPLICANT**

FIRST:

The Applicant hereby certifies that, if financial assistance is provided by the Agency for the proposed project, no funds of the Agency (i) shall be used in connection with the Project for the purpose of preventing the establishment of an industrial or manufacturing plant or for the purpose of advertising or promotional materials which depict elected or appointed government officials in either print or electronic media, (ii) be given to any group or organization which is attempting to prevent the establishment of an industrial or manufacturing plant within the State.

SECOND:

The Applicant hereby certifies that no member, manager, principal, officer or director of the Applicant or any affiliate thereof has any blood, marital or business relationship with any member of the Agency (or any member of the family of any member of the Agency).

THIRD:

The Applicant hereby certifies that neither the Applicant nor any of its affiliates, nor any of their respective partners, members, shareholders or other equity owners (other than equity owners of publicly-traded companies), nor any of their respective employees, officers, directors, or representatives (i) is a person or entity with whom United States persons or entities are restricted from doing business under regulations of the Office of Foreign Asset Control (OFAC) of the Department of the Treasury, including those named on OFAC's Specially Designated and Blocked Persons List, or under any statute, executive order or other governmental action, or (ii) has engaged in any dealings or transactions or is otherwise associated with such persons or entities.

FOURTH:

The Applicant hereby acknowledges that the Agency shall obtain and hereby authorizes the Agency to obtain credit reports and other financial background information and perform other due diligence on the Applicant and/or any other entity or individual related thereto, as the Agency may deem necessary to provide the requested financial assistance.

FIFTH:

The Applicant hereby certifies that each owner, occupant or operator that would receive financial assistance with respect to the proposed Project is in substantial compliance with applicable federal, state and local tax, worker protection and environmental laws, rules and regulations.

SIXTH:

The Applicant hereby acknowledges that the submission to the Agency of any knowingly false or knowingly misleading information may lead to the immediate termination of any financial assistance and the recapture from the Applicant of an amount equal to all or any part of any tax exemption claimed by reason of the Agency's involvement in the Project.

SEVENTH:

The Applicant hereby certifies that, as of the date of this Application, the Applicant is in substantial compliance with all provisions of Article 18-A of the General Municipal Law, including, but not limited to, the provisions of Section 859-a and Section 862(1) thereof.

EIGHTH:

(i) Does the Project propose the creation of housing?

YES _____ NO X

If YES, how many units? _____

If YES, the Applicant hereby certifies that:

- (a) the Applicant has adopted a Fair Housing/Equal Housing Opportunity Policy substantially in the form of Exhibit B to this Application;
- (b) the proposed Project complies with applicable fair housing laws and that eligibility criteria for housing in any part of the Project will not include any residency requirements or preferences, including durational ones, age restrictions (unless for senior housing permitted by law), or other discriminatory criteria;
- (c) the Applicant (1) has posted its Fair Housing/Equal Housing Opportunity Policy publicly; and (2) will display fair housing law posters for consumers in its rental or sales office(s), in a form substantially similar to the model fair housing posters attached to this Application as Exhibit C (the Agency will provide applicants with fair housing law posters for display upon request by an applicant); and
- (d) key employees of the Applicant in charge of marketing and rental of the Project have completed (or will complete within one year of closing) four (4) hours of fair housing training provided by Long Island Housing Services ("LIHS") at a reasonably acceptable time and location and at no additional cost to the Applicant. In the event LIHS declines to provide or make available reasonably acceptable no-cost fair housing training, the provisions of this Certification VIII(i)(d) shall cease to be of any force and effect.

(ii) If YES to (i) above, does the Project propose the creation of "affordable" or "workforce" housing ("Affordable Housing")?

YES _____ NO _____

If YES, the Applicant hereby certifies that the Applicant (1) has adopted a non-discriminatory affirmative marketing plan that meets the criteria set forth in Exhibit D to this Application; and (2) will submit such marketing plan to the Agency in writing prior to closing.

If YES, answer the following questions:

(a) What portion of the Project would consist of Affordable Housing (e.g., number of units)?

(b) What are the eligibility requirements for the Affordable Housing?

(c) Cite the specific source of such eligibility requirements (e.g., federal, state or local law).

Name of Applicant: LCS Harborside LLC

By: *Diane C Bridgewater*
Name: *Diane Bridgewater*
Title: *Executive Vice President and Secretary*

**CERTIFICATION AND AGREEMENT
WITH RESPECT TO FEES AND COSTS**

Capitalized terms used but not otherwise defined in this Certification and Agreement shall have the meanings assigned to such terms in the Application.

The undersigned, being duly sworn, deposes and says, under penalties of perjury, as follows: that I am the chief executive officer or other representative authorized to bind the Applicant named in the attached application for financial assistance ("Application") and that I hold the office specified below my signature at the end of this Certification and Agreement, that I am authorized and empowered to deliver this Certification and Agreement and the Application for and on behalf of the Applicant, that I am familiar with the contents of said Application (including all schedules, exhibits and attachments thereto), and that said contents are true, accurate and complete to the best of my knowledge and belief.

The grounds of my belief relative to all matters in the Application that are not based upon my own personal knowledge are based upon investigations I have made or have caused to be made concerning the subject matter of this Application, as well as upon information acquired in the course of my duties and from the books and records of the Applicant.

As an authorized representative of the Applicant, I acknowledge and agree on behalf of the Applicant that the Applicant hereby releases the Nassau County Industrial Development Agency, its members, officers, servants, attorneys, agents and employees (collectively, the "Agency") from, agrees that the Agency shall not be liable for and agrees to indemnify, defend (with counsel selected by the Agency) and hold the Agency harmless from and against any and all liability, damages, causes of actions, losses, costs or expenses incurred by the Agency in connection with: (A) examination and processing of, and action pursuant to or upon, the Application, regardless of whether or not the Application or the financial assistance requested therein are favorably acted upon by the Agency, (B) the acquisition, construction, reconstruction, renovation, installation and/or equipping of the Project by the Agency, and (C) any further action taken by the Agency with respect to the Project; including, without limiting the generality of the foregoing, (i) all fees and expenses of the Agency's general counsel, transaction/bond counsel, economic development consultant, real property tax valuation consultant and other attorneys, experts and consultants (if deemed necessary or advisable by the Agency), and (ii) all other expenses (including attorneys' fees) incurred by the Agency in defending any suits, actions or proceedings that may arise as a result of any of the foregoing. If, for any reason whatsoever, the Applicant fails to conclude or consummate necessary negotiations or fails within a reasonable or specified period of time to take reasonable, proper or requested action or withdraws, abandons, cancels, or neglects the Application or if the Applicant is unable to find buyers willing to purchase the total bond issue required or is unable to secure other third party financing or otherwise fails to conclude the Project, then upon presentation of an invoice by the Agency, its agents, attorneys or assigns, the Applicant shall pay to the Agency, its agents, attorneys or assigns, as the case may be, all fees and expenses reflected in any such invoice.

As an authorized representative of the Applicant, I acknowledge and agree on behalf of the Applicant that each of the Agency's general counsel, transaction/bond counsel, economic development consultant, real property tax valuation consultant and other experts and consultants is an intended third-party beneficiary of this Certification and Agreement, and that each of them may (but shall not be obligated to) enforce the provisions of the immediately preceding paragraph, whether by lawsuit or otherwise, to collect the fees and expenses of such party or person incurred by the Agency (whether or not first paid by the Agency) with respect to the Application.

Upon successful closing of the required bond issue or other form of financing or Agency assistance, the Applicant shall pay to the Agency an administrative fee set by the Agency (which amount is payable at closing) in accordance with the following schedule:

- (A) Taxable Bond Issues Six-tenths (6/10) of one percent (1%) for the first twenty million dollars (\$20,000,000) of total project costs and, if applicable, two-tenths (2/10) of one percent (1%) for any additional amounts in excess of twenty million dollars (\$20,000,000) of total project costs.
- (B) Tax-Exempt Bond Issues – Six-tenths (6/10) of one percent (1%) of total project costs.
- (C) Straight-Lease Transactions Six-tenths (6/10) of one percent (1%) for the first twenty million dollars (\$20,000,000) of total project costs and, if applicable, two-tenths (2/10) of one percent (1%) for any additional amounts in excess of twenty million dollars (\$20,000,000) of total project costs
- (D) General Counsel Fee – One-tenth (1/10) of one percent (1%) of total project costs, with a minimum fee of \$4,000.
- (E) All Initial Transactions - Two Thousand Five Hundred Dollars (\$2,500) closing compliance fee payable at closing and One Thousand Dollars (\$1,000) per year (or part thereof) administrative fee, payable in advance, at the closing for the first year (or part thereof) and on January 1st of each year for the term of the financing. The annual service fee is subject to periodic review and may be adjusted from time to time in the discretion of the Agency.
- (F) Refundings – The Agency fee shall be determined on a case-by-case basis.
- (F) Assumptions – The Agency fee shall be determined on a case-by-case basis.
- (G) Modifications – The Agency fee shall be determined on a case-by-case basis, but in accordance with the following schedule.
 - A basic Consent - \$750
 - A Transfer of Benefits
 - Basic - \$3,000
 - Complex - \$6,000
 - Extensions - \$1,000
- (H) Terminations - The Agency fee shall be determined on a case-by-case basis, but in accordance with the following schedule.
 - Basic - \$2,000
 - Complex - \$2,500

The Agency's transaction/bond counsel fees and expenses are payable at closing and are based on the work performed in connection with the Project.

The Agency's transaction/bond counsel's fees, general counsel fee and the administrative fees may be considered as a cost of the Project and included as part of any resultant financing, subject to compliance with applicable law.

Guided by the above stated schedule amounts, upon the termination of the financing of the Project, Applicant agrees to pay all costs in connection with any conveyance by the Agency to the Applicant of the Agency's interest in the Project and the termination of all related Project documents, including the fees and expenses of the Agency's general counsel, bond/transaction counsel, and all applicable recording, filing or other related fees, taxes and charges.

I further acknowledge and agree on behalf of the Applicant that, in the event the Agency shall have used all of its available tax-exempt bond financing allocation from the State of New York, if applicable, and shall accordingly be unable to obtain an additional allocation for the benefit of the Applicant, the Agency shall have no liability or responsibility as a result of the inability of the Agency to issue and deliver tax-exempt bonds for the benefit of the Applicant.

Diane C Bridgewater
Name *Diane Bridgewater*
Title: *Executive Vice President and Secretary*

Subscribed and affirmed to me this 12
day of March, 2024

Tina Bagenstos
Notary Public



TABLE OF SCHEDULES:

| <u>Schedule</u> | <u>Title</u> | <u>Complete as Indicated Below</u> |
|-----------------|---|--|
| A. | Tax-Exempt Bond Manufacturing Questionnaire | If Applicant checked "YES" in Part I, Question H of Application, if applicable[[|
| B. | New York State Financial and Employment Requirements for Industrial Development Agencies | All applicants |
| C. | Guidelines for Access to Employment Opportunities | All applicants |
| D. | Anti-Raiding Questionnaire | If Applicant checked "YES" in Part I, Question O.2. of Application |
| E. | Retail Questionnaire | If Applicant checked "YES" in Part II, Question Q of Application |
| F. | Applicant's Financial Attachments, consisting of: | All applicants |
| | 1. Applicant's financial statements for the last two fiscal years (unless included in Applicant's annual reports). | |
| | 2. Applicant's annual reports (or Form 10-K's) for the two most recent fiscal years. | |
| | 3. Applicant's quarterly reports (Form 10-Q's) and current reports (Form 8-K's) since the most recent Annual Report, if any. | |
| | 4. In addition, attach the financial information described above in items F1, F2, and F3 of any anticipated Guarantor of the proposed transaction, if different than the Applicant, including the personal financial statement of any anticipated Guarantor that is a natural person. | |
| G. | Environmental Assessment Form | All applicants |
| H. | Form NYS-45 (and 45-ATT) | All applicants |
| I. | Other Attachments | As required |

Schedule A

TAX-EXEMPT BOND MANUFACTURING QUESTIONNAIRE

(To be completed by the Applicant if the Applicant checked "YES" in Part I, Question H of the Application for Financial Assistance, if applicable).

Please complete the following questions for each facility to be financed. Use additional pages as necessary.

1. Describe the production process which occurs at the facility to be financed.

2. Allocate the facility to be financed by function (expressed in square footage) (e.g., production line, employee lunchroom, offices, restrooms, storage, warehouse, loading dock, repair shop, parking, research, sales, etc.) and location in relation to production (e.g., same building, adjacent land or building, off-site, etc.). Please attach blueprints of the facility to be financed.

| <u>FUNCTION</u> | <u>LOCATION</u> | <u>SQ. FOOTAGE</u> |
|-----------------|-----------------|--------------------|
| _____ | _____ | _____ |
| _____ | _____ | _____ |
| _____ | _____ | _____ |

TOTAL

3. Of the space allocated to offices above, identify by function (e.g., executive offices, payroll, production, etc.) and location in relation to production (e.g., same building, adjacent land or building, off-site, etc.).

| <u>FUNCTION</u> | <u>LOCATION</u> | <u>SQ. FOOTAGE</u> |
|-----------------|-----------------|--------------------|
| _____ | _____ | _____ |
| _____ | _____ | _____ |
| _____ | _____ | _____ |

TOTAL

4. Of the space allocated to storage or warehousing above, identify the square footage and location of the areas devoted to storage of the following:

SQ. FOOTAGE

LOCATION

Raw Materials used
for production of
manufactured goods

Finished product storage

Component parts of
goods manufactured at
the facility

Purchased component
parts

Other (specify)

TOTAL

5. List raw materials used at the facility to be financed in the processing of the finished product(s).

6. List finished product(s) which are produced at the facility to be financed.

The UNDERSIGNED HEREBY CERTIFIES that the answers and information provided above and in any statement attached hereto are true and correct.

Name of
Applicant:

Signature:

Name:

Title:

Date:

Schedule B

**NEW YORK STATE FINANCIAL AND EMPLOYMENT REPORTING
REQUIREMENTS FOR INDUSTRIAL DEVELOPMENT AGENCIES**

- A. Pursuant to applicable law, the Agency requires the completion of an Initial Employment Plan (see Schedule C) and a year-end employment plan status report, both of which shall be filed by the Nassau County Industrial Development Agency (the "Agency") with the New York State Department of Economic Development. The Project documents will require the Applicant to provide such report to the Agency on or before February 11 of the succeeding year, together with such employment verification information as the Agency may require.

Except as otherwise provided by collective bargaining agreements, the Applicant agrees to list any new employment opportunities with the New York Department of Labor Community Services Division and the administrative entity of the service delivery area created by the Federal Job Training Partnership Act (P.L. 97-300), or any successor statute thereto (the "JTPA Entities"). In addition, except as otherwise provided by collective bargaining agreements, the Applicant, where practicable, will first consider persons eligible to participate in JTPA programs who shall be referred by the JTPA Entities for such new employment opportunities.

- B. The Applicant will be required to file annually a statement with the New York State Department of Taxation and Finance and the Agency of the value of all sales or use tax exemptions claimed in connection with the Project by reason of the involvement of the Agency.
- C. The following information must be provided for all bonds issued, outstanding or retired during the year:

Name, address and owner of the project; total amount of tax exemptions granted (broken out by state and local sales tax, property taxes, and mortgage recording tax); payments in lieu of taxes made; total real estate taxes on the Project prior to exemption; number of jobs created and retained, and other economic benefits realized.

Date of issue; interest rate at end of year; bonds outstanding at beginning of year; bonds issued during year; principal payments made during year; bonds outstanding at end of year; federal tax status; and maturity date(s).

Failure to provide any of the aforesaid information will be constitute a DEFAULT under the Project documents to be entered into by the Agency and the Applicant in connection with the proposed Project.

Please sign below to indicate that the Applicant has read and understood the above and agrees to provide the described information on a timely basis.

Name of
Applicant:

LCS Harborside LLC

Signature:

Diane C Bridgewater

Name:

Diane Bridgewater

Title:

Executive Vice President and Secretary

Date:

3/12/24

Schedule C

GUIDELINES FOR ACCESS TO EMPLOYMENT OPPORTUNITIES

INITIAL EMPLOYMENT PLAN

Prior to the expenditure of bond proceeds or the granting of other financial assistance, the Applicant shall complete the following initial employment plan:

Applicant Name: LCS Harborside LLC
 Address: 400 Locust Street, Suite 820, Des Moines, IA 50309-2334
 Type of Business: Senior Living Owner and Operator
 Contact Person: Graham Johnson Tel. No. [REDACTED]

Please complete the following table describing the projected full-time equivalent employment plan for the proposed Project following receipt of financial assistance:

| <u>Current and Planned Occupations</u> | <u>Present Jobs Per Occupation</u> | <u>Estimated Number of Full Time Equivalent Jobs After Completion of the Project:⁴</u> | | | <u>Estimate of Number of Residents of the LMA⁵ that would fill such jobs by the third year</u> |
|--|------------------------------------|---|----------------|----------------|---|
| | | <u>1 year</u> | <u>2 years</u> | <u>3 years</u> | |
| <u>Management</u> | <u>7.5</u> | <u>8</u> | <u>8</u> | <u>8</u> | <u>90-95%</u> |
| <u>Professional</u> | <u>14.5</u> | <u>16</u> | <u>16</u> | <u>16</u> | <u>90-95%</u> |
| <u>Administrative</u> | <u>12</u> | <u>11</u> | <u>11</u> | <u>11</u> | <u>90-95%</u> |
| <u>Production</u> | <u>25.5</u> | <u>45</u> | <u>48</u> | <u>51</u> | <u>90-95%</u> |
| <u>Supervisor</u> | <u>5</u> | <u>4.5</u> | <u>5</u> | <u>5</u> | <u>90-95%</u> |
| <u>Laborer</u> | <u>15.5</u> | <u>40</u> | <u>42</u> | <u>43</u> | <u>90-95%</u> |
| <u>Independent Contractor</u> | | | | | |
| <u>Other (describe)</u> | | | | | |
| TOTAL | 80* | 124.5 | 130 | 134 | |

⁴ NOTE: Convert part-time jobs into FTE's for evaluation and reporting purposes by dividing the number of part-time jobs by two (2).

⁵ The "LMA" means the Local Market Area, which is defined by the Agency as Nassau and Suffolk Counties. The Labor Market Area is the same as the Long Island Economic Development Region, as established pursuant to Section 230 of the New York State Economic Development Law.

Please indicate the number of temporary construction jobs anticipated to be created in connection with the acquisition, construction and/or renovation of the Project: 3

Please indicate the estimated hiring dates for the new jobs shown above and any special recruitment or training that will be required:

Hiring will start after transaction closing, timeline which is dependent on state regulatory approvals. Training will vary based on position.

Are the Applicant's employees currently covered by a collective bargaining agreement?

YES _____

NO x _____

IF YES, Union Name and Local: _____

Please note that the Agency may utilize the foregoing employment projections, among other things, to determine the financial assistance that will be offered by the Agency to the Applicant. The Applicant acknowledges that the transaction/bond documents may include a covenant by the Applicant to retain the above number of jobs, types of occupations and amount of payroll with respect to the proposed project.

Attached hereto as Schedule H is a true, correct and complete copy of the Applicant's most recent Quarterly Combined Withholding, Wage Reporting, and Unemployment Insurance Return (Form NYS-45 and 45-ATT). Upon request of the Agency, the Applicant shall provide such other or additional information or documentation as the Agency may require with respect to the Applicant's current employment levels in the State of New York.

The UNDERSIGNED HEREBY CERTIFIES that the answers and information provided above and in any statement attached hereto are true, correct and complete.

Name of Applicant:

LCS Harborside LLC

Signature:

Diane C Bridgewater

Name:

Diane Bridgewater

Title:

Executive Vice President and Secretary

Date:

3/12/24

Schedule D

ANTI-RAIDING QUESTIONNAIRE

(To be completed by Applicant if Applicant checked "YES" in Part I, Question O of the Application for Financial Assistance)

- A. Will the completion of the Project result in the removal of a plant or facility of the Applicant, or of a proposed user, occupant or tenant of the Project, or a relocation of any employee of the Applicant or of a proposed user, occupant or tenant of the Project, from an area in New York State (but outside of Nassau County) to an area within Nassau County?

YES _____

NO _____

If the answer to Question A is YES, please provide the following information:

Address of the to-be-removed plant or facility or the plants or facilities from which employees are relocated: _____

Names of all current users, occupants or tenants of the to-be-removed plant or facility: _____

- B. Will the completion of the Project result in the abandonment of one or more plants or facilities of the Applicant, or of a proposed user, occupant or tenant of the Project, located in an area of the State of New York other than in Nassau County?

YES _____

NO _____

If the answer to Question B is YES, please provide the following information:

Addresses of the to-be-abandoned plants or facilities: _____

Names of all current occupants of the to-be-abandoned plants or facilities:

C. Has the Applicant contacted the local industrial development agency at which its current plants or facilities in New York State are located with respect to the Applicant's intention to move or abandon such plants or facilities?

YES _____

NO _____

If the answer to Question C is YES, please provide details in a separate attachment.

IF THE ANSWER TO EITHER QUESTION A OR B IS "YES", ANSWER QUESTIONS D AND E.

D. Is the Project reasonably necessary to preserve the competitive position of the Applicant, or of a proposed user, occupant or tenant of the Project, in its industry?

YES _____

NO _____

E. Is the Project reasonably necessary to discourage the Applicant, or a proposed user, occupant or tenant of the Project, from removing such plant or facility to a location outside of the State of New York?

YES _____

NO _____

IF THE ANSWER TO EITHER QUESTION D OR E IS "YES", PLEASE PROVIDE DETAILS IN A SEPARATE ATTACHMENT.

Accordingly, the Applicant certifies that the provisions of Section 862(1) of the General Municipal Law will not be violated if financial assistance is provided by the Agency for the proposed Project.

NOTE: If the proposed Project involves the removal or abandonment of a plant or facility of the Applicant, or a proposed user, occupant or tenant of the Project, within the State of New York, notification will be made by the Agency to the chief executive officer(s) of the municipality or municipalities in which such plant or facility was located.

THE UNDERSIGNED HEREBY CERTIFIES that the answers and information provided above and in any statement attached hereto are true, correct and complete.

Name of
Applicant:

Signature:

Name:

Title:

Date:

Schedule E

RETAIL QUESTIONNAIRE

(To be completed by Applicant if Applicant checked either "YES" in Part II, Question Q of the Application for Financial Assistance)

- A. Will any portion of the Project (including that portion of the cost to be financed from equity or sources other than Agency financing) consist of facilities or property that are or will be primarily used in making retail sales to customers who personally visit the Project?

YES _____

NO _____

For purposes of Question A, the term "retail sales" means (i) sales by a registered vendor under Article 28 of Tax Law of the State of New York (the "Tax Law") primarily engaged in the retail sale of tangible personal property (as defined in Section 1101(b)(4)(i) of the Tax Law), or (ii) sales of a service to customers who personally visit the Project.

- B. If the answer to Question A is YES, what percentage of the cost of the Project (including that portion of the cost to be financed from equity or sources other than Agency financing) will be expended on such facilities or property primarily used in making retail sales of goods or services to customers who personally visit the Project?

_____ %

- C. If the answer to Question A is YES, and the amount entered for Question B is greater than 33.33%, indicate whether any of the following apply to the Project:

1. Is the Project likely to attract a significant number of visitors from outside the economic development region (i.e., Nassau and Suffolk Counties) in which the Project is or will be located?

YES _____

NO _____

2. Is the predominant purpose of the Project to make available goods or services which would not, but for the Project, be reasonably accessible to the residents of the city, town or village within which the Project will be located, because of a lack of reasonably accessible retail trade facilities offering such goods or services?

YES _____

NO _____

3. Will the Project be located in one of the following: (a) an area designated as an empire zone pursuant to Article 18-B of the General Municipal Law; or (b) a census tract or block numbering area (or census tract or block numbering area contiguous thereto) which, according to the most recent census data, has (i) a poverty rate of at least 20% for the year in which the data relates, or at least 20% of the households receiving public assistance, and (ii) an unemployment rate of at least 1.25 times the statewide unemployment rate for the year to which the data relates?

YES _____

NO _____

If the answer to any of the subdivisions 1 through 3 of Question C is YES, attach details.

- D. If the answer to any of the subdivisions 2 through 3 of Question C is YES, will the Project preserve permanent, private sector jobs or increase the overall number of permanent, private sector jobs in the State of New York? If YES, attach details.

YES _____

NO _____

- E. State percentage of the Applicant's annual gross revenues comprised of each of the following:

Retail Sales: _____%

Services: _____%

- F. State percentage of Project premises utilized for same:

Retail Sales: _____%

Services: _____%

The UNDERSIGNED HEREBY CERTIFIES that the answers and information provided above and in any statement attached hereto are true, correct and complete.

Name of Applicant: _____

Signature: _____

Name: _____

Title: _____

Date: _____

Schedule F

APPLICANT'S FINANCIAL ATTACHMENTS

Schedule G

ENVIRONMENTAL ASSESSMENT FORM

Schedule H

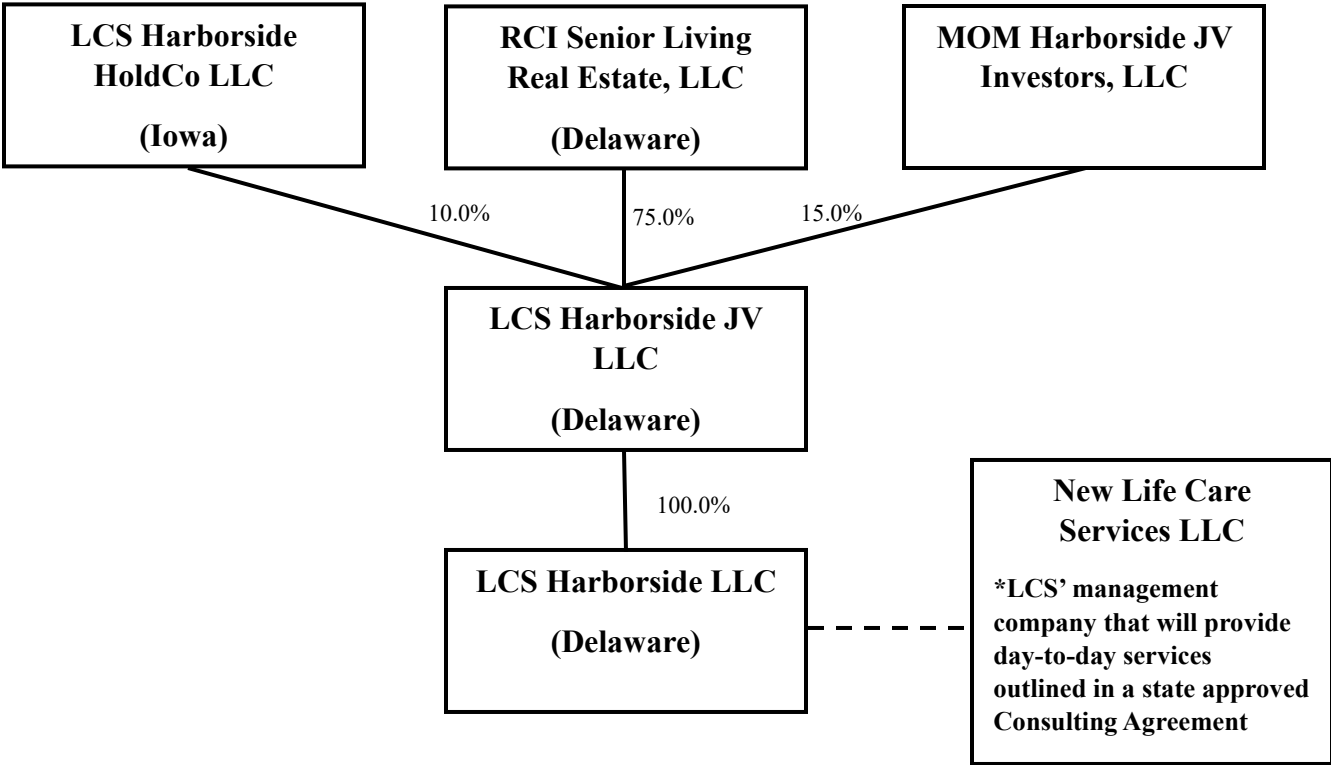
FORM NYS-45

Attach most recent quarterly filing of Form NYS-45 and 45-ATT, as well as the most recent fourth quarter filing. Please remove the employee social security numbers and note which employees are part-time.

Schedule I

OTHER ATTACHMENTS

1. Org Chart
2. Amended and Restated Asset Purchase Agreement



EXECUTION VERSION

AMENDED AND RESTATED ASSET PURCHASE AGREEMENT

DATED AS OF DECEMBER 20, 2023

BY AND BETWEEN

**AMSTERDAM HOUSE CONTINUING CARE RETIREMENT COMMUNITY, INC.
D/B/A THE HARBORSIDE
as Seller**

AND

**LIFE CARE SERVICES COMMUNITIES LLC D/B/A LCS REAL ESTATE
as Buyer**

AMENDED AND RESTATED ASSET PURCHASE AGREEMENT

THIS ASSET PURCHASE AGREEMENT (this “Agreement”) is dated as of December 20, 2023 (the “Execution Date”), by and between **AMSTERDAM HOUSE CONTINUING CARE RETIREMENT COMMUNITY, INC. (D/B/A THE HARBORSIDE)** (“Seller”) and **LIFE CARE SERVICES COMMUNITIES LLC D/B/A LCS REAL ESTATE** (“Buyer”).

RECITALS:

A. Seller is the owner of certain real, personal and intangible property constituting that certain continuing care retirement community known as “The Harborside” which includes independent living apartments, assisted living units, memory care units, and a licensed and Medicare certified skilled nursing facility, located at 300 East Overlook, Port Washington, New York 11050 (the “Community”);

B. On March 22, 2023 (the “Petition Date”), Seller filed a voluntary petition for relief under chapter 11 of title 11 of the United States Code (the “Bankruptcy Code”) in the United States Bankruptcy Court for the Eastern District of New York (the “Bankruptcy Court”), thereby commencing the case captioned “In re: AMSTERDAM HOUSE CONTINUING CARE RETIREMENT COMMUNITY, INC. (Case No. 23-70989 (AST))” (the “Bankruptcy Case”);

C. All capitalized terms used herein which are not defined when initially used are defined below or in the Bidding Procedures Order;

D. Seller desires to sell, transfer, convey and assign to Buyer, and Buyer desires to purchase, acquire, accept and assume from Seller pursuant to this Agreement, the Bidding Procedures, the Bidding Procedures Order, the Sale Order and Sections 105, 363, and 365 of the Bankruptcy Code, the CCRC Assets, Business, and Assumed Liabilities of the Seller as specifically provided herein;

E. The execution and delivery of this Agreement and Seller’s ability to consummate the transactions set forth in this Agreement are subject to, among other things, the entry of the Sale Order;

F. The parties acknowledge, understand and agree that the terms of the Contemplated Transactions are the result of arm’s length negotiations;

G. Seller has solicited bids for the CCRC Assets and Business to obtain the highest and best offer for the CCRC Assets and Business in accordance with the Bidding Procedures and the Bidding Procedures Order;

H. Pursuant to the *Order Approving Designation of Life Care Services Communities LLC, D/B/A LCS Real Estate as Stalking Horse Bidder* [Docket No. 316], the Bankruptcy Court approved the Seller’s designation of Buyer as the Stalking Horse Bidder;

I. After conducting the Auction, Seller determined that Buyer’s offer to purchase the CCRC Assets and Business submitted at the Auction is the highest and best offer received for the

CCRC Assets and Business and constitutes a fair and adequate purchase price for the CCRC Assets and Business;

J. Seller and Buyer have previously entered into that certain Asset Purchase Agreement, dated as of October 24, 2023 (the “Prior Agreement”); and

K. Seller and Buyer desire to amend and restate the Prior Agreement in its entirety on the terms and conditions set forth herein.

NOW, THEREFORE, in consideration of the mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Seller and Buyer, intending to be legally bound, agree as follows:

**ARTICLE I.
DEFINITIONS**

Section 1.01 Defined Terms. For purposes of this Agreement, the following terms shall have the meanings indicated:

“Accounts Receivable” means all accounts, notes, accounts receivable, and other rights to receive payment for goods and services provided by Seller in connection with the Business prior to the Effective Time, including any such accounts receivable that have been charged off as bad debts, whether billed or unbilled, or recorded or unrecorded, or collected after the Effective Time.

“Accrued PTO” has the meaning set forth in Section 7.05(f).

“Acquired Avoidance Actions” has the meaning set forth in Section 2.06(e).

“Action” means any claim, complaint (including a qui tam complaint), audit, legal action, suit or arbitration, litigation, civil investigative demand, criminal information, subpoena, search warrant, or any proceeding, or investigation, by or before any Governmental Authority.

“Additional Financial Statements” has the meaning set forth in Section 6.14.

“Adequate Assurance Utility Deposits” has the meaning set forth in Section 2.02(p).

“Affiliate” means with respect to any specified Person, any other Person which, directly or indirectly controls, is controlled by, or is under common control with, the specified Person. The term “control” (including the terms “controlled by” and “under common control with”) means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a Person, whether through the ownership of voting securities, by contract or otherwise.

“Agreement” has the meaning set forth in the introductory paragraph.

“Allocated Value” has the meaning set forth in Section 7.02.

“Alternative Transaction” means any agreement or transaction, including by credit bid, whether pursuant to a Chapter 11 plan or otherwise, including a foreclosure by the Bond Trustee, effecting (i) the sale or other transfer (in a single transaction or a series of related transactions) of all or substantially all of the CCRC Assets, or (ii) the issuance, sale or other transfer (in a single transaction or series of related transactions) of all or substantially all of the member interests of Seller or any of its successors, to any party other than Buyer or a designee of Buyer, or (iii) a restructuring of the Seller’s obligations under the Bond Financing.

“Annex” has the meaning set forth in Section 4.22.

“Applicable Law” means any federal, state, municipal, county, local, foreign or other statute, law, ordinance, code, constitution, treaty, rule, regulation, or published guidance having the effect of law, or any order, writ, injunction, judgment, plan, decree or other requirement or rule of law of any Governmental Authority.

“Application” means the Certificate of Need application(s) seeking the approval of DOH for the establishment and licensure of Buyer as the operator of the Business with 56 skilled nursing beds, 26 enriched housing units, 18 special needs assisted living units and/or enhanced assisted living units.

“Approval” means any final approval, authorization, consent, notice, qualification or registration, or any extension, modification, amendment or waiver of any of the foregoing, of or from, or any notice, statement, filing or other communication to be filed with or delivered to, any Governmental Authority without conditions.

“Asset Taxes” means all sales, use, real estate, ad valorem, property, excise, severance, production or similar Taxes, but not payroll, withholding, franchise, income or similar Taxes.

“Assigned Contracts” has the meaning set forth in Section 2.01(c).

“Assumed Liabilities” has the meaning set forth in Section 2.03.

“Avoidance Actions” means any and all Claims of Seller under chapter 5 of the Bankruptcy Code.

“Bankruptcy Case” has the meaning set forth in the Recitals.

“Bankruptcy Code” has the meaning set forth in the Recitals.

“Bankruptcy Court” has the meaning set forth in the Recitals.

“Benefit Plans” means (i) all “employee benefit plans”, as defined in Section 3(3) of ERISA (whether or not such plan is subject thereto), and (ii) all bonus or other incentive, deferred or other compensation, profit sharing, pension, change-in-control, severance pay, separation, retention, sick leave, vacation pay, day or dependent care, salary continuation, disability, hospitalization, medical, life insurance, retiree healthcare, retiree life insurance, other retirement, scholarship, legal services, cafeteria, life, health, accident, disability, workers’ compensation, paid time off, fringe benefit or other insurance or employee benefit programs, plans, policies or

arrangements, whether written or oral, single employer, multiemployer or multiple employer, or whether for the benefit of a single individual or more than one individual, to which Seller or any of its ERISA Affiliates contributes, has an obligation to contribute, or has any Liability (including through its ERISA Affiliates, former or current), contingent or otherwise, with respect to, or otherwise provides to, any current or former Employee or Service Provider, their beneficiaries and/or dependents.

“Bidding Procedures” means the procedures set forth in the Bidding Procedures Order governing the sale of the CCRC Assets.

“Bidding Procedures Order” means that certain *Order (I) Approving Bidding Procedures, (II) Authorizing the Debtor to Designate a Stalking Horse Bidder, (III) Approving Procedures for the Assumption and Assignment of Certain Executory Contracts and Unexpired Leases, (IV) Authorizing (A) the Sale of the Debtor’s Assets Free and Clear of All Liens, Claims, Interests and Encumbrances, and (B) the Assumption and Assignment of Certain Executory Contracts and Unexpired Leases, (V) Approving the Forms of Notices Related to the Sale, and (VI) Granting Related Relief* [Docket No. 179] entered by the Bankruptcy Court on May 17, 2023, as amended by Docket No. 375.

“Bond Financing” means the following bonds issued pursuant to the Indenture for the benefit of the Seller and currently outstanding in the approximate aggregate principal amount of \$168,037,200.00 (plus accrued interest): (i) \$40,710,000 Continuing Care Retirement Community Taxable Revenue Bonds (Amsterdam at Harborside Project), Series 2021A, and (ii) \$127,327,200 Continuing Care Retirement Community Tax-Exempt Refunding Revenue Bonds (Amsterdam at Harborside Project), Series 2021B.

“Bond Trustee” means UMB Bank, N.A., in its capacity as trustee under the Indenture.

“Break-Up Fee” has the meaning set forth in Section 12.04.

“Business” means the business of (i) owning and operating the Community, including the provision of housing, personal care services, health care and related services to its Residents and (ii) the owning the Real Property.

“Business Day” means any day other than (i) a Saturday, Sunday or any United States federal legal holiday, or (ii) any day on which banks in New York are not open for business.

“Buyer” has the meaning set forth in the Preamble.

“Buyer Closing Certificate” has the meaning set forth in Section 9.03.

“Buyer Employer” has the meaning set forth in Section 7.05(b).

“CCRC Assets” has the meaning set forth in Section 2.01.

“Claim” has the meaning set forth in Section 101(b) of the Bankruptcy Code, and any and all demands, losses, liabilities, damages, obligations, expenses, fines, penalties, costs, claims, causes of action and judgments for: (a) breaches of Contract; (b) loss or damage to Personal

Property, injury to or death of persons (including illness and disease), and other tortious injury; or (c) violation of Applicable Laws, orders, or any other legal right or duty actionable at law or in equity. The term “Claims” also includes reasonable attorneys’ fees, court costs, and other reasonable costs resulting from the investigation or defense of any claim.

“Closing” means the consummation of the purchase and sale of the CCRC Assets and assumption of the Assumed Liabilities in accordance with the terms of this Agreement on the Closing Date, or at such earlier or later date and time as may be agreed upon between Buyer and Seller.

“Closing Date” has the meaning set forth in Section 10.01.

“COBRA” means the Consolidated Omnibus Budget Reconciliation Act of 1985, as amended.

“Code” means the Internal Revenue Code of 1986, as amended.

“Community” has the meaning set forth in the Recitals.

“Contemplated Transactions” has the meaning set forth in Section 2.01.

“Contract” means any written contract, agreement, indenture, note, bond, note, sublease, lease (including any Personal Property lease or capital lease), conditional sales contract, mortgage, license, sublicense, franchise agreement, obligation, promise, undertaking, commitment, or other legally binding agreement, primarily pertaining to or used in connection with the Business (in each case, whether written or oral), along with any additional Contracts that are entered into after the date hereof but prior to the Closing, including the Residency Agreements.

“Cost Funding Request” has the meaning set forth in Section 6.18(b).

“Cure Costs” has the meaning set forth in Section 2.07(c).

“Current Resident” means a Person (i) occupying the Community or any part thereof pursuant to a Residency Agreement as of the Closing Date or (ii) who has executed a Residency Agreement, but has yet to occupy the Community, as of the Closing Date.

“Deed” means the special warranty deed, in form and substance mutually agreeable to the parties, which will be used to convey the Real Property to Buyer at the Closing.

“Deposit” has the meaning set forth in Section 3.02(a).

“Designation Deadline” means 5:00 p.m., prevailing Eastern Time, on the date that is five (5) Business Days prior to the Closing Date or such later date as Buyer and Seller shall mutually agree and as the Bankruptcy Court may authorize; *provided* that the Designation Deadline for any Executory Contract with respect to which a dispute regarding a Cure Cost exists on such date shall be five (5) Business Days after the date of the resolution of such dispute.

“Disclosure Schedules” means the disclosure schedules provided by Seller in connection with this Agreement.

“DOH” means the Department of Health of the State of New York.

“Effective Time” means 12:01 a.m. on the calendar day immediately following the Closing Date, unless otherwise agreed in writing by Seller and Buyer.

“Employee” means any individual employed by Seller who provides services to Seller in connection with the Business.

“Environmental Defect” means any condition of, in, on or under any of the CCRC Assets that either (i) requires monitoring, reporting, removal, restoration, remediation or resolution under applicable Environmental Laws or (ii) if known by a federal or state regulatory agency of competent jurisdiction, would reasonably be expected to cause such federal or state regulatory agency to assert that the CCRC Assets require monitoring, reporting, removal, restoration, remediation or resolution under applicable Environmental Laws.

“Environmental Laws” means any federal, state, or local Applicable Law relating to the prevention of pollution, protection of health or the environment or natural resources, restoration of environmental quality, or Releases of or exposure to Hazardous Substances or the handling, generation, treatment, transportation, storage, use, arrangement for disposal or disposal, manufacture, distribution, formulation, packaging or labeling of Hazardous Substances, including the following federal statutes and the regulations promulgated thereunder: the Comprehensive Environmental Response, Compensation and Liability Act of 1980; the Emergency Planning and Community Right-To-Know Act; the Resources Conservation and Recovery Act; the Clean Air Act; the Clean Water Act; the Safe Drinking Water Act; the Oil Pollution Act; the Toxic Substances Control Act; the Hazardous Materials Transportation Act; the Federal Insecticide, Fungicide, and Rodenticide Act; and the regulations promulgated pursuant thereto and analogous State and local Applicable Laws.

“Environmental Liabilities” means any Liabilities arising under Environmental Laws or Environmental Defects.

“Escrow Agent” means Citibank, National Association.

“ERISA” means the Employee Retirement Income Security Act of 1974, as amended.

“ERISA Affiliate” means any entity that, together with Seller, may be treated as a single employer under Section 4001 of ERISA or Section 414 of the Code.

“ERISA Affiliate Liability” means any actual or contingent Liability of Seller or its ERISA Affiliates under or in respect of any employee benefit plan pursuant to any statute or regulation that imposes Liability on a “controlled group” or similar basis as a result of being an ERISA Affiliate or successor prior to the Closing Date with respect to any other Person.

“EFT Accounts” has the meaning set forth in Section 2.08(c).

“Excess Refund Amount” has the meaning set forth in Section 6.18(a).

“Excluded Assets” has the meaning set forth in Section 2.02.

“Excluded Contracts” has the meaning set forth in Section 2.02(c).

“Excluded Employee Liabilities” means each of the following, except as otherwise expressly set forth in Section 7.05:

(a) any and all Liabilities arising out of, relating to or resulting from or with respect to any current or former Employee or Service Provider (and their services), based on facts occurring prior to or as of the Closing (even if not known until after the Closing), including relating to his/her employment or services, transition of employment or services, or termination of employment or services, with Seller, or any of their respective Affiliates, including as a result of the consummation of the Contemplated Transactions including Liabilities related to unemployment benefits;

(b) any and all actual or contingent Liabilities under, arising out of, relating to or resulting from any Benefit Plans;

(c) any ERISA Affiliate Liability;

(d) any and all Liabilities for any misclassification of any Person performing services for or on behalf of Seller prior to the Closing as an independent contractor rather than as an employee; and

(e) any and all other Liabilities arising out of, relating to or resulting from the employment or prospective employment of or the termination of any relationship with any current, former or prospective Employees (including any Employee who does not accept an offer of employment with Buyer) or Service Providers, based on facts occurring prior to or as of the Closing (even if not known until after the Closing).

“Excluded Intellectual Property Licenses” has the meaning set forth in Section 2.02(b).

“Excluded Liabilities” has the meaning set forth in Section 2.04.

“Excluded Personal Property” has the meaning set forth in Section 2.02(a).

“Execution Date” has the meaning set forth in the Preamble.

“Executory Contract” means any executory Contract related to the Business or to which Seller is a party.

“Final Order” means an order or judgment of the Bankruptcy Court, or other court of competent jurisdiction, as to which the time for appeal, Petition for *Certiorari* or move for re-argument or re-hearing has expired, and as to which no appeal, Petition for *Certiorari*, or other proceeding for re-argument or re-hearing shall then be pending, or as to which any appeal, Petition for *Certiorari*, re-argument or re-hearing shall have been waived in writing, in form and substance

reasonably satisfactory to the Seller and the Buyer, or in the event that an appeal, Writ of *Certiorari* or re-argument or re-hearing thereof has been sought, such order of the Bankruptcy Court, or other court of competent jurisdiction, shall have been determined by the highest Court to which such order was approved, or no stay pending appeal is in effect regarding such appeal, or *certiorari*, re-argument or re-hearing shall have been denied or resulted in no modification of such order, and the time to take any further appeal, Petition for *Certiorari* or move for re-argument or re-hearing shall have expired; provided however, that the possibility that a motion under Section 502(i) of the Bankruptcy Code, Rule 59 or Rule 60 of the Federal Rules of Civil Procedure, or any analogous bankruptcy Applicable Law or applicable state court rules of civil procedure, may be, but have not been, filed with respect to such order shall not cause such order not to be a Final Order.

“Flow of Funds Memorandum” means the memorandum that outlines the receipt of the Purchase Price and the distributions of funds.

“Former Residents” means any Resident that has vacated the Community on or prior to the Closing Date.

“Furniture and Equipment” means all furniture, fixtures, furnishings, machinery, appliances and other equipment (including medical equipment) and leasehold improvements owned by Seller, used by Seller in the conduct of the Business and located in the Ordinary Course of Business at the Community, including all such desks, chairs, tables, Hardware, copiers, telephone lines, telecopy machines and other telecommunication equipment (and, to the extent assignable by Seller, the telephone numbers associated therewith used in the Ordinary Course of Business), cubicles and miscellaneous office furnishings.

“GAAP” means generally accepted accounting principles in the United States.

“Governing Document” means the legal document(s) by which any Person (other than an individual) establishes its legal existence, or which govern its internal affairs. For example, the “Governing Documents” of a corporation would be its certificate of incorporation and bylaws, the “Governing Documents” of a limited partnership would be its certificate of formation and its limited partnership agreement and the “Governing Documents” of a limited liability company would be its certificate of formation and its limited liability company agreement or operating agreement.

“Government Health Program” means any federal health program as defined in 42 U.S.C. § 1320a-7b(f), including but not limited to, (i) Titles XVIII (Medicare), XIX (Medicaid), and Title XXI (Children’s Health Insurance Program) of the Social Security Act; (ii) the health care programs offered by the U.S. Department of Veterans Affairs; and (iii) the Civilian Health and Medical Program of Uniformed Services and TRICARE programs; and similar or successor programs that are funded, in whole or in part, by the government of the United States of America.

“Governmental Authority” means any federal, state, provincial, municipal or local government, agency, court, arbitrator, regulatory or administrative agency, department (including the DOH and New York State Department of Financial Services), commission, board, bureau, subdivision, authority, instrumentality or other body, including any Person exercising executive,

legislative, judicial, regulatory or administrative governmental powers or functions, in each case to the extent the same has jurisdiction over the Person, property or service in question.

“Guaranty Actions” has the meaning set forth in Section 2.01(h).

“Hardware” means any and all computer and computer-related hardware, including computers, file servers, facsimile servers, scanners, color printers, laser printers and networks.

“Hazardous Substance” means petroleum and its byproducts, asbestos and any other material or substance which is defined as a “hazardous waste,” “hazardous substance,” “hazardous material,” “restricted hazardous waste,” “industrial waste,” “solid waste,” “contaminant,” “pollutant,” “toxic waste” or “toxic substance”.

“Healthcare Regulatory Consents” means in respect of Seller or Buyer, as the case may be, such material consents, approvals, authorizations, waivers, Orders, licenses or Permits of any Governmental Authority as shall be required to be obtained and such notifications to any Governmental Authority as shall be required to be given by such party in order for it to consummate the Contemplated Transactions in material compliance with all Applicable Law relating to health care or healthcare services of any kind.

“Healthcare Regulatory Laws” means all state and federal Applicable Laws relating to health care providers, facilities, suppliers, or professionals, participation in Government Health Programs, the practice of medicine, licensure, coding, coverage, reimbursement, billing and submission of claims, claims processing, quality, safety, medical necessity, patient informed consent, the hiring of employees or acquisition of services or supplies from Persons excluded from participation in Government Health Programs, including without limitation the Medicare Statute (Title XVIII of the Social Security Act), the Medicaid Statute (Title XIX of the Social Security Act), the Children’s Health Insurance Program Statute (Title XXI of the Social Security Act), the TRICARE laws (10 U.S.C. § 1071, *et seq.*), the False Claims Act (31 U.S.C. § 3729, *et seq.*), the Civil Monetary Penalties Law (42 U.S.C. § 1320a-7a), federal and state anti-kickback statutes (including 42 U.S.C. § 1320a-7b), federal and state referral Applicable Laws (including 42 U.S.C. § 1395nn), the federal exclusion laws (42 U.S.C. § 1320a-7), criminal false claims statutes (e.g. 18 U.S.C. §§ 287 and 1001), the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. § 3801, *et seq.*), the Beneficiary Inducement Statute (42 U.S.C. § 1320a-7a(a)(5)), the Patient Protection and Affordable Care Act (Pub. L. No. 111-148) as amended by the Health Care and Education Reconciliation Act of 2010 (Pub. L. No. 111-152), the Clinical Laboratory Improvement Act (42 U.S.C. § 263a, *et seq.*), the Medicare Prescription Drug, Improvement and Modernization Act of 2003 (P.L. 108-173, 117 Stat. 2066), and the Controlled Substances Act (21 U.S.C. § 801, *et seq.*), all of the above as amended and including any applicable regulations and rules promulgated thereunder.

“HIPAA” means the Health Insurance Portability and Accountability Act of 1996, as amended by the Health Information Technology for Economic and Clinical Health Act (Title XIII of the American Recovery and Reinvestment Act of 2009), as each may be amended from time to time, and the regulations promulgated thereunder.

“Historical Financial Information” has the meaning set forth in Section 4.05.

“IDA” means the Nassau County Industrial Development Agency.

“Improvements” has the meaning set forth in Section 2.01(a)(i).

“Inactive Employee” means an Employee who is on an employer-approved leave of absence on the Closing Date as a result of military service, pregnancy or parental leave, disability leave, medical leave or any other leave provided by Seller under Applicable Law.

“Indebtedness” means, without duplication, the outstanding principal amount of, accrued and unpaid interest on and other payment obligations (including any prepayment premiums or similar breakage costs payable as a result of the consummation of the Contemplated Transactions) with respect to (a) indebtedness for borrowed money, (b) obligations under any existing interest rate, commodity or other swap, hedge or financial derivative agreement, or (c) indebtedness evidenced by any note, bond, debenture or other debt security. Notwithstanding anything to the contrary in the foregoing, “Indebtedness” shall not include: (i) trade payables and accrued expenses arising in the Ordinary Course of Business, (ii) deferred revenue, (iii) any obligations under any capital lease, (iv) any undrawn letters of credit, (v) any payment or performance bonds, and (vi) any Liabilities related to Former Residents.

“Indenture” means that certain Indenture of Trust, dated September 1, 2021, between Nassau County Industrial Development Agency and the Bond Trustee.

“Independent Living Units” means Living Units (as defined in NY Pub Health Law § 4601 (2015)) at the Community for Residents, but specifically excluding enriched housing units, special needs assisted living residence units, and skilled nursing beds.

“Information Privacy and Security Laws” means Applicable Laws regarding the privacy and security of Personal Information, including without limitation, to the extent applicable, HIPAA, state data privacy and security laws, state unfair or deceptive trade practices laws, state social security number protection laws, and state data breach notification laws.

“Intellectual Property” means all intellectual property, including all (i) patents and patent applications, (ii) pending and registered trademarks and material unregistered trademarks, service marks, trade dress, logos, and slogans, (iii) registered internet domain names, (iv) registered copyrights, (v) Software (other than Off-the-Shelf Software) that is used in Business or, or in which a Seller has any ownership rights, and (vi) any industrial designs, trade secrets, proprietary know-how and confidential business information owned, used, or licensed by Seller and used or held for use in conducting the Business.

“Interim Escrow Agreement” as set forth in Section 6.16.

“Interim Escrow Amount” as set forth in Section 6.16.

“Inventory” means all drugs, medications, food, janitorial, housekeeping and office supplies and other consumables located in or used in connection with the operation of the Business and or the operation of the Real Property, excluding the Excluded Personal Property.

“Knowledge” means (i) with respect to Seller, the actual knowledge of Brooke Navarre, the Seller’s President and Chief Executive Officer, after reasonable inquiry, which shall include, but not be limited to, discussions with Michael Morton, the Chief Restructuring Officer; or (ii) with respect to Buyer, the actual knowledge of any of the following individuals: Dan Lahey, the Buyer’s Executive Vice President and Chief Investment Officer, or Graham Johnson, the Buyer’s Vice President and Director of Investments, solely based upon review of, and reasonable inquiry into, the materials provided on the VDR and any third-party reports commissioned by Buyer, at its sole option.

“Labor Laws” means all Applicable Laws relating to employment, employment standards and practices, hiring, background investigations, employment of minors, equal employment opportunity, employment discrimination (including harassment and retaliation), employment-related immigration and employment verification/authorization, workplace health and safety, workers’ compensation, unemployment compensation and benefits, collective bargaining and/or labor relations, plant closings/mass layoffs, wages, hours, overtime, wage payment, vacation and paid time off, family and medical and other leave of absence, postings and recordkeeping, privacy and confidentiality, and termination.

“Land” has the meaning set forth in Section 2.01(a)(i).

“Liability” means any debt, obligation, duty or liability of any nature (including any unknown, undisclosed, unmatured, unaccrued, unasserted, contingent, indirect, conditional, implied, vicarious, derivative, joint, several or secondary liability).

“Lien” means any mortgages, deeds to secure debt, deeds of trust, hypothecations, securities, charges, Claims, encumbrances, interests, pledges, security interests, rights of set-off, restrictions or limitations on use, successor liabilities, conditions, rights of first refusal, options or liens of any kind, obligations to allow participation, agreements or rights, rights asserted in litigation matters, rights asserted in adversary proceedings in the Bankruptcy Case, competing rights of possession, obligations to lend, matters filed of record that relate to, evidence or secure an obligation of the Seller (and all created expenses and charges) of any type under, among other things, any document, instrument, regulation, or administrative governmental powers or functions, in each case the same has jurisdiction over the Person or property in question, whether voluntarily incurred or arising by operation of law or otherwise, affecting any assets or property, including any agreement to give or grant any of the foregoing, any conditional sale or other title retention agreement, and the filing of or agreement to give any financing statement with respect to any assets or property under the Uniform Commercial Code or Applicable Law.

“Loss” or “Losses” means any and all costs, obligations, liabilities, demands, settlement payments, awards, judgments, fines, penalties, damages and reasonable out-of-pocket expenses, including court costs and reasonable attorneys’ fees, whether or not arising out of a third-party Claim.

“Marks” means all trademarks, service marks, trade names, service names, brand names, all trade dress rights, logos, Internet domain names and corporate names and general intangibles of a like nature, together with the goodwill associated with any of the foregoing, and all applications, registrations and renewals thereof.

“Material Adverse Effect” means any event, occurrence, fact, condition or change that is materially adverse to (i) the Business, including its assets or properties, taken as a whole, or (ii) the ability of Seller to consummate the Contemplated Transactions or to perform its obligations under this Agreement; *provided, however*, that “Material Adverse Effect” shall not include any event, occurrence, fact, condition or change, directly or indirectly, arising out of or attributable to: (a) general business or economic conditions (including local competitive dynamics), (b) substantial changes to Medicare, Medicaid or Third-Party Payor reimbursements, (c) national or international political or social conditions, including the engagement by the United States in hostilities, whether or not pursuant to the declaration of a national emergency or war, or the occurrence of any military or terrorist attack upon the United States, or any of its territories, possessions, or diplomatic or consular offices or upon any military installation, equipment or personnel of the United States, (d) earthquake, tornado, hurricane, flood or other natural disaster except to the extent that such event results in material damage to the CCRC Assets, (e) changes in GAAP, (f) any action required or permitted by this Agreement or any action taken (or omitted to be taken) with the written consent of or at the written request of Buyer, (g) any effect resulting from the public announcement of this Agreement, compliance with terms of this Agreement or consummation of the Contemplated Transactions, (h) any failure by the Business to meet any internal or published projections, forecasts or revenue or earnings predictions, (i) any existing event, occurrence or circumstance with respect to which the Buyer has Knowledge as of the date hereof, and (j) the filing of the Bankruptcy Case and any event or occurrence attributable to the filing of the Bankruptcy Case.

“Material Contracts” means the following Contracts to which Seller is a party or as to which any portion of any such CCRC Assets is subject:

(i) all Contracts (other than employment Contracts, offer letters, or Contracts with Service Providers) involving aggregate consideration in excess of Fifty Thousand Dollars (\$50,000) or requiring performance by any party more than six (6) months from the Execution Date;

(ii) all Contracts that relate to the acquisition of any business, a material amount of stock or assets of any other Person or any real property (whether by merger, sale of stock, sale of assets or otherwise) but excluding purchases of Inventory in the Ordinary Course of Business;

(iii) all Contracts with any Employee, officer, director or Service Provider that provide for annual base compensation in excess of Fifty Thousand Dollars (\$50,000) and which either (A) require at least sixty (60) days’ notice or payment of severance for a termination without cause or (B) provide for payments upon a change-in-control of Seller;

(iv) all Contracts to which Seller is a party that contain non-competition or non-solicitation provisions restricting the conduct of the Business, in any geographic area or during any period of time;

(v) except for agreements relating to trade receivables, all Contracts relating to Indebtedness (including guarantees), or imposing any Lien on any CCRC Asset;

- (vi) all managed care or Third-Party Payor Contracts;
- (vii) all Contracts with any physician, any Practitioner or licensed health care facility;
- (viii) all joint venture, partnership or similar Contracts that provide for the sharing of profits relating to the Business (excluding the organizational documents of Seller);
- (ix) all Contracts for the sale of any of the CCRC Assets or for the grant to any Person of any option, right of first refusal or preferential or similar right to purchase any of the CCRC Assets; and
- (x) all Residency Agreements.

“Member” means Amsterdam Continuing Care Health System, Inc.

“Member Financial Contribution Obligation” means the aggregate amount to be funded by the Member to pay Resident Refund Liabilities pursuant to the Settlement Agreement, which shall initially be Forty Million Seven Hundred Fifty Thousand Dollars (\$40,750,000) and may be increased pursuant to the terms of the Settlement Agreement.

“National Grid Agreement” means that certain Services Agreement, by and between Nationalgrid and Seller, effective as of October 15, 2022.

“NPI” means national provider identifier.

“Off-the-Shelf Software” means any commercially available, off-the-shelf software with annual payments (including all associated license, hosting, support and maintenance fees) of less than Ten Thousand Dollars (\$10,000). For the avoidance of doubt, Off-the-Shelf Software expressly excludes any software that is distributed as “free software,” “open source software,” “copyleft” software, “community source code,” or under a similar licensing or distribution model.

“OIG” has the meaning set forth in Section 4.08(c).

“Order” means any award, decision, writ, injunction, judgment, order or decree entered, issued, made, or rendered by any Governmental Authority, or by any arbitrator.

“Ordinary Course of Business” means the ordinary and usual course of normal day-to-day operations of the Business through the Execution Date consistent with past practice, subject, and, in respect of the period after the Execution Date, to those actions necessary in connection with the Bankruptcy Case.

“Outside Closing Date” has the meaning set forth in Section 10.01.

“Patriot Act” has the meaning set forth in Section 4.22.

“Patriot Rules” has the meaning set forth in Section 4.22.

“Paying Party” has the meaning set forth in Section 7.01(c).

“Permits” means all certificates, licenses, and permits which under Applicable Law are required to be held in connection with the ownership, use, occupancy, operation, and maintenance of the Community as a licensed assisted living facility, an independent living facility and a skilled nursing facility or the CCRC Assets, and to include the Seller’s Medicare and Medicaid provider numbers.

“Permitted Exceptions” means (a) the Residency Agreements, (b) all Title Exceptions and Title Defects to which Buyer has not objected, (c) all title objections which Buyer has waived or accepted in writing, and (d) matters that would be disclosed by an accurate Updated Survey or inspection of the Real Property or Community.

“Permitted Liens” means (a) Liens for Taxes not yet due and payable or which, as of the Closing Date are being contested in good faith by appropriate Proceedings; (b) any Lien that will be discharged at or prior to the Closing; (c) the Permitted Exceptions; (d) any zoning or other governmentally established restrictions or encumbrances; and (e) mechanic’s, materialman’s, supplier’s, vendor’s or similar Liens arising or incurred in the Ordinary Course of Business securing amounts which are not yet due and payable.

“Person” means any natural person, firm, corporation, company, general or limited partnership, limited liability company, association, joint venture, business enterprise, trust, estate, Governmental Authority or other legal entity, in each case whether in its own or a representative capacity.

“Personal Information” means any data or information in any form that, alone or in combination with other information reasonably accessible to Seller may be (i) linked or relates to an identifiable natural individual (including, without limitation, employee identification numbers, social security numbers, government-issued identification numbers, passwords or PINs, financial account numbers, credit card information, biometric or health data, answers to security questions and other personal identifiers), and (iii) any other information that constitutes “personal data,” “personal information,” “personally identifiable information,” “nonpublic personal information,” “protected health information”, or under like terms set forth in Information Privacy and Security Laws.

“Personal Property” has the meaning set forth in Section 2.01(b)(i).

“Petition Date” has the meaning set forth in the Recitals.

“PHHPC” means the New York State Public Health and Health Planning Council.

“PILOT Agreement” means that (i) certain Payment in Lieu of Taxes Agreement, effective as of December 1, 2007, by and between the IDA and Seller, as amended by that certain First Amendment to Payment in Lieu of Taxes Agreement, dated as of June 1, 2014, (ii) that certain Installment Sale Agreement, dated as of September 1, 2021, by and between the Seller and the IDA, as amended, and (iii) all documents referenced in or entered into in connection with the foregoing.

“PILOT Transfer” has the meaning set forth in Section 6.04(b).

“Post-Petition Entrance Fees” has the meaning set forth in Section 2.01(e).

“Practitioners” has the meaning set forth in Section 4.08(d).

“Proceeding” means any Action, arbitration, audit, hearing, investigation, litigation, subpoena, civil investigative demand, or suit (whether civil, criminal, administrative or investigative) commenced, brought, conducted, or heard by or before, or otherwise involving, any Governmental Authority or arbitrator.

“Proration Date” has the meaning set forth in Section 3.03(a).

“Proration Schedule” has the meaning set forth in Section 3.03(a).

“Provider Agreements” has the meaning set forth in Section 2.08(a).

“Purchase Price” has the meaning set forth in Section 3.01.

“Real Estate Taxes” has the meaning set forth in Section 7.01(b).

“Real Property” has the meaning set forth in Section 2.01(a)(i).

“Records” means the books, records, accounts, files, logs, information, databases, ledgers, in-place policies and training materials, journals and architectural, mechanical and electrical plans and specifications pertaining to or used in the operation of the Business, however such data is stored, including, to the extent assignable under Applicable Law, patient and medical staff records held or used in the Business.

“Regulatory Approvals” has the meaning set forth in Section 6.05.

“Reimbursing Party” has the meaning set forth in Section 7.01(c).

“Related Person” means, with respect to a specific Person, any officer, director, member, manager, employee, agent, shareholder, representative, successor or assign of such Person.

“Release” means any past or present actual or threatened release, spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping abandonment, disposing or allowing to escape or migrate into or through the environment (including ambient air (indoor or outdoor), surface water, groundwater, land surface or subsurface strata or within any building, structure, facility or fixture).

“Rent Roll” has the meaning set forth in Section 4.14(a).

“Representatives” means employees, officers, directors, consultants, agents, contractors, counsel, accountants, investment advisers, regulators, lenders, partners, potential partners, investors and potential investors.

“Residency Agreements” means the Residency Agreements as set forth on Schedule 2.01(d), as updated on the Closing Date, which, subject to the entry of the Sale Order,

shall be assigned by the Seller and assumed by the Buyer on the Closing Date without modification.

“Resident” means a Person occupying the Real Property or any part thereof pursuant to a Residency Agreement.

“Resident Refund Liabilities” means all entrance fee refund obligations relating to Former Residents that have not yet been paid as of the Closing Date.

“Sale Order” means an Order of the Bankruptcy Court in form and substance approved by the Buyer and the Seller, pursuant to, *inter alia*, Sections 105, 363 and 365 of the Bankruptcy Code (i) authorizing and approving, *inter alia*, the sale of the CCRC Assets to Buyer on the terms and conditions set forth herein, free and clear of all Liens and Liabilities (other than Permitted Liens and Assumed Liabilities) to the extent permissible under Section 363(f) of the Bankruptcy Code, (ii) finding that notice of the hearing concerning approval of this Agreement and of the Contemplated Transactions was given in accordance with the Bankruptcy Code and that such notice is appropriate under the particular circumstances, (iii) authorizing and approving the assumption and assignment of the Assigned Contracts and Residency Agreements to Buyer, (iv) containing a finding that Buyer has acted in “good faith” within the meaning of, and is entitled to the protections of, Section 363(m) of the Bankruptcy Code, (v) containing a finding that this Agreement was negotiated, proposed and entered into by the parties without collusion, in good faith and from arm’s length bargaining positions, (vi) containing a finding that Seller and Buyer have not engaged in any conduct that would cause or permit this Agreement to be avoidable under Section 363(n) of the Bankruptcy Code, (vii) providing that this Agreement and the Contemplated Transactions may, subject to the terms set forth herein, be specifically enforced against and binding upon, and not subject to rejection or avoidance by Seller or its estate or any chapter 7 or chapter 11 Bankruptcy Code trustee of Seller or other Representative of its estate, (viii) providing that the Bankruptcy Court shall retain jurisdiction to resolve any controversy or Claim arising out of or relating to this Agreement or the breach thereof, (ix) providing that neither Buyer nor any of its Affiliates shall be deemed a successor in interest to Seller, and (x) providing that, upon Buyer’s payment of the consideration provided hereunder, Seller shall have received fair and reasonably equivalent value for the CCRC Assets.

“Security Arrangements” has the meaning set forth in Section 7.04(c).

“Seller” has the meaning set forth in the Preamble.

“Seller Closing Certificate” has the meaning set forth in Section 8.03.

“Seller Encumbrance” has the meaning set forth in Section 6.04(a)(iii).

“Seller’s Cost Reports” has the meaning set forth in Section 2.08(b).

“Seller’s Obligations” has the meaning set forth in Section 7.04(c).

“Service Provider” means any individual who is engaged by Seller to provide personal services to Seller pursuant to a consulting or other independent contractor relationship, directly related to the Business or the CCRC Assets.

“Settlement Agreement” means that certain Settlement Agreement by and among Seller, the Official Committee of Unsecured Creditors appointed in the Bankruptcy Case, the Member, and Amsterdam Nursing Home Corporation (1992), pursuant to which, among other things, the Member has agreed to fund all or a portion of the Resident Refund Liabilities.

“Software” means, except to the extent generally available for purchase from a third Person, any and all (i) computer programs, including any and all software implementations of algorithms, models and methodologies, whether in source code or object code, (ii) databases and compilations, including any and all data and collections of data, whether machine readable or otherwise, (iii) descriptions, flow charts and other work product used to design, plan, organize and develop any of the foregoing, screens, user interfaces, report formats, firmware, development tools, templates; menus, buttons and icons, and (iv) all documentation including user manuals and other training documentation related to any of the foregoing, in each case, that are used in, incorporated in, embodied in, displayed by or relate to, or are used or useful in the Business.

“Straddle Periods” has the meaning set forth in Section 7.01(b).

“Tax Allocation” has the meaning set forth in Section 7.02.

“Taxes” means (i) all federal, state, local or foreign taxes, charges or other assessments, including all net income, gross receipts, capital, sales, use, ad valorem, value added, transfer, franchise, profits, inventory, capital stock, license, withholding, payroll, employment, social security, unemployment, excise, severance, stamp, occupation, property, excise taxes, unrelated business income taxes, an estimated taxes, whether disputed or not, and (ii) all interest, penalties, fines, additions to tax or additional amounts imposed by any taxing authority in connection with any item described in subsection (i) of this definition.

“Tax Return” means all returns, declarations, reports, estimates, information returns and statements required to be filed with any Governmental Authority in respect of any Taxes.

“Third-Party Payor” means any healthcare cost reimbursement program, health plan or insurance coverage, including without limitation any Government Health Program or commercial insurance.

“Third-Party Payor Contracts” means any Contract with a Third-Party Payor.

“Title Commitment” has the meaning set forth in Section 6.04(a)(i).

“Title Company” means Pro National Title Agency, or such other national title insurance company agreed upon by Seller and Buyer.

“Title Cure” has the meaning set forth in Section 6.04(a)(iii).

“Title Defects” has the meaning set forth in Section 6.04(a)(iii).

“Title Deliveries” has the meaning set forth in Section 6.04(a)(iii).

“Title Exceptions” means the exceptions set forth in the Title Commitments.

“Title Insurance Policy” has the meaning set forth in Section 6.04(a)(i).

“Title Objection Notice” has the meaning set forth in Section 6.04(a)(iii).

“Total Cash Consideration” has the meaning set forth in Section 12.04.

“Transaction Documents” means this Agreement, all exhibits hereto, the Disclosure Schedules, and each other agreement, certificate or instrument to be delivered pursuant to this Agreement.

“Transfer Taxes” has the meaning set forth in Section 7.01(a).

“Transferred Employees” has the meaning set forth in Section 7.05(b).

“Transition Patients” has the meaning set forth in Section 3.03(g).

“Transition Period” has the meaning set forth in Section 2.08(b).

“Unaudited Financial Information” has the meaning set forth in Section 4.05(ii).

“Uninsured Casualty” has the meaning set forth in Section 6.13.

“Uninsured Portion” has the meaning set forth in Section 6.13.

“Updated Survey” means an ALTA survey of the Real Property from a surveyor chosen by Buyer, meeting minimum standard detail requirements.

“VDR” means that certain Real Capital Markets virtual data room entitled “The Harborside,” including all documents and materials posted thereto.

“WARN Act” means the Worker Adjustment and Retraining Notification Act of 1988.

Section 1.02 Other Definitions and Interpretive Matters. Unless otherwise expressly provided, for purposes of this Agreement, the following rules of interpretation shall apply:

(a) Calculation of Time Period. When calculating the period of time before which, within which or following which any act is to be done or step taken pursuant to this Agreement, the date that is the reference date in calculating such period shall be excluded. If the last day of such period (or if any other date specified in this Agreement for giving any notice or taking any action) is a day other than a Business Day, then the period (or date) in question shall end on (or be deemed to be) the next succeeding Business Day.

(b) Dollars. Any reference in this Agreement to \$ means United States dollars.

(c) Gender and Number. Any reference in this Agreement to gender includes all genders, and words imparting only the singular number include the plural and vice versa.

(d) Headings. The provision of a table of contents, the division of this Agreement into Articles, Sections and other subdivisions and the insertion of headings are for convenience of reference only and shall not affect or be utilized in the construction or interpretation of this Agreement. All references in this Agreement to any “*Section*” or “*Article*” are to the corresponding Section or Article of this Agreement unless otherwise specified.

(e) Herein. Words such as “*herein*,” “*hereof*” and “*hereunder*” refer to this Agreement as a whole and not merely to a subdivision in which such words appear, unless the context otherwise requires.

(f) Including. The word “*including*” or any variation thereof means “*including, without limitation*,” and shall not be construed to limit any general statement that it follows to the specific or similar items or matters immediately following it.

(g) No Strict Construction. Buyer, on the one hand, and Seller, on the other hand, participated jointly in the negotiation and drafting of this Agreement, and, in the event an ambiguity or question of intent or interpretation arises, this Agreement shall be construed as jointly drafted by Buyer, on the one hand, and Seller, on the other hand, and no presumption or burden of proof shall arise favoring or disfavoring any party by virtue of the authorship of any provision of this Agreement. Without limitation as to the foregoing, no rule of strict construction construing ambiguities against the draftsman shall be applied against any Person with respect to this Agreement.

(h) Seller. For purposes of this Agreement (i) references herein to “Seller shall assign or transfer” (or words of similar import) shall mean “Seller shall assign or transfer, or cause its existing manager to assign or transfer,” (ii) references herein to “all rights of Seller” (or words of similar import) shall mean “all rights of Seller, or of Seller’s existing manager,” (iii) references herein to “Seller shall cooperate” (or words of similar import) shall mean “Seller shall cooperate, and shall cause Seller’s existing manager to cooperate,” and (iv) references herein to “Seller will make available” (or words of similar import) shall mean “Seller will make available and cause Seller’s existing manager to make available.”

ARTICLE II. PROPERTY DESCRIPTION AND BANKRUPTCY CASE

Section 2.01 CCRC Assets. Upon and subject to the terms and conditions of this Agreement on the Closing Date and subject to entry of the Sale Order, Seller will sell, transfer, assign, convey and deliver to Buyer, and Buyer will purchase, acquire, assume and accept from Seller all of Seller’s respective right, title and interest in, to and under the CCRC Assets, free and clear of all Liens and Liabilities to the extent permissible under Section 363(f) of the Bankruptcy Code, other than Permitted Liens and any Assumed Liabilities (the “Contemplated Transactions”). The term, “CCRC Assets” means Seller’s assets, right and properties pertaining to or used in connection with the Business as existing on the Closing Date wherever located and whether or not carried or reflected on the books and records of Seller of the following types, other than the Excluded Assets, including all right, title and interest of Seller in, to or under the following:

(a) Real Property.

(i) Fee title in and to the land, which is described on Schedule 2.01(a) of the Disclosure Schedules (the "Land"), including all easements, rights-of-way, rights of ingress and egress, strips, zones, licenses, transferable hereditaments, privileges, tenements and appurtenances in any way belonging to or appertaining to the Land or the improvements, and any right or interest in any open or proposed highways, streets, roads, avenues, alleys, easements, strips, gores and rights-of-way in, across, in front of, contiguous to, abutting or adjoining the Land, and all buildings, structures, improvements and fixtures placed, located, constructed or installed on the Land (collectively, the "Improvements," together with the Community and the Land, are herein sometimes referred to as the "Real Property"). As used in this Agreement, the term "Real Property" shall be deemed to include all of Seller's right, title and interest to the beneficial easements, rights and appurtenances related to the Real Property, including Seller's right, title and interest as landlord (whether named as such therein, or by assignment or otherwise) in the Residency Agreements, and all amendments, modifications, supplements, renewals and extensions thereof, and the residence deposits, security deposits and any other refundable deposits, if any, held thereunder by Seller for Residents who are scheduled to move-in after Closing pursuant to Residency Agreements.

(ii) To the extent transferable, all existing warranties and guaranties (express or implied) issued to Seller in connection with the Improvements.

(iii) Notwithstanding anything to the contrary in this Agreement, the parties acknowledge and agree that fee title in and to the Real Property shall remain with the IDA pursuant to the PILOT Agreement; *provided, however*, in the event the PILOT Transfer is effected, the Seller shall instead convey Seller's interest in the Real Property pursuant to the PILOT Agreement (as may be amended, restated, supplemented, modified, or replaced in connection with the PILOT Transfer).

(b) Personal Property.

(i) All Furniture and Equipment (whether movable or attached to the Real Property), motor vehicles, Hardware, supplies, Inventory, linens, medicine, foodstuffs, consumable and other personal property of any type or description, including all beds, chairs, sofas, wheelchairs, tables, kitchen and laundry equipment associated with the Business and/or present at the Real Property (collectively, the "Personal Property"), excluding the Excluded Personal Property.

(ii) To the extent transferable, all existing warranties and guaranties (express or implied) issued to Seller in connection with the Personal Property described in Section 2.01(b)(i) above.

(iii) All signs, marks, supplies, trademarks and materials located on or used in the operation of the CCRC Assets bearing the name "The Harborside" and all of Seller's right, title and interest in and to such name, including the internet

domain name www.theharborside.org and the content found thereon and related thereto, and related logos and marketing materials.

(iv) To the extent transferable and in Seller's possession, all site plans, surveys, geological and environmental and soils studies and reports, market studies and surveys and reports, architectural renderings and models, plans and specifications, engineering plans and studies, floor plans, landscaping plans and other similar plans and diagrams relating thereto; and all construction warranties, manufacturer's warranties and other warranties and guarantees applicable to the CCRC Assets or Business.

(c) Assigned Contracts. All of the Contracts of the Seller listed on Schedule 2.01(c) other than the Excluded Contracts (the "Assigned Contracts"). Notwithstanding the foregoing, as used in this Agreement, the term "Assigned Contracts" expressly excludes any contracts, leases, agreements, commitments and other arrangements, and any amendments, modifications, supplements, renewals and extensions entered into by Seller after the Execution Date and prior to the Closing in breach of Section 6.02, Buyer shall have no obligations under the Assigned Contracts unless such Assigned Contracts are listed on Schedule 2.01(c).

(d) Residency Agreements. All rights of Seller in, to, and under the Residency Agreements listed on Schedule 2.01(d), as updated on the Closing Date, assigned to Buyer pursuant to this Agreement and the Sale Order, and all deposits, security deposits and rents and proceeds accruing therefrom as of the Closing Date. Buyer shall have no obligations under the Residency Agreements unless such Residency Agreements are listed on Schedule 2.01(d), as updated on the Closing Date. On the Closing Date, Seller shall update the list of Residency Agreements on Schedule 2.01(d) to remove any and all such Residency Agreements whose applicable Resident has become a Former Resident. For the avoidance of doubt, Buyer shall not assume any residency agreement of a Former Resident.

(e) Post-Petition Entrance Fees. All rights of Seller in and to security deposits, reservation deposits, entrance fees and similar deposits received by Seller following the Petition Date from Current Residents having entered into Residency Agreements after the Petition Date and any entrance fee paid to Seller following the Petition Date by the Current Residents (collectively, the "Post-Petition Entrance Fees").

(f) Records. Subject to Applicable Law, Seller's right, title and interest to copies of all Records.

(g) Permits. To the extent transferable, Seller's right, title and interest to any and all Permits now held in the name of Seller relating to the Business, and any renewals, extensions, amendments or modifications thereof.

(h) Claims and Causes of Action. To the extent transferable, all rights in and to any Claims to the extent they are in the nature of enforcing a guaranty, warranty, or a contract obligation to complete improvements, make repairs, or deliver services to the Seller, CCRC Assets or the Business (the "Guaranty Actions").

(i) Intellectual Property. To the extent transferable, with the exception of the Excluded Intellectual Property Licenses, any and all rights of Seller or its Affiliates with respect to the use of (i) all Intellectual Property, Marks, Software, operating manuals, marketing brochures, or other proprietary material used by Seller or its Affiliates in the operation of the CCRC Assets or the Business, and (ii) all registrations, applications and licenses for any of the foregoing.

(j) Name. Seller's right, title and interest to the name "The Harborside" and any derivative name in the operation of the Community.

(k) Acquired Avoidance Actions. All of Seller's rights to the Acquired Avoidance Actions in accordance with Section 2.06(e).

Section 2.02 Excluded Assets. Nothing herein contained shall be deemed to sell, transfer, assign or convey the following assets to Buyer, and Seller shall retain all right, title and interest to, in and under the following assets (the "Excluded Assets"):

(a) The Personal Property identified on Schedule 2.02(a) of the Disclosure Schedules (the "Excluded Personal Property");

(b) The Intellectual Property identified on Schedule 2.02(b) of the Disclosure Schedules (the "Excluded Intellectual Property Licenses");

(c) Every Contract of the Seller that is not an Assigned Contract and including those listed on Schedule 2.02(c) of the Disclosure Schedules (the "Excluded Contracts");

(d) Every residency agreement of a Former Resident;

(e) All deposit accounts, all pre-Closing Accounts Receivable, all cash, cash equivalents, bank deposits, charitable funds (restricted or unrestricted) or similar cash items of Seller, all marketable securities owned by Seller and all documents related thereto; *provided, however*, that the Buyer shall have the sole and exclusive right to collect Accounts Receivable from Current Residents who are still occupying the Community, and that for the one hundred eighty (180) days post-Closing, no later than the 15th of each month, the Buyer shall turn over to the Seller all pre-Closing Accounts Receivable collected in the previous month, less an administrative fee of ten percent (10%), and the Buyer shall use commercially reasonable efforts to collect pre-Closing Accounts Receivable for one hundred eighty (180) days post-Closing from the Current Residents who are still occupying the Community; *provided further*, that Seller shall waive any right to collect such Accounts Receivable from Buyer one hundred eighty (180) days post-Closing;

(f) Any other Contract to which Seller is a party or under which it has rights, in each case, that is not used primarily in the Business;

(g) Any (i) personnel files; (ii) files or communications subject to the attorney-client or similar privilege; (iii) other books and records that Seller is required by Applicable Law to retain; (iv) documents which Seller is not permitted to transfer pursuant to any

contractual confidentiality obligations owed to any third party (other than any patient confidentiality obligation referred to in the foregoing clause (ii)); (v) books and records and other documents related to malpractice prevention programs, credentialing, incident reporting or quality assurance to the extent confidential under Applicable Law that Seller elects or is required to retain; (vi) documents relating to proposals to acquire the Business by Persons other than Buyer; (vii) documents primarily related to or that are required to realize the benefits of any Excluded Assets; (viii) documents necessary to prepare Tax Returns and cost reports for periods prior to the Closing; (ix) Seller's Governing Documents and other organizational record books and minute books; and (x) documents relating exclusively to an Excluded Asset; *provided, however*, that Buyer shall have the right to make copies of such retained books and records referenced in Section 2.02(g)(i), (iii), (v) or (viii), or of portions thereof, that relate to the Business as conducted before the Closing (except for privileged materials or as prohibited by Applicable Law);

(h) any pre-Closing claim, right or interest, of Seller in or to any refund, rebate, abatement or other recovery for Taxes, together with any interest due thereon or penalty rebate arising therefrom that relate to the Business as conducted before the Closing;

(i) subject to Section 6.13, all insurance policies;

(j) rights for refunds for unearned insurance premiums and rights to proceeds with respect to Excluded Assets and other Excluded Liabilities;

(k) all of Seller's deposits or prepaid charges, interests, ownership and expenses paid in connection with or relating to any Excluded Assets;

(l) all Claims of Seller, including any Claims of Seller against third parties relating to the Excluded Assets, and any and all Claims under Sections 544, 545, 547, 548, 549, 550, 551 and 724(a) of the Bankruptcy Code, but excluding the Acquired Avoidance Actions and the Guaranty Actions;

(m) any right to receive or expectancy of Seller in any charitable gift, grant, bequest or legacy (including any income or remainder interest in or under any trust or estate);

(n) any Claims of Seller against third parties arising out of events occurring prior to the Closing, including and, for the avoidance of doubt, arising out of events occurring prior to the Petition Date, and including any rights under or pursuant to any and all warranties, representations and guarantees made by suppliers, manufacturers and contractors relating to products sold, or services provided, to Seller, but excluding the Acquired Avoidance Actions and the Guaranty Actions; *provided, however*, that to the extent Buyer is subject to any third party Liability resulting from the Contemplated Transactions arising out of events that occurred prior to Closing, Buyer may assert any Claim of Seller against third parties that relate to such Liability;

(o) all deposits remaining at the Closing Date (other than with respect to the Assigned Contracts) and prepaid charges and expenses of Seller;

- (p) all deposits (the “Adequate Assurance Utility Deposits”) paid by the Seller pursuant to that certain *Final Order (I) Prohibiting Utility Providers From Altering, Refusing or Discontinuing Service, (II) Deeming the Utility Providers Adequately Assured of Future Performance, and (III) Establishing Procedures for Determining Requests for Additional Adequate Assurance* [Docket No. 116] entered by the Bankruptcy Court on April 21, 2023;
- (q) any Contract that relates to the purchase or leasing of equipment that is identified on Schedule 2.02(q) of the Disclosure Schedules;
- (r) all Benefit Plans;
- (s) the Purchase Price and all rights of Seller under this Agreement;
- (t) all Claims of Seller and its Affiliates with respect to periods prior to the Effective Time, and any payments, awards or other proceeds resulting therefrom, subject to the rights of Buyer established in subsection (n) above;
- (u) all licenses or Permits that are not transferrable and any Permits that are not related solely to Business; and
- (v) all rights with respect to Proceedings pending at the Effective Time.

Section 2.03 Assumption of Liabilities. Upon the terms and subject to the conditions of this Agreement, on the Closing Date, Buyer shall execute and deliver to Seller the Bill of Sale, Assignment and Assumption Agreement, in form and substance mutually agreeable to the parties, pursuant to which Buyer shall assume and agree to discharge when due (in accordance with their respective terms and subject to the respective conditions thereof), only the following Liabilities of Seller, including all Cure Costs related to the Assigned Contracts and Residency Agreements as set forth on Schedule 2.07(b) (except to the extent constituting and excluding for all purposes, the Excluded Liabilities) and no other Liabilities (collectively, the “Assumed Liabilities”):

- (a) all of the claims, Liabilities and obligations of any kind or nature incurred in the conduct of the Business or the use of the CCRC Assets, but only to the extent that the same arise from events occurring from and after the Closing Date, whether absolute, contingent, accrued, known or unknown;
- (b) all liabilities and obligations of Seller under the Assigned Contracts and Residency Agreements only to the extent that the same arises from and after the Closing Date;
- (c) the Excess Refund Amount, *provided, however*, that payment of the Excess Refund Amount shall be made in accordance with Section 6.18 hereunder;
- (d) all Liabilities related to Government Health Programs or Third-Party Payors to the extent that the same arises from and after the Closing Date;

(e) all liabilities for all Environmental Defects, any remediation, investigation, or other response related to such Environmental Defects and all Claims arising in connection with such Environmental Defects, whether arising before or after the Closing Date, as well as all obligations for complying with Environmental Laws arising at and after the Closing Date, in each case related to the CCRC Assets or the Business; and

(f) all liabilities for Asset Taxes resulting from Buyer's operation of the Business and the CCRC Assets and other Assumed Liabilities that arise on and after the Closing Date.

The assumption by Buyer of the Assumed Liabilities shall not, in any way, enlarge the rights of any third parties relating thereto.

Section 2.04 Excluded Liabilities. Notwithstanding any provision in this Agreement to the contrary, Buyer shall not assume and shall not be obligated to assume or be obliged to pay, perform or otherwise discharge any Liability of Seller or any of Seller's Affiliates, and Seller shall retain and be solely and exclusively liable with respect to, all Liabilities of Seller, except for only the Assumed Liabilities (such Liabilities other than Assumed Liabilities, collectively, the "Excluded Liabilities"), which Excluded Liabilities shall include the following:

(a) any Liability associated with any Excluded Assets, including, for the avoidance of doubt, any Liability associated with a Former Resident (other than, for the avoidance of doubt, with respect to the Excess Refund Amount as provided for herein);

(b) all Indebtedness of Seller, other than the Liabilities arising under the Residency Agreements; reimbursement obligations to guarantors of Seller's obligations or under letters of credit; and all Liabilities of Seller to any owner or former owner of capital stock or warrants, or holder of Indebtedness of Seller;

(c) all operating expenses of the Business or the CCRC Assets, to the extent attributable to the ownership, operation or use of any of the CCRC Assets prior to the Effective Time;

(d) all Taxes of Seller, other than as set forth in Section 7.01, with the understanding that Buyer shall be responsible for all Transfer Taxes (if any), including any Transfer Taxes related to the transfer of the Real Property or the Personal Property to Buyer;

(e) all Excluded Employee Liabilities;

(f) all Liabilities under the WARN Act with respect to plant closings or mass layoffs of Employees that occur exclusively based on actions taken by Seller prior to or at the time of the Closing without any aggregation with actions taken by Buyer following the Closing;

(g) any Liability arising out of or in connection with any Proceedings (whether instituted prior to or after Closing) to the extent arising from acts or omissions by Seller which occurred or alleged to have occurred prior to the Closing Date;

(h) all Liabilities consisting of legal, accounting, financial advisory, valuation, investment banking and other third-party advisory or consulting fees and expenses incurred by or on behalf of Seller in connection with or arising from the Bankruptcy Case or the Contemplated Transactions or the other Transaction Documents;

(i) all Liability related to or arising out of the Bond Financing, the Securities Act of 1933, as amended and the rules and regulations promulgated thereunder, the Internal Revenue Code of 1986, as amended or any Internal Revenue Service audits related thereto;

(j) all Liabilities existing prior to the filing of the Bankruptcy Case that are discharged under the Bankruptcy Case;

(k) all Liabilities of Seller under this Agreement and the other Transaction Documents; and

(l) without limitation, any amounts due or that may become due as a result of (A) any determination by Medicare, any fiscal intermediary, or any federal or state Governmental Authority or any Third-Party Payor that any amounts paid to Seller for any services provided at the Business (including, for the avoidance of doubt, any claims with respect to Medicare advance payments) prior to the Closing Date resulted in (x) an overpayment, (y) cost report adjustments, or (z) any other recoupment or determination that funds previously paid by such payor must be repaid on a final and non-appealable basis, and (B) any fines, penalties, assessments, and other charges associated with any such determinations.

Section 2.05 Further Assurances. From time to time following the Closing, Seller and Buyer shall, and shall cause their respective Affiliates to, execute, acknowledge and deliver all such further conveyances, notices, assumptions, assignments, releases and other instruments, and shall take such further actions, as may be reasonably necessary or appropriate to otherwise make effective the Contemplated Transactions; *provided, however*, that nothing in this Section 2.05 shall require Buyer or any of their respective Affiliates to assume any Liabilities other than the Assumed Liabilities. Notwithstanding the foregoing, nothing in this Section 2.05 shall prohibit Seller from ceasing operations or winding up its affairs following the Closing. Each of the Buyer and Seller acknowledges that subsequent to the Closing each party may need access to information or documents in the control or possession of the other parties with respect to the Business (including, patient medical records for patients of the Business prior to the Closing Date), the CCRC Assets and the Assumed Liabilities, including for the purposes of post-closing operations of the Business by the Buyer, any pending or threatened audits, inquiries or investigations (including any of the same undertaken by any Governmental Authority), compliance with Applicable Laws and the prosecution or defense of third party claims as may be related to the Business, and each party shall provide such reasonable access.

Section 2.06 Bankruptcy Court Approval.

(a) Seller and Buyer acknowledge that this Agreement and the sale of the CCRC Assets and the assumption and assignment of the Assigned Contracts and Residency Agreements are subject to the Bidding Procedures Order and Bankruptcy Court approval.

Seller and Buyer acknowledge that they are aware of the relevant legal requirements and will proceed in good faith to satisfy such requirements.

(b) From and after the Execution Date and prior to the Closing or the termination of this Agreement in accordance with Article XII, neither party (nor their Affiliates) shall take any action which is intended to (or is reasonably likely to), or fail to take any action the intent (or the reasonably likely result) of which failure to act is to, prevent entry of the Sale Order or approval of this Agreement; *provided, however*, Seller and Buyer may act in accordance with the Bidding Procedures Order.

(c) In the event that the entry of a Sale Order is appealed or a stay pending appeal is sought, Seller shall oppose the appeal or the stay pending appeal and seek the dismissal of any appeal (including a petition for certiorari, motion for rehearing, re-argument, reconsideration or revocation).

(d) Notwithstanding the foregoing, any resulting changes to this Agreement or any other Transaction Document or resulting material changes to the proposed Sale Order shall be subject to the approval of Buyer in its reasonable discretion. Seller shall (i) provide Buyer with drafts of any and all other pleadings and proposed orders to be filed or submitted in connection with this Agreement and the Contemplated Transactions at least three (3) Business Days prior to filing or submitting such pleadings and proposed orders, and such pleadings and proposed orders shall be in form and substance reasonably acceptable to Buyer and (ii) make best efforts to consult and cooperate with Buyer regarding any discovery taken in connection with seeking entry of the Sale Order (including any depositions).

(e) During the Bankruptcy Case, Seller shall not commence, assign, convey or abandon any Avoidance Actions against any of Seller's ordinary course vendors, contract counterparties, contractors and other suppliers of services related to the Business (the "Acquired Avoidance Actions") without the prior written consent of Buyer, which shall not be unreasonably withheld, conditioned, or delayed.

(f) Seller shall use its good faith efforts to obtain entry of the Sale Order on or before December 29, 2023.

Section 2.07 Assigned Contracts and Cure Costs.

(a) Subject to the approval of the Bankruptcy Court by Final Order, and effective on the Closing Date, the Assigned Contracts and Residency Agreements will be assumed by the Seller and assigned to the Buyer on the Closing Date, in accordance with Section 365 of the Bankruptcy Code. The final determination of which Contracts (other than Residency Agreements) shall be Assigned Contracts shall be within the Buyer's sole discretion. The Cure Costs of the Assigned Contracts and Residency Agreements shall be paid by the Buyer in accordance with the provisions herein.

(b) Schedule 2.07(b) of the Disclosure Schedules sets forth each Executory Contract, except Residency Agreements, and Seller's good faith estimate of the amount of the Cure Costs payable as of Closing in respect of each such Executory Contract (and if no

Cure Cost is estimated to be payable in respect of any particular Executory Contract, the amount of such Cure Cost designated for such Contract shall be “\$0.00”).

(c) At the Closing (or, if the applicable Assigned Contract is not assigned to Buyer at Closing pursuant to the terms of this Agreement, then at the time of the assignment of such Assigned Contract to Buyer, if ever), Buyer shall pay, pursuant to Section 365 of the Bankruptcy Code and the Sale Order, any and all cure and reinstatement costs or expenses that are required to be paid under Sections 365(b)(1)(A) and (B) of the Bankruptcy Code in connection with the assumption and assignment of the Assigned Contracts and Residency Agreements (the “Cure Costs”). For the avoidance of doubt, (i) Buyer shall pay all Cure Costs as set forth on Schedule 2.07(b) in cash at Closing, *provided, however*, that the Buyer’s obligation to pay Cure Costs in connection with the National Grid Agreement shall not exceed the amount set forth on Schedule 2.07(b) with respect thereto, (ii) the Cure Costs are separate and apart from, and in addition to, the Purchase Price and, (iii) except with respect to the Assumed Liabilities, Buyer shall not be required to make any payment of Cure Costs for any Contract, and shall not assume any Liabilities with respect to any Contract that is not an Assigned Contract or a Residency Agreement.

(d) Notwithstanding anything in this Agreement to the contrary, a Contract that is validly rejected or otherwise not assumed and assigned to the Buyer pursuant to this Section 2.07 shall constitute an Excluded Asset.

(e) At any time prior to the Designation Deadline, Buyer shall have the right, which may be exercised in Buyer’s sole discretion, to provide written notice to Seller of Buyer’s election to designate any Executory Contract (including any Contract that is an Assigned Contract immediately before such designation but excluding the Residency Agreements) (1) as an Excluded Contract, and upon such designation, such Contract shall constitute an Excluded Contract and, if applicable, shall cease to constitute an Assigned Contract or (2) to the extent not already rejected, as an Assigned Contract, and upon such designation, such Contract shall constitute an Assigned Contract and shall cease to constitute an Excluded Contract.

(f) If Buyer exercises its rights in Section 2.07(e) above to designate a Contract, including a Contract that was an Assigned Contract immediately before such designation, as an Excluded Contract, there shall be no reduction in the Purchase Price as a result of such designation or change in designation.

Section 2.08 Provider Agreements

(a) At the Closing, as of the Effective Time and subject to subsections (b) and (c), below, and to the extent permitted by Applicable Law, Seller shall assign to Buyer, and Buyer shall assume, Seller’s rights and interests in Seller’s federal and state healthcare program provider numbers (including but not limited Medicare and Medicaid provider numbers) and federal and state healthcare program provider agreements (including but not limited Medicare and Medicaid provider agreement) (collectively, the “Provider

Agreements”), and Buyer shall assume and thereafter in due course fully satisfy those obligations or liabilities under the Provider Agreements arising after the Effective Time.

(b) Seller and Buyer shall provide all notices and make all necessary filings as required under Applicable Law in order for Buyer to become the certified Medicare provider at the Community, including the filing by Buyer of its Medicare enrollment application (CMS 855A) within thirty (30) days of Closing along with any notices required by Applicable Law. Upon Buyer’s request, Seller shall promptly provide to Buyer any information regarding Seller and Seller’s business that is reasonably necessary for Buyer to file same. Seller shall timely file after the Closing any final cost report for the period of time ending on the day before the Closing Date (“Seller’s Cost Reports”) that may be required by Applicable Law, which shall be prepared in accordance with Applicable Law and past practice immediately prior to the Closing Date. Buyer shall have the right to consult with Seller and will be provided copies of proposed Seller’s Cost Reports no less than ten (10) Business Days prior to their filing by Seller. Buyer shall forward to Seller all correspondence relating to Seller’s Cost Reports within five (5) Business Days after receipt by Buyer. Buyer shall forward to Seller any demand by payors for payments on Seller’s Cost Reports within three (3) Business Days of Buyer’s receipt. Seller shall retain all rights and obligations to Seller’s Cost Reports. Seller will have the right to appeal any Medicare determinations relating to Seller’s Cost Reports, and shall appeal any determinations if so requested by Buyer at Buyer’s expense. Buyer shall further be permitted, at Buyer’s sole expense, to participate in any meetings with the Centers for Medicare & Medicaid Services in respect to Seller’s Cost Reports and to be provided with copies of all audit correspondence. In the event Seller desires to open, re-file or amend any of Seller’s Cost Reports, Seller agrees to provide Buyer with at least ten (10) Business Days prior notice prior to taking such Action and agrees to reasonably consult with Buyer during such ten (10) Business Days period. So long as Buyer is utilizing its best efforts to become the certified Medicare provider at the Community, Buyer shall be permitted (to the extent permitted by applicable law) to bill in Seller’s name under the Provider Agreements related to Medicare during the period (the “Transition Period”) that commences on the Effective Time and that ends on the earlier of (i) the issuance of the Medicare tie-in notice, and (ii) the date which is twelve (12) months following the Effective Time, subject to extension as provided herein. If, notwithstanding Buyer’s continuing best efforts, the Medicare tie-in notice shall not have been issued within such 12-month period, Seller, upon Buyer’s written request, shall agree to such reasonable extensions of the Transition Period, up to a maximum of twelve additional months, as may be necessary for Buyer to complete the certification process.

(c) Effective as of the Closing Date, Seller shall immediately amend (or cause or permit the amendment of) the provider name, provider number and/or bank account number associated with any Medicare electronic funds transfer accounts in connection with the Community (“EFT Accounts”) from Seller to Buyer or its agent or, in the event Medicare will not permit the transfer of the accounts to Buyer until the change of ownership for the Community has been processed by Medicare, Seller agrees to transfer all Medicare funds received by Seller for services rendered on and after the Closing Date to new accounts in the name of Buyer at a bank or financial institution selected by Buyer so that Buyer may control disbursements of funds from the accounts), such that on or after the

Closing Date, Buyer or its agent shall receive all Medicare payments in connection with services rendered at the Community on and after the Closing Date in an account controlled by Buyer or its agent. Seller hereby further covenants and agrees at any time and from time to time after the Closing, at the request of Buyer, to execute and deliver any applications, endorsements, assignments and other instruments of conveyance and transfer, and take such other actions as Buyer may reasonably request in order to effectively transfer, convey, amend, assign and deliver to Buyer or its agent, and to place Buyer or its agent in actual possession and control of, and to vest, perfect or confirm, of record or otherwise, in Buyer or its agent all right, title and interest in and to any funds transferred to an EFT Account.

(d) Buyer expressly does not assume, and the assumption by Buyer of Seller's Provider Agreements shall not be construed to impose on Buyer, any obligations under Seller's Provider Agreements arising with respect to occurrences during the period before Closing.

Section 2.09 [Reserved].

ARTICLE III. PURCHASE PRICE

Section 3.01 Purchase Price. As full consideration for the sale of the CCRC Assets by Seller to Buyer, at the Closing, Buyer shall assume the Assumed Liabilities as provided in Section 2.03 and shall pay to the Seller cash in an amount equal to the following amounts, subject to adjustment as provided in Section 3.03 below (the "Purchase Price"):

(a) Cash in amount equal to Sixty-Three Million Two Hundred and Fifty Thousand Dollars (\$63,250,000); *minus*

(b) An amount equal to the Deposit.

Notwithstanding anything to the contrary in this Agreement, including Section 3.03, in no event shall the Purchase Price payable under this Section 3.01, *plus* the amount released to the Seller in connection with Closing pursuant to Section 3.02(c) be reduced under \$63,250,000.

Section 3.02 Good Faith Deposit.

(a) Buyer has deposited the sum of Two Million Seven Hundred Fifty Thousand Dollars (\$2,750,000) (the "Deposit") with the Escrow Agent at the time this Agreement is executed, and such Deposit shall be held in an interest bearing account to the benefit of Buyer.

(b) Notwithstanding anything to the contrary contained herein, if the Closing does not occur, the Deposit, including any interest earned thereon, shall be paid to the party entitled hereto pursuant to the Bidding Procedures.

(c) Upon the Closing, the Deposit shall be paid by the Escrow Agent to Seller and shall reduce the portion of the Purchase Price to be paid by Buyer to Seller at Closing as set forth in Section 3.01.

Section 3.03 Adjustment of Purchase Price.

(a) All income and expenses (including prepaid expenses) of the CCRC Assets and Business shall be prorated on a daily basis between Seller and Buyer as of 11:59 p.m. on the date (the "Proration Date") immediately preceding the Closing. Such items to be prorated shall include:

(i) Prepayments for Resident charges covering periods on and after the Closing Date;

(ii) Utility charges, if any, based on utility charges for the month immediately preceding the Closing;

(iii) Asset Taxes, provided that if the actual taxes and assessments owed are not known on the Closing Date, the adjustment shall be based on the prior tax period and reconciled when the actual amounts are known;

(iv) Water taxes and sewer rentals;

(v) Equipment lease, rental and service contract payments, pursuant to the Assigned Contracts;

(vi) Telephone, gas, water, electric and any other utility charges upon the basis of the most recently issued bills therefor, subject to adjustment after the Closing when the next bills are available or if the current meter readings are available, on the basis of such readings;

(vii) Heating fuel;

(viii) Prepayments and charges relating to any of the CCRC Assets or the Real Property, including, but not limited to, service, maintenance and other similar agreements assigned to Buyer under this Agreement; and

(ix) such other items (other than Taxes) as are customarily apportioned between sellers and buyers of real properties of a type similar to the Real Property and located in the County of Nassau and State of New York.

Buyer and Seller shall prepare a proposed Schedule (the "Proration Schedule") prior to Closing that shall include the items listed above and any other applicable income and expenses with regard to the CCRC Assets and Business. Seller and Buyer will use all reasonable efforts to finalize and agree upon the Proration Schedule at least two (2) Business Days prior to Closing.

(b) Except with respect to Adequate Assurance Utility Deposits, any escrow accounts held by any utility companies, and any cash deposits made by Seller on behalf of Seller to any utility company prior to Closing to secure obligations under Assumed Liabilities shall be assigned to Buyer and Seller shall receive a credit at Closing for any such deposits. Seller and Buyer shall finalize and agree upon the cash deposits and credits due Seller at least two (2) Business Days prior to Closing. Buyer will not issue a credit or make any cash payment after the Closing for Seller utility deposits.

(c) Seller shall receive all income from and shall be responsible for all expenses of the CCRC Assets and Business attributable to the period prior to the Proration Date, subject to the treatment of such claims under the Bankruptcy Code and by order of the Bankruptcy Court, including accounts payable whether known or unknown, and Accounts Receivable, unless otherwise provided for in this Agreement. In the event Buyer or Buyer's Affiliates receive any payment for any period prior to the Proration Date or payment of any other receivable of Seller, Buyer shall forward such payments to Seller, along with the applicable remittance advice, within forty-five (45) days of receipt thereof. In the event Buyer or Buyer's Affiliates receive any payment from a payor where the remittance advice does not indicate the period to which a payment relates or whether it is for Buyer or Seller, or if there is no accompanying remittance advice, or the payment is not otherwise identifiable using commercially reasonable efforts, and if the parties do not otherwise agree as to how to apply such payment, then all such payments received shall be deemed to belong to Buyer.

(d) Buyer shall receive all income from and shall be responsible for all expenses of the CCRC Assets and Business attributable to the period from and after the Proration Date, unless otherwise provided for in this Agreement. In the event Seller or Seller's Affiliates receive any payment for any period after the Proration Date or payment of any other receivable of Buyer, Seller shall forward such payments to Buyer, along with the applicable remittance advice, within forty-five (45) days of receipt thereof.

(e) Buyer shall be liable for any escrow fees with respect to the Escrow Agent.

(f) [Reserved.]

(g) As necessary with respect to patients admitted to the Community's skilled nursing facility before the Closing but who are discharged after Closing (the "Transition Patients"), the parties shall take measures to ensure that Seller and Buyer each receive an appropriately pro-rated portion of any payment for items and services furnished to such Transition Patients. Following the Closing, Buyer shall submit Claims for Transition Patients in accordance with the requirements of the applicable Government Health Programs or Third-Party Payor programs and shall pay to Seller the fraction of the payment attributable to items and services furnished by Seller prior to the Closing. Seller shall pay to Buyer any funds it receives post-Closing from any Third-Party Payor in accordance with Section 7.09(a).

(h) The parties agree that any amounts that may become due under this Section 3.03 shall be paid at Closing as can best be determined. A post-Closing reconciliation of

pro-rated items shall be made by Buyer and Seller within ninety (90) days after Closing and any amounts due at that time shall be promptly forwarded to the respective party in a lump sum payment. Any additional amounts which may become due after such determination shall be forwarded at the time they are received. Any amounts due under this Section 3.03 which cannot be determined within ninety (90) days after Closing shall be reconciled as soon thereafter as such amounts can be determined. Notwithstanding anything herein, neither party shall have any obligation to the other under this Section 3.03 one hundred twenty (120) days after Closing.

- (i) This Section 3.03 shall survive the Closing.

ARTICLE IV. REPRESENTATIONS AND WARRANTIES OF SELLER

As of the Execution Date and as of the Closing Date, and as a material inducement to Buyer entering into this Agreement and to consummate the Contemplated Transactions, Seller represents and warrants to Buyer, as follows:

Section 4.01 Organization; Good Standing of Seller. Seller is a not-for-profit corporation duly organized, validly existing and in good standing under the laws of the State of New York. Seller has the requisite corporate power and authority to own and to operate and use its properties and to operate the Business as currently conducted. Seller is duly qualified or licensed to do business in New York, except where the failure to be so qualified or licensed or in good standing as would not have, individually or in the aggregate, a Material Adverse Effect.

Section 4.02 Authority; Validity; Consents. Seller has the requisite corporate power and authority necessary to enter into this Agreement and the other Transaction Documents to which Seller is a party. Seller's obligations to perform under this Agreement and the other Transaction Documents are subject to requisite Bankruptcy Court approval. Upon entry of the Sale Order, the execution, delivery and performance of this Agreement and such other Transaction Documents by Seller and the consummation by Seller of the Contemplated Transactions have been duly and validly authorized by all requisite corporate action, none of which actions have been modified or rescinded and all of which actions remain in full force and effect. This Agreement has been duly and validly executed and delivered by Seller and each other Transaction Document required to be executed and delivered by Seller at the Closing will be duly and validly executed and delivered by Seller at the Closing. Subject to requisite Bankruptcy Court approval and assuming due authorization, execution and delivery by Buyer, this Agreement and the other Transaction Documents constitute the legal, valid and binding obligations of Seller, enforceable against Seller in accordance with their respective terms.

Section 4.03 Contracts. Schedule 4.03 of the Disclosure Schedules lists all Material Contracts, except Residency Agreements, in effect as of the Execution Date. As of the Execution Date, true, correct, and complete copies of Assigned Contracts will be provided to Buyer.

Section 4.04 Title; Sufficiency of Assets; No Outstanding Rights. Except as set forth on Schedule 4.04:

(a) The Community includes 229 Independent Living Units, 26 enriched housing units, 18 special needs assisted living residence units, and 56 skilled nursing beds.

(b) At Closing, Seller will deliver good and marketable title to, or a valid leasehold interest in, all Personal Property (except for the Excluded Personal Property) included in the CCRC Assets free and clear of all Liens, other than Permitted Liens to the extent permissible under Section 363(f) of the Bankruptcy Code. Seller is the sole record and beneficial owner of the CCRC Assets.

Section 4.05 Financial Information. Schedule 4.05 of the Disclosure Schedules hereto contains the following financial statements and financial information (collectively, the “Historical Financial Information”):

(i) audited financial statements consisting of the balance sheet of the Business as of December 31 in each of the years 2021, 2020 and 2019 and the related statements of income and net surplus/deficit, and cash flow for the years then ended;

(ii) Unaudited financial statements consisting of the balance sheet of the Business as of December 31, 2022, and the related statements of income and net surplus/deficit, and cash flow for the 12-month period ended on December 31, 2022 (the “Unaudited Financial Information”); and

(iii) Current Rent Roll.

The financial statements included in the Historical Financial Information are true, correct and complete in all material respects and have been prepared, in accordance with GAAP, applied on a consistent basis throughout the periods indicated except that the Unaudited Financial Information may not include required footnote disclosures or reflect normal year-end adjustments, including the future service obligation adjustment. The financial statements included in the Historical Financial Information fairly present in all material respects the financial position of the Business at the dates thereof and the results of the operations and statement of cash flows of the Business for the periods indicated (subject in the case of unaudited statements to recurring accounting adjustments normal in nature and amount).

Section 4.06 Permits and Approvals.

(a) The Community is duly licensed and holds all material Permits or Approvals in accordance with all Applicable Laws, including all Healthcare Regulatory Laws, and all other ancillary departments or services located at, or operated for the benefit of, the Community that are required to be separately licensed or hold Permits or Approvals are duly licensed or hold such Permits or Approvals issued by the appropriate Governmental Authority. Schedule 4.06(a) of the Disclosure Schedules sets forth a complete list of material Permits and Approvals currently issued or granted by a Governmental Authority and owned or held by or issued to Seller in connection with the CCRC Assets or the Business.

(b) Except as set forth in Schedule 4.06(b), there are no pending or, to the Knowledge of Seller, threatened Proceedings or Actions by or before any Governmental Authority to revoke, cancel, rescind, suspend, restrict, modify or refuse to renew any of the Permits or Approvals.

Section 4.07 Government Health Program Participation/Accreditation.

(a) Seller is a “provider” with valid and current Provider Agreements with one or more provider numbers with the Medicare and Medicaid programs, and Seller and the CCRC Assets are certified for participation in the Medicare and Medicaid programs. Seller has delivered accurate and complete copies of all material Provider Agreements to Buyer. The Provider Agreements are each in full force and effect and, to the Knowledge of Seller, no events or facts exist that would cause any Provider Agreement to be suspended, terminated, restricted or withdrawn. The Seller and the CCRC Assets are in compliance with the conditions of participation for the Medicare and Medicaid programs in all material respects. Seller has timely filed all cost reports that were required to be filed with the Medicare and Medicaid programs for all fiscal years through fiscal year end December 31, 2021. Seller has made available to Buyer accurate and complete copies of Seller’s cost reports for the three (3) most recent fiscal years of Seller. There are no pending or, to the Knowledge of Seller, threatened Proceedings, surveys, investigations or other Actions under or related to the Government Health Programs or any other Third-Party Payor programs involving Seller or the CCRC Assets. All cost reports filed by or on behalf of Seller accurately reflect the information required to be included therein in all material respects, and such cost reports do not claim, and neither Seller nor the CCRC Assets have received, reimbursement in any amount in excess of the amounts allowed by Applicable Law or any applicable Contract, including the Provider Agreements and the Third-Party Payor Contracts. To Seller’s Knowledge, there are no facts or circumstances that would give rise to any disallowance under any such cost reports. Except as disclosed on Schedule 4.07(a) hereto, there are no Claims pending before any Governmental Authority, with respect to any Government Health Program cost reports or Claims filed on behalf of Seller with respect to the Business on or before the Closing Date, or any disallowances by any Governmental Authority in connection with any audit of such cost reports. No validation review or program integrity review (including any recovery audit contract review) related to the Community, the Business, or the consummation of the Contemplated Transactions, has been conducted by any Governmental Authority in connection with the Government Health Programs since December 31, 2022, and to the Knowledge of Seller, no such reviews are scheduled, pending or threatened against or affecting Seller with respect to the Community, the Business, or the consummation of the Contemplated Transactions. Neither Seller nor, to the Knowledge of the Seller, any of Seller’s respective employees, officers, or directors have committed a material violation of any Applicable Law, including Healthcare Regulatory Laws, relating to payments and reimbursements under the Government Health Programs or any other Third-Party Payor program. Schedule 4.07(a) contains a list of all NPIs and all provider numbers under the Government Health Programs issued to and held by Seller and the CCRC Assets, all of which are in full force and effect.

(b) Since January 1, 2017, the billing practices of Seller with respect to the Community and the Business to all Government Health Programs and Third-Party Payors,

have been in compliance in all material respects with all Applicable Laws, including Healthcare Regulatory Laws, policies and billing requirements of such Third-Party Payors and Government Health Programs, and except as set forth on Schedule 4.07(b) hereto, and neither Seller nor the CCRC Assets have billed or received any material payment or reimbursement in excess of amounts allowed under Applicable Laws, including Healthcare Regulatory Laws, policies, and billing requirements of Third-Party Payors and Government Health Programs.

(c) The CCRC Assets are being operated as a skilled nursing facility, assisted living facility, independent living facility and memory care facility, having the number of beds or Residents as set forth on the Rent Roll.

Section 4.08 Compliance with Applicable Laws.

(a) Except as set forth on Schedule 4.08 of the Disclosure Schedules, Seller, the CCRC Assets, and the Community are, and since January 1, 2017 have been, in material compliance (including timely filing all required materials in connection therewith) with all Applicable Laws, including all Healthcare Regulatory Laws.

(b) Neither Seller nor the Community has received any written communication since January 1, 2017, from a Governmental Authority or any qui tam relator that alleges, that Seller, the Community or the CCRC Assets are not in compliance with any Applicable Law, including Healthcare Regulatory Laws, other than statements of deficiencies from a Governmental Authority received in the Ordinary Course of Business.

(c) Seller (i) is not, and since January 1, 2017 has not been, a party to a Corporate Integrity Agreement with the Office of the Inspector General of the U.S. Department of Health & Human Services (the “OIG”); (ii) does not have any reporting obligations pursuant to any settlement agreement entered into with any Governmental Authority; (iii) to Seller’s Knowledge, has not been the subject of any Government Health Program investigation or any other Proceeding conducted by any Governmental Authority; (iv) has not been a defendant in any qui tam/False Claims Act litigation (other than by reason of a sealed complaint of which Seller has no Knowledge); (v) submitted a voluntary self-disclosure to any Governmental Authority, including without limitation OIG, the Centers for Medicare and Medicaid Services, and DOH; and (vi) has not been served with or received, and is not otherwise aware of, any Action, Proceeding, search warrant, subpoena, civil investigation demand, contact letter, by or from any Governmental Authority related to any alleged or actual violations of Healthcare Regulatory Laws.

(d) Neither Seller nor any of its Affiliates, nor to Seller’s Knowledge, any agent acting on behalf of or for the benefit of any of the foregoing, has directly or indirectly in connection with the Community, offered or paid any remuneration, in cash or in kind, to, or made any financial arrangements with, any past, present or potential Residents, past or present suppliers, patients, physicians and other health care providers (“Practitioners”), contractors or Third-Party Payors of Seller or the Community that would violate Healthcare Regulatory Laws, except as otherwise permitted under Healthcare Regulatory Laws. Neither Seller, the Community, any officer, director, nor, to Seller’s Knowledge,

any independent contractor or employee of Seller or the Community (whether an individual or entity), has been excluded from participating in any Federal Health Care Program, subject to sanction pursuant to 42 U.S.C. § 1320a-7a or § 1320a-8 or been convicted of a crime described at 42 U.S.C. § 1320a-7b, nor, to Seller's Knowledge, are any such exclusions, sanctions or charges threatened or pending.

Section 4.09 Health Regulatory Compliance.

(a) The Community is certified for participation and reimbursement under and has current provider numbers and provider agreements for each material Third-Party Payor program under which it is presently receiving payments.

(b) Except for the matters set forth on Schedule 4.09(b) of the Disclosure Schedules and to the Seller's Knowledge, there are no threatened in writing or pending Actions or Proceedings by any Governmental Authority or written notices thereof received by Seller since January 1, 2017, that would (i) have a material impact on Seller's ability to accept and/or retain Residents or operate such CCRC Assets and Business for its current use or result in the imposition of a lower rate certification or a lower reimbursement rate for services rendered to eligible patients or residents, (ii) materially modify, limit or result in the transfer, suspension, revocation or imposition of probationary use of any of the material Permits or Approvals, or (iii) adversely and materially affect, as applicable, Seller's continued participation in any material Third-Party Payor programs.

(c) Since January 1, 2017, Seller has timely filed or caused to be filed all material reports and billings required to be filed by it prior to the Execution Date in order to receive payment from Third-Party Payors and Residents and all such reports and billings, to the Seller's Knowledge, are complete and accurate in all material respects and have been prepared in material compliance with all Applicable Laws governing reimbursement and payment of Claims.

Section 4.10 Information Privacy and Security Compliance.

(a) Seller is operating in material compliance with Information Privacy and Security Laws.

(b) To Seller's Knowledge, Seller is not under investigation by any Governmental Authority for a violation of any Information Privacy and Security Laws and, since January 1, 2017, has not received any written notice, subpoena, demand or complaint alleging that, with respect to the operations of Seller, it is not in material compliance with such Information Privacy and Security Laws.

(c) To Seller's Knowledge, since January 1, 2017, Seller has not experienced any breach of Personal Information with respect to any "Unsecured Protected Health Information" (as such term is defined in 45 C.F.R. § 164.402) maintained by or for Seller, and Seller has not been required to send notifications of such a breach under any Information Privacy and Security Laws.

Section 4.11 Proceedings; Judgments. Except for the Bankruptcy Case and as set forth on Schedule 4.11 of the Disclosure Schedules, (a) there are no Proceedings pending or, to Seller's Knowledge, threatened against Seller with respect to any of the CCRC Assets or the Business; (b) there is no Proceeding pending or, to Seller's Knowledge, threatened, before or by any Governmental Authority with respect to any CCRC Assets or the Business; and (c) there has been no settlement or other similar agreement or Order with respect to the ownership or operation of the CCRC Assets or the Business that is material. Seller has not received any written notice or written claim for tort or violation of any applicable Order, or an investigation thereof with respect to its ownership or operation of the CCRC Assets or the Business.

Section 4.12 Labor Matters.

(a) Schedule 4.12(a) of the Disclosure Schedules sets forth an accurate and complete list as of the Execution Date of each Employee's (i) name, (ii) job title/position or function, (iii) salary or wage rate, (iv) date of hire, (v) exempt or non-exempt classification, (vi) full-time or part-time status, and (vii) active or leave status.

(b) Schedule 4.12(b) of the Disclosure Schedules sets forth a true, correct and complete list of each Service Provider's (i) name, (ii) function or services provided, and (iii) current compensation structure.

(c) Seller is in compliance in all material respects with all applicable Labor Laws for all Employees. Except as set forth on Schedule 4.12(c) of the Disclosure Schedules, there is no pending, nor, to the Seller's Knowledge, threatened in writing, Proceeding against Seller reasonably likely to give rise to a Liability asserting that Seller has committed an unfair labor practice or any other violation of applicable Labor Laws with respect to any Employee or former employee or Service Provider or former Service Provider.

(d) Seller is not a party to any labor, collective bargaining, or union Contracts with respect to any Employee or Service Provider. No collective bargaining or any other labor-related Contract with any labor union or labor organization is currently being negotiated by Seller with respect to any Employee or Service Provider. There is no pending or, to the Knowledge of Seller, threatened organizing effort, charge, demand, petition, or representation proceeding for recognition or certification or attempt to organize the Employees, or demand for bargaining, by any labor organization with respect to any Employee. During the past four (4) years, there have been no organizing activities, strikes, slow-downs, work stoppages, walkouts, lockouts, other labor disturbance or other concerted action by any union or other group of Employees against Seller with respect to any Employee nor is there any such organizing activity, strike, slow-down, work stoppage, walkout, lockout, other labor disturbance or other concerted action by any union or other group of Employees, to the Knowledge of Seller, threatened against Seller with respect to any Employee.

(e) There has been no "mass layoff" or "plant closing" (as defined by the WARN Act or any similar state or local law) with respect to Seller since January 1, 2017.

Section 4.13 Real Property.

(a) Schedule 4.13(a) of the Disclosure Schedules contains an accurate and complete legal description, street address and tax parcel identification number for the Real Property. The IDA holds good and indefeasible fee simple title to all of the Real Property, Seller has the interest in the Real Property as set forth in the PILOT Agreement, and Seller shall convey the Real Property free and clear of all Liens (other than the Permitted Liens) unless the PILOT Transfer is effected, in which case Seller shall transfer its interest in the Real Property under the PILOT Agreement (as may be amended, restated, supplemented, modified, or replaced in connection with the PILOT Transfer). Seller does not lease any portion of the Real Property as a tenant or subtenant. Seller agrees that title to the Real Property shall not be altered between the Execution Date and Closing except in connection with the PILOT Transfer.

(b) Seller has not received written notice from any Governmental Authority of (and otherwise has no Knowledge of): (i) any pending or threatened condemnation Proceedings affecting the Real Property, or any part thereof; (ii) asserting or alleging any material violations or potential violations of any Applicable Laws (including zoning and land use ordinances, building codes and similar requirements) with respect to the Real Property, or any part thereof, which have not heretofore been cured; or (iii) any pending or threatened Proceedings, nor any Claims or Actions against Seller or any Affiliate of Seller or the Real Property, relating to the ownership, lease, use or occupancy of such Real Property or any portion thereof which is reasonably likely to result in a material change in the condition of the Real Property or the ownership or operation of the Real Property. Seller has not received any written notice of any pending zoning or other land use change affecting the Real Property.

Section 4.14 Residency Agreements.

(a) Schedule 4.14(a) of the Disclosure Schedules includes an accurate and complete list of Residency Agreements (redacted to the extent required to comply with applicable privacy laws and regulations) in effect as of the date indicated therein (the "Rent Roll").

(b) Except for any parties in possession pursuant to, and any rights of possession granted under, the Residency Agreements shown on the Rent Roll (as of the date indicated therein) or the updated Rent Roll to be delivered at Closing (as of the date indicated therein), Seller has not granted any leases, occupancies or tenancies or rights of possession of any part of the Real Property.

(c) Except as set forth on Schedule 4.14(c), as it may be updated prior to Closing, no party (including Seller) to any Residency Agreement is in monetary default in any material respect under any of its obligations under such Residency Agreement.

(d) Schedule 4.14(d) of the Disclosure Schedules sets forth an accurate and complete list (in all material respects) of the deposits paid pursuant to the Residency Agreements and deposits paid pursuant to any reservations related thereto.

Section 4.15 Insurance. Schedule 4.15 of the Disclosure Schedules sets forth an accurate and complete list of all insurance policies or self-insurance funds maintained by Seller with respect to the Community and Seller as of the Execution Date covering the ownership and operation of the Business, indicating the types of insurance, policy numbers, terms, identity of insurers and amounts and coverages (including applicable deductibles).

Section 4.16 Intellectual Property. Seller owns or has the right to use all Intellectual Property used in connection with the ownership or operation of the CCRC Assets. Schedule 4.16 of the Disclosure Schedules lists all of the registered Intellectual Property owned by Seller. Except as set forth on Schedule 4.16 of the Disclosure Schedules or as would not have, individually or in the aggregate, a Material Adverse Effect on the Business, the conduct of the Business does not infringe or otherwise violate any Intellectual Property or other proprietary rights of any other Person, and there is no action pending or, to the Knowledge of Seller, threatened, alleging any such infringement or violation or challenging Seller's rights in or to any of its Intellectual Property.

Section 4.17 Tax Matters. Except as set forth on Schedule 4.17 of the Disclosure Schedules:

(a) All Taxes due and owing by Seller (whether or not shown on any Tax Return) have been timely paid when due (taking into account any applicable extensions), including all Taxes with respect to the CCRC Assets.

(b) There are no Tax liens on any of the CCRC Assets other than liens for Taxes not yet due and payable.

(c) To Seller's Knowledge, proper and accurate amounts have been withheld by Seller in compliance with the payroll Tax and other withholding provisions of all Applicable Laws, and all of such amounts have been timely remitted to the proper taxing authority.

(d) Seller has timely filed all Tax Returns required to be filed by it, including all Tax Returns relating to the CCRC Assets (all of which are true, complete and correct in all material respects). Seller has not waived any statute of limitations in respect of Taxes or agreed to any extension of time with respect to a Tax assessment or deficiency, which currently remains in effect. Seller is not currently the beneficiary of any extension of time within which to file any Tax Return.

(e) To Seller's Knowledge, no deficiencies for Taxes have been claimed, proposed or assessed by any Governmental Authority for which Seller may have any Liability or which may attach to the CCRC Assets. There are no pending or, to Seller's Knowledge, threatened proceedings for or relating to any Liability in respect of Taxes for which Seller may have any Liability or which may attach to the CCRC Assets. There are no matters under discussion by Seller with any Governmental Authority with respect to Taxes that may result in an additional amount of Taxes for which Seller may have any Liability or which may attach to the CCRC Assets. No Governmental Authority has notified Seller that it has conducted an audit of any Taxes that may be due and owing by

Seller or as the result of the Business audited by Seller, which currently remains outstanding or unresolved.

Section 4.18 Environmental Matters. Except as set forth on Schedule 4.18 of the Disclosure Schedules: (a) there are no material Environmental Liabilities on or affecting any of the CCRC Assets, (b) except for any noncompliance that has been remediated in accordance with applicable Environmental Law, to the Knowledge of Seller, Seller has at all times operated the CCRC Assets and conducted the Business and, during the period that Seller owned the CCRC Assets and any third party operated any such CCRC Assets, such third party operated the CCRC Assets, in each case, in compliance with all applicable Environmental Laws and all Permits required thereunder or issued pursuant thereto, (c) to Seller's Knowledge, there are no Proceedings pending or threatened before any Governmental Authority with respect to Seller's ownership or operation of the Real Property alleging violations of Environmental Laws, or claiming material remediation obligations under applicable Environmental Laws, and Seller has not received any written notice of any alleged or actual violation or non-compliance with any Environmental Law or of non-compliance with the terms or conditions of any environmental Permits, arising from, based upon, associated with or related to the Real Property or the ownership or operation thereof, and (d) Seller has provided Buyer access to accurate and complete copies of all final written environmental reports, studies and notices prepared by any third party on behalf of, or delivered by a Governmental Authority to, Seller with respect to the Real Property, that identify or allege any Environmental Defect on or affecting the Real Property.

Section 4.19 Broker's or Finder's Fees. Except as disclosed on Schedule 4.19 of the Disclosure Schedules, no agent, broker, investment banker, or other person or firm acting on behalf of Seller or any of its Affiliates or under its authority, is or will be entitled to any broker's or finder's fee or any other commission or similar fee, directly or indirectly, from Seller or Buyer or any of the parties' respective Affiliates in connection with the Contemplated Transactions.

Section 4.20 No Conflict. Except for any notices, filings and consents required in connection with the consummation of the Contemplated Transactions, and subject to obtaining requisite Bankruptcy Court approval, the execution and delivery of this Agreement and the other Transaction Documents and the consummation of the Contemplated Transactions will not result in the material breach of any terms and provisions of, or constitute a material default under, or material conflict with, or cause any acceleration of any material obligation of Seller under (a) any material Permit or Material Contract by which Seller is bound, (b) the Governing Documents of Seller, and (c) subject to entry of the Sale Order, any applicable Order or Applicable Law.

Section 4.21 United States Person. Seller is a "United States Person" within the meaning of Section 1445(f)(3) of the Code.

Section 4.22 Patriot Act. Seller and Seller's Related Persons, and each of their respective Affiliates, members, partners, shareholders, officers, directors, employees, agents or duly authorized managing agents, that have or will have an interest in the transactions contemplated by this Agreement or in any property that is the subject matter of this Agreement or will participate, in any manner whatsoever, in the sale of the CCRC Assets, is: (a) not a "blocked" person listed in the Annex to Executive Order Nos. 12947, 13099 and 13224 (the "Annex"), and (b) in full compliance with the requirements of the USA Patriot Act of 2001, 107 Public Law 56

(October 26, 2001) (as may be amended, modified or supplemented, the “Patriot Act”) and in other statutes and all orders, rules and regulations of the United States government and its various executive departments, agencies and offices related to the subject matter of the Patriot Act, including, but not limited to, Executive Order 13224 effective September 24, 2001 (the “Patriot Rules”) and all other requirements contained in the rules and regulations of the Office of Foreign Assets Control, Department of the Treasury. Seller covenants and agrees that in the event Seller receives any notice that Seller or any of such other of the foregoing identified persons becomes listed on the Annex or any other list promulgated under the Patriot Rules or indicted, arraigned, or custodially detained on charges involving money laundering or predicate crimes to money laundering, Seller shall immediately notify Buyer.

Section 4.23 No Other Representation and/or Warranty. Except for the representations and warranties contained in this Article IV (including the related portions of the Disclosure Schedules), Seller has not made and does not make any other express or implied representation or warranty, either written or oral, on behalf of or with respect to Seller, the CCRC Assets, the Community or the Business, including any representation or warranty arising from statute or otherwise in law.

ARTICLE V. REPRESENTATIONS AND WARRANTIES OF BUYER

Buyer represents and warrants to Seller as of the Execution Date and as of the Closing as follows:

Section 5.01 Organization and Good Standing. Buyer is a limited liability company duly organized, validly existing and in good standing under the laws of the State of Iowa. Buyer has all requisite corporate power to own, operate, and lease the Community and the Real Property and carry on the Business as it is now being conducted and as the same will be conducted following the Closing.

Section 5.02 Authorization and Binding Effect of Transaction Documents. Buyer has the requisite corporate power and authority necessary to enter into and perform its obligations under this Agreement and the other Transaction Documents to which Buyer is a party and to consummate the Contemplated Transactions. The execution and delivery of this Agreement and the other Transaction Documents and the performance of Buyer’s obligations hereunder and thereunder (including consummation of the Contemplated Transactions) has been duly authorized by all requisite corporate action of Buyer, and this Agreement constitutes the valid and binding obligation and agreement of Buyer, enforceable in accordance with its terms (subject to the effect of bankruptcy, insolvency fraudulent conveyance, reorganization, moratorium and similar laws affecting creditor’s rights and remedies generally, and to limitations imposed by general principles of equity, whether applied by a court of law or of equity).

Section 5.03 Absence of Conflicts. Neither the execution and delivery or performance of this Agreement, nor compliance with the terms and provisions hereof, will (i) conflict with or result in any breach of any of the terms, conditions or provisions of, (ii) constitute a default under, (iii) result in a violation of, or (iv) give any third party the right to modify, terminate, or accelerate any obligation under, the provisions of the Governing Documents of Buyer and/or its Affiliates,

any indenture, mortgage, lease, loan agreement or other agreement or instrument to which Buyer and/or its Affiliates is bound or affected, or any Applicable Law to which Buyer and/or its Affiliates is subject or any Applicable Law.

Section 5.04 Consents. The execution, delivery and performance by Buyer and/or its Affiliates of this Agreement and the other Transaction Documents, and consummation by Buyer and/or its Affiliates of the Contemplated Transactions and thereby, do not and will not require the authorization, consent, approval, exemption, clearance or other action by or notice or declaration to, or filing with, any court or administrative or other Governmental Authority, or the consent, waiver or approval of any other person or entity, excluding consents that Seller is obligated to obtain under Section 8.06 below.

Section 5.05 Broker's or Finder's Fees. No agent, broker, investment banker, or other person or firm acting on behalf of Buyer or any of its Affiliates or under its authority, is or will be entitled to any broker's or finder's fee or any other commission or similar fee, directly or indirectly, from Buyer or any of its Affiliates in connection with the Contemplated Transactions.

Section 5.06 Ability to Perform. As of the Execution Date, Buyer has the ability to obtain funds in cash in amounts equal to the Purchase Price by means of credit facilities or otherwise and will at the Closing have immediately available funds in cash, which are sufficient to pay the Purchase Price and to pay any other amounts payable pursuant to this Agreement and to consummate the Contemplated Transactions.

Section 5.07 Diligence. Buyer has conducted its own independent investigation, review and analysis of the business, results of operations, prospects, condition (financial or otherwise) and assets of the Seller and acknowledges that it has been provided adequate access to the personnel, properties, assets, premises, books and records, and other documents and data of the Seller for such purpose.

Section 5.08 Healthcare Regulatory and Exclusion.

(a) [Reserved.]

(b) To Buyer's Knowledge, Buyer has been in material compliance with Healthcare Regulatory Laws and no facts or circumstances exist that would prohibit or delay the Buyer from consummating the Contemplated Transactions or obtaining the Regulatory Approvals necessary to operate the Community.

(c) Neither Buyer, nor any of its Representatives has, at any time, been excluded by a Governmental Authority to conduct business with Government Health Programs.

Section 5.09 United States Person. Buyer is a "United States Person" within the meaning of Section 1445(f)(3) of the Code.

Section 5.10 Patriot Act. Buyer and the Related Persons of Buyer and each of their respective Affiliates, members, partners, shareholders (provided no representation is made with respect to shareholders of a publicly traded company), officers, directors, employees, agents or

duly authorized managing agents, that have or will have an interest in the transaction contemplated by this Agreement or in any property that is the subject matter of this Agreement or will participate, in any manner whatsoever, in the purchase of the CCRC Assets, is: (a) not a “blocked” person listed in the Annex, and (b) in full compliance with the requirements of Patriot Act and in other statutes and all orders, rules and regulations of the United States government and its various executive departments, agencies and offices related to the subject matter of the Patriot Act, including, but not limited to the Patriot Rules and all other requirements contained in the rules and regulations of the Office of Foreign Assets Control, Department of the Treasury. Buyer covenants and agrees that in the event Buyer receives any notice that Buyer or any of such other of the foregoing identified persons becomes listed on the Annex or any other list promulgated under the Patriot Rules or indicted, arraigned, or custodially detained on charges involving money laundering or predicate crimes to money laundering, Buyer shall immediately notify Seller.

Section 5.11 No Other Representation and/or Warranty. Except for the representations and warranties contained in this Article V, Buyer has not made and does not make any other express or implied representation or warranty, either written or oral, on behalf of or with respect to Buyer, including any representation or warranty arising from statute or otherwise in law.

ARTICLE VI. COVENANTS

Section 6.01 Continuing Inspection Rights. Seller shall, commencing on the Execution Date of this Agreement, provide reasonable access to Buyer of all of Seller’s assets, books, accounting records, correspondence and files of Seller (to the extent related to the operation of the CCRC Assets) for examination by Buyer, its Representatives, with the right to make copies of such books, records and files or extracts therefrom. Such access will be available to Buyer during normal business hours, upon reasonable notice, in such manner as will not unreasonably interfere with the conduct of the Business of the CCRC Assets. Seller will make available to Buyer and its Representatives such additional data and other available information regarding the CCRC Assets as Buyer deems reasonably necessary or desirable to comply with Buyer’s internal requirements or the requirements of Buyer’s lenders, investors or members, including further inspection of title, survey, environmental and structural aspects, assessments of the compliance of the CCRC Assets or Business with all Applicable Laws, and customary pre-closing walk-throughs. Those books, records and files which relate to Seller’s assets that are not transferred to Buyer shall be preserved and maintained by Seller for three (3) years after the Closing, or such greater amount of time required by Applicable Law, and those books, records and files relating to the CCRC Assets the possession of which is being transferred to Buyer hereunder shall be maintained and preserved by Buyer for a period of three (3) years after the Closing, or such greater amount of time required by Applicable Law. Any information provided to Buyer or its Representatives in accordance with this Section 6.01 shall be subject to the terms of the confidentiality and non-disclosure agreement dated October 31, 2022, between Buyer and Seller.

Section 6.02 Conduct of Business Prior to the Closing. Seller covenants and agrees, from the Execution Date through the Closing, unless Buyer provides its prior written consent thereto, which shall not be unreasonably withheld, conditioned, or delayed, to:

(a) operate the CCRC Assets and Business in the Ordinary Course of Business, and in compliance with Applicable Law in all material respects, consistent with past practices immediately prior to the Closing Date, including maintaining Inventory substantially similar to historical levels immediately prior to the Closing Date, but shall not pre-bill for any reimbursement for services to be provided post-Closing;

(b) use commercially reasonable efforts to maintain all existing insurance policies with the same coverages and amounts as of the Execution Date;

(c) operate, maintain and repair the Real Property and otherwise conduct business in material compliance with the terms or conditions of the Permits listed on Schedule 4.06(a) of the Disclosure Schedules, all Applicable Laws having jurisdiction over any aspect of the operation of the Facility and all applicable insurance requirements;

(d) maintain the books and records for the CCRC Assets and the Business in the Ordinary Course of Business;

(e) not sell, lease, grant any rights in or to or otherwise dispose of, or agree to sell, lease or otherwise dispose of, the Real Property in whole or in part, except to Residents of the Community in the Ordinary Course of Business;

(f) use commercially reasonable efforts to maintain the Personal Property currently in use in reasonably good operating condition and repair, except for ordinary wear and tear and damage by casualty, in a manner consistent with past practice immediately prior to the Closing Date, subject, and, in respect of the period after the Execution Date, to those actions necessary in connection with the Bankruptcy Case;

(g) not materially amend or modify the Assigned Contracts or Residency Agreements, enter into new Material Contracts, or take or fail to take any action thereunder outside the Ordinary Course of Business; *provided, however*, that Seller shall use reasonable efforts to cooperate with Buyer to schedule mutually agreeable annual increases in monthly service fees for Residents consistent with past practices and in no event shall such monthly service fees be increased by less than 6% in the aggregate for the 2024 calendar year, unless such increase is inconsistent with the applicable Residency Agreements;

(h) not make any alterations or improvements to the Real Property or make any capital expenditure with respect to the CCRC Assets in excess of Twenty-Five Thousand Dollars (\$25,000.00) individually, other than those that are required by Applicable Law, required by Section 6.13, for health, welfare or safety, that are necessary to preserve the coverage under or comply with the terms of any insurance policy with respect to the CCRC Assets, or with Buyer's consent which shall not be unreasonably withheld;

(i) other than Residency Agreements or agreements with respect to reimbursements for insurance policies, not enter into any agreement which calls for annual payments in excess of Twenty-Five Thousand Dollars (\$25,000.00) or for a term in excess of one (1) year, unless such agreement can be terminated by Buyer without Liability on or after the Closing Date;

(j) notify Buyer within ten (10) Business Days of the death of a Current Resident (if permitted under Applicable Law);

(k) not grant any bonus, free months' rental, or other concession to any present or future tenant or Resident of the Real Property, except (i) in the Ordinary Course of Business and (ii) to the extent that all such bonuses or concessions shall be paid or credited prior to Closing unless otherwise approved by Buyer;

(l) not negotiate, enter into or amend any collective bargaining agreement, labor contract, or other Contract with any labor organization or union;

(m) not terminate the employment of any Employee other than for cause, or hire any employee who would be an Employee, in each case, other than in the Ordinary Course of Business;

(n) not increase the level of wages, bonus, compensation or other benefits of any Employee in any material respect or otherwise materially change any terms or conditions of employment of Employees, in each case except (i) for increases in the Ordinary Course of Business, (ii) as required by an applicable employment Contract or offer letter, or (iii) as otherwise approved by Buyer;

(o) confer with Buyer prior to implementing material operational decisions other than in the Ordinary Course of Business;

(p) provide Buyer with a current Rent Roll on the twenty-first (21st) day of each month;

(q) provide Buyer on monthly basis prior to the Closing Date an updated Schedule 4.14(a) that includes, for each applicable Resident, the unit occupied, the move-in date, the current monthly service fee, the entrance fee paid, and the contract refundability percentage;

(r) not enter into any lease or Residency Agreement for less rent or with a smaller deposit than that currently being charged for similar units included within the CCRC Assets, except in Seller's Ordinary Course of Business;

(s) use commercially reasonable efforts to maintain an advertising and marketing program for units in the Community materially consistent with Seller's current practices at the Community;

(t) within five (5) Business Days of the Closing, deliver true, correct and complete copies to Buyer of all new Residency Agreements entered into from and after the date hereof; and

(u) not solicit Residents to become residents of any other property owned, managed or operated by Seller or its Affiliates.

Section 6.03 Notification of Certain Matters. From the Execution Date to the Closing Date, Seller shall give prompt written notice and/or provide documents to Buyer of (a) the occurrence, or failure to occur, of any event that causes any representation or warranty of Seller contained in this Agreement to be untrue in any material respect, and (b) any failure of Seller to comply with or satisfy, in any material respect, any covenant, condition or agreement to be complied with or satisfied by it under this Agreement. Such notice shall provide a reasonably detailed description of the relevant circumstances and shall include the amount that Seller believes, based on facts known to Seller, would impact the Contemplated Transactions.

Section 6.04 Title; Additional Documents.

(a) **Title and Survey**

(i) **Title Commitments.** As soon as reasonably practicable following the entry of the Sale Order, but in no event later than January 10, 2024, Seller shall order from the Title Company a title commitment for each Real Property (each, a "Title Commitment"), whereby the Title Company agrees to issue an owner's title insurance policy for the Real Property, subject only to the Permitted Exceptions, each in a form available in the State of New York (each, a "Title Insurance Policy"). Upon receipt of any Title Commitment from the Title Company, Seller shall promptly make available, or direct the Title Company to make available to Buyer copies of such Title Commitments, together with copies of the available Title Exceptions referenced therein. Seller shall pay for the cost of obtaining the Title Commitments, and the cost of the basic insurance premium (excluding any endorsements or extended coverage) for the Title Insurance Policy. Buyer shall pay the cost of any endorsements or extended coverage for the Title Insurance Policy, and the cost of any title insurance or endorsements required by Buyer's lender. Subject to and consistent with the Sale Order, Seller agrees to deliver any information as may be reasonably required by the Title Company under the requirements section of the Title Commitments or otherwise in connection with the issuance of the Title Insurance Policy ("Title Deliveries"). Seller also agrees to provide as additional Title Deliveries a limited affidavit of title appropriate to the distressed circumstances surrounding the sale and/or such other information as the Title Company may reasonably require in order for the Title Company to insure over the "gap" (i.e., the period of time between the effective date of the title insurance company's last check-down of title to the Real Property and the Closing Date).

(ii) **Survey.** If Buyer desires an Updated Survey of any of the Real Property, Buyer shall pursue and order such Updated Survey at its sole cost and expense as soon as reasonably practicable following the entry of the Sale Order, but in no event later than January 10, 2024.

(iii) **Correction of Title and Title Defects.** If the Title Commitments disclose any Title Exceptions or the Updated Surveys disclose matters that, in the reasonable judgment of Buyer, render the title uninsurable or unmarketable or otherwise adversely affect the use of any of the Real Property for the Business

(“Title Defects”), Buyer shall notify Seller thereof in writing (the “Title Objection Notice”) no later than five (5) Business Days after its receipt of such Title Commitment and Updated Survey. Buyer shall be deemed to have accepted the condition of title and any such Title Exceptions and Title Defects unless Buyer has timely delivered the Title Objection Notice to Seller as herein provided, after which time any such Title Exceptions and Title Defects shall be Permitted Exceptions. Seller shall then have three (3) Business Days after receipt of the Title Objection Notice to notify Buyer as to whether Seller intends to have such Title Exceptions removed from the Title Commitment, to correct such Title Defects or, with Buyer’s prior written approval at Closing, have the Title Company commit to insure over such Title Exceptions or Title Defects (each, a “Title Cure”). If Seller fails to deliver any such response, then Seller shall be deemed to have elected not to pursue any Title Cures. If Seller, in Seller’s sole discretion, determines not to proceed with any Title Cure, then as Buyer’s sole remedy Buyer may elect upon written notice to Seller made within five (5) Business Days after the Seller’s response (or deemed response) to not proceed with any Title Cure as aforesaid: (a) to terminate this Agreement by written notice to Seller, in which event the Deposit shall be refunded to Buyer within two (2) Business Days and neither party shall have any further liability to any other party under this Agreement, except as otherwise provided in this Agreement; or (b) to take the Real Property subject to such Title Exceptions and/or Title Defects, without adjustment to the Purchase Price. Buyer’s failure to prove written notice to Seller within such five (5) Business Day period shall be deemed its election to proceed pursuant to clause (b) of the preceding sentence. Notwithstanding the foregoing, all Seller Encumbrances must be satisfied by Seller on or before the Closing, or, if not so satisfied, shall be satisfied at Closing out of the proceeds otherwise payable to Seller and in any event such Seller Encumbrances shall not be Permitted Exceptions. As used herein, the term “Seller Encumbrance” shall mean (i) any mortgage or deed of trust or other monetary lien encumbering the Real Property, excluding any leasehold mortgage or deed of trust or other monetary lien encumbering any leasehold interest affecting any Real Property, (ii) any monetary judgment against Seller and encumbering the Real Property (e.g. as a matter of law, or by being identified as an exception in the Title Commitment or any update thereto), (iii) any real property taxes and assessments which are delinquent as of the Closing, and (iv) any mechanic’s, materialmen’s or other similar liens caused by Seller.

(b) **Closing Delivery.** Subject to Section 2.01(a)(iii), at the Closing, Seller shall transfer and convey to Buyer good and indefeasible fee simple title to the Real Property, free and clear of any Liens except Permitted Liens. At the Closing, Seller’s right, title and interest to all warranties and guaranties, if any, and to the extent assignable or transferable, relating to the Real Property shall be assigned by Seller to Buyer. Seller shall use commercially reasonable efforts, at no additional out-of-pocket expense to Seller, to assist the Buyer in effectuating the transfer or assignment of the PILOT Agreement, or the initiation of any new payment in lieu of taxes program or similar transaction involving the IDA and replacing the PILOT Agreement (any such transfer, assignment or initiation, the “PILOT Transfer”).

Section 6.05 Approvals. Buyer shall use its best efforts to obtain prior to the Closing Date all necessary consents, approvals and licenses, including Healthcare Regulatory Consents, necessary to permit the consummation of the transactions contemplated by this Agreement including such Permits, licensure and certification approval as may be necessary to enable Buyer to lawfully operate the Community as it is operated by Seller effective as of the Effective Time, but excluding the consents and approvals set forth on Schedule 8.07 that shall be Seller's responsibility pursuant to Section 8.07 (the "Regulatory Approvals"). Seller shall cooperate in all reasonable respects with Buyer in its efforts to obtain such consents, approvals and licenses. Upon request, Seller and Buyer shall provide the other party with all correspondence concerning the Regulatory Approvals; *provided, however*, that Buyer may redact any confidential or proprietary information. Seller shall be responsible for facilitating the transfer of all transferred Permits and Approvals set forth on Schedule 8.07 from Seller to Buyer, and Buyer shall be responsible for obtaining all other new licenses and permits (to the extent the existing Permits and Approvals are not transferable). Seller shall, at its sole cost and expense, promptly submit after the Sale Order (unless earlier as otherwise agreed by Seller and Buyer) all necessary applications and other materials to the appropriate Governmental Authority and take such other actions to effect the transfer of the transferred Permits or issuance of new permits as of the Closing, and Seller shall reasonably cooperate with Buyer to cause the transferred Permits to be transferred or new permits to be issued to Buyer.

Section 6.06 Confidentiality. Any and all nonpublic information, materials, documents, and instruments delivered to Buyer by Seller or its agents or Affiliates and any and all nonpublic information, documents, and instruments delivered to Seller by Buyer or its agents or Affiliates are of a confidential and proprietary nature. Buyer and Seller agree that prior to Closing, each will maintain the confidentiality of all such confidential information, documents or instruments delivered to each by the other party or its agents in connection with the negotiation of, or in compliance with, this Agreement, and only disclose such information, documents, and instruments to their duly authorized officers, directors, representatives and agents, or as otherwise required by Applicable Law, including the Bankruptcy Code. Buyer and Seller further agree that if the Contemplated Transactions are not consummated and this Agreement is terminated, each will return all such documents, materials and instruments and all copies thereof in their possession to the other party or provide confirmation of destruction related to such documents, materials and instruments. This Section 6.06 shall survive as to both Seller and Buyer in the event this Agreement is terminated prior to Closing and shall survive as to Seller (and not Buyer) following Closing.

Section 6.07 Publicity. The parties agree that no public release or announcement concerning the Contemplated Transactions that identifies the Buyer shall be issued by any party to this Agreement prior to Closing except as required by the Bidding Procedures Order, the Bankruptcy Court or Applicable Law, including the Bankruptcy Code, or as mutually agreed by the Buyer and Seller. Buyer and Seller will jointly prepare and approve announcements to staff and Residents. After the Execution Date, Seller shall schedule a meeting of Residents to discuss the Agreement and the Contemplated Transactions and Buyer may attend any such meetings.

Section 6.08 Commercially Reasonable Efforts. Except as otherwise provided herein, Seller and Buyer shall use commercially reasonable efforts to take, or cause to be taken, all actions, and to do, or cause to be done, and to assist and cooperate with the other in doing, all things

necessary, proper or advisable to consummate and make effective, in the most expeditious manner practicable, the Contemplated Transactions, including using commercially reasonable efforts to accomplish the following: (A) the taking of all reasonable acts necessary to cause the conditions precedent set forth in Article VIII and Article IX to be satisfied, (B) the obtaining, at the earliest practicable date, of all necessary Regulatory Approvals and the making of all necessary registrations, declarations and filings (including registrations, declarations and filings with Governmental Authorities, if any) and the taking of all reasonable steps as may be necessary to avoid any Proceeding by any Governmental Authority, and (C) the execution or delivery of any additional instruments necessary to consummate the Contemplated Transactions and to fully carry out the purposes of this Agreement. In furtherance of the foregoing:

(a) Buyer shall (i) no later than five (5) Business Days after the entry of the Sale Order, at its own cost and expense, submit the Application to DOH; *provided, however*, that such date may be extended, upon written notice to Seller, by an additional ten (10) Business Days at Buyer's sole discretion, provided that Buyer is diligently pursuing submission of the Application, and (ii) use its best efforts to ensure that the Application will be promptly reviewed by the full PHHPC.

(b) To the extent required under applicable law, Seller shall prepare a draft petition seeking approval of the sale of all or substantially all of its assets pursuant to Section 511 of the New York Not-for-Profit Corporation Law and contact the New York Attorney General with respect to the petition as soon as reasonably possible following the preparation of the draft petition and otherwise pursue such approval in accordance with the terms of this Agreement.

Section 6.09 Reports. Seller shall file on a current and timely basis until the Closing, all reports and documents required to be filed with respect to the Permits set forth in Schedule 4.06(a) of the Disclosure Schedules. Accurate and complete copies of all such reports filed as of the Execution Date and as set forth on Schedule 4.06(a) continuing through the Closing shall be promptly supplied to Buyer by Seller.

Section 6.10 Supplemental Disclosure. Seller shall have the right from time to time prior to the Closing to supplement any Disclosure Schedules with respect to any matter that arises or becomes known by Seller after the date hereof and that would have been required or permitted to be set forth or described in the Disclosure Schedules had such matter existed or been known to Seller as of the date of this Agreement. Any such supplemental disclosure will be deemed to have cured the breach of any representation or warranty made in this Agreement with respect to such disclosed matter only (it being understood that the consummation of the Closing after the supplemental disclosure will be deemed to constitute a waiver of any such breach).

Section 6.11 Prior Knowledge. If Buyer or its Affiliates had Knowledge prior to the execution of this Agreement that any representation or warranty of Seller contained in this Agreement was not true and correct as of the date hereof, Buyer may not assert such breach of a representation and warranty as a basis not to consummate the transactions contemplated by this Agreement. In the event the Closing occurs, Buyer hereby expressly waives, relinquishes and releases any right or remedy available to it in Applicable Law, in equity or under this Agreement to make a Claim against Seller for damages that Buyer may incur, or to rescind this Agreement

and the transactions contemplated hereby, as the result of any of Seller's representations or warranties being not true or correct, if Buyer had Knowledge that such representation or warranty was not true or correct at the time of the Closing.

Section 6.12 Post-Closing Records Obligations of Seller. Following Closing, Seller shall use, and shall cause Seller's Affiliates to use, reasonable diligent efforts to cooperate with Buyer and its Affiliates to the extent not previously transferred to Buyer, to provide any records in Seller's custody or control which may be requested of Buyer by any authorized Governmental Authority. This Section 6.12 shall survive the Closing.

Section 6.13 Casualty. The risk of any loss or damage to the CCRC Assets by fire or other casualty before the Closing shall continue to be borne by Seller. Seller shall promptly give Buyer written notice of any fire or other casualty (in any event within five (5) Business Days after Seller first has knowledge of the occurrence of same), which notice shall include a description thereof in reasonable detail and an estimate of the cost and time to complete any required repairs. In the event Seller's reasonable estimate of such damage or destruction is in excess of Three Million Dollars (\$3,000,000.00), for ten (10) Business Days following Buyer's receipt of notice of such damage or destruction, Buyer shall have the option to: (x) terminate this Agreement by written notice delivered to Seller within ten (10) Business Days after Buyer's receipt of notice of such damage or destruction, in which case the Deposit shall be returned to Buyer within two (2) Business Days and the parties shall have no further obligations hereunder, or (y) proceed with the transaction contemplated in this Agreement. To the extent that a casualty that is not a Major Casualty is not fully covered by the Seller's property insurance (an "Uninsured Casualty"; the difference between the amount covered by the Seller's property insurance and the cost to repair the damage caused by the Uninsured Casualty, the "Uninsured Portion") and the Uninsured Portion is in excess of Two Hundred Fifty Thousand Dollars (\$250,000), Buyer shall have the right to terminate this Agreement in its entirety and receive a return of the Deposit within two (2) Business Days if it so notifies Seller in writing not later than ten (10) Business Days after Buyer is advised of the occurrence of the casualty (and that such casualty constitutes an Uninsured Casualty). If the Closing would otherwise be scheduled to take place within the period during which Buyer has the right to provide notice to Seller of termination of this Agreement as provided above, then the Closing Date may be extended by the Buyer or Seller (as applicable) to accommodate the relevant period. Unless Buyer terminates this Agreement in accordance with this Section 6.13, at and after Closing (i) all insurance proceeds relating to such damage or casualty shall be deemed to have been absolutely and irrevocably assigned to and be payable directly to Buyer less any amounts reasonably expended by Seller prior to Closing for partial restoration, (ii) Buyer shall have the right to conduct all settlement proceedings with respect to such insurance claims, and (iii) Seller shall deliver to Buyer through escrow an unconditional assignment of all such insurance proceeds. The provisions of Section 5-1311 of the New York General Obligations Law shall not be applicable to this Agreement. The parties' obligations, if any, under this Section 6.13 shall survive the expiration or any termination of this Agreement.

Section 6.14 Additional Financial Information. Seller has delivered to Buyer copies of the unaudited balance sheets, statements of operations, statements of changes in net assets, and statements of cash flows (including the accompanying consolidating schedules of balance sheet information and statement of operation information) of Seller for the month of May 2023, and within forty-five (45) days following the end of each calendar month prior to the Closing Date,

Seller will deliver to Buyer copies of the unaudited balance sheets and statements of operations of Seller for each month then ended (all such financial statements are referred to herein as the “Additional Financial Statements”). The Additional Financial Statements shall be prepared from and in accordance with Seller’s books and records, shall fairly present the financial position and results of operations of Seller relating to the CCRC Assets of the date and for the period indicated, and shall be prepared in accordance with GAAP, consistently applied, except that such Additional Financial Statements need not include required footnote disclosures, nor reflect normal yearend adjustments or adjustments that may be required as a result of the Contemplated Transactions.

Section 6.15 Acknowledgment of Limitation of Warranties.

(a) Buyer hereby acknowledges that, for purposes of enabling it to give this acknowledgement:

(i) it is an informed and sophisticated participant in the transactions contemplated hereby;

(ii) it has been afforded the opportunity for full and complete investigations, examinations and inspections of the CCRC Assets, the Business and the Assumed Liabilities;

(iii) the information delivered or made available to Buyer, Buyer’s Affiliates, Buyer’s Representatives and/or their respective agents or representatives, including, without limitation, their contractors, engineers, attorneys, accountants, consultants, brokers or advisors, by Seller or Seller’s Affiliates or any of their agents or Representatives may have been prepared by third parties and may not be the work product of Seller and/or any of Seller’s Affiliates;

(iv) except as expressly set forth in Article IV of this Agreement, the information delivered or made available to Buyer, Buyer’s Representatives, Buyer’s Affiliates and/or their respective agents or Representatives, including, without limitation, their contractors, engineers, attorneys, accountants, consultants, brokers or advisors, is furnished to each of them at the request, and for the convenience of, Buyer;

(v) except as expressly set forth in Article IV of this Agreement, neither Seller, any of Seller’s Affiliates, nor any of their respective agents or Representatives, including, without limitation, their contractors, engineers, attorneys, accountants, consultants, brokers or advisors, has made any independent investigation or verification of, or has any knowledge of, the accuracy or completeness of, the information;

(vi) except as expressly set forth in Article IV of this Agreement, Buyer is relying solely on its own investigations, examinations and inspections of the CCRC Assets, the Business and the Assumed Liabilities and is not relying in any way on the information furnished by Seller, any of Seller’s Affiliates, or their agents or Representatives, including, without limitation, their contractors, engineers, attorneys, accountants, consultants, brokers or advisors; and

(vii) except as expressly set forth in Article IV of this Agreement, Seller expressly disclaims any representations or warranties with respect to the accuracy or completeness of the information and Buyer releases Seller, Seller's Affiliates and or their agents or Representatives, including, without limitation, their contractors, engineers, attorneys, accountants, consultants, brokers or advisors, from any and all liability with respect thereto.

(b) Accordingly, Buyer hereby agrees that except as expressly set forth in Article IV of this Agreement and in any Disclosure Schedules delivered in conjunction with this Agreement, the CCRC Assets and Assumed Liabilities are transferred "AS IS," "WHERE IS" AND, SUBJECT ONLY TO THE REPRESENTATIONS AND WARRANTIES CONTAINED IN ARTICLE IV, AND IN ANY DISCLOSURE SCHEDULES DELIVERED IN CONNECTION WITH THIS AGREEMENT WITH ALL FAULTS AND WITHOUT ANY OTHER REPRESENTATION OR WARRANTY OF ANY KIND OR NATURE WHATSOEVER, EXPRESS OR IMPLIED, ORAL OR WRITTEN, AND IN PARTICULAR, WITHOUT ANY IMPLIED WARRANTY OR REPRESENTATION AS TO:

(i) CONDITION, VALUE, MERCHANTABILITY OR FITNESS OR SUITABILITY FOR ANY SPECIFIC PURPOSE AS TO ANY OF THE CCRC ASSETS OR PROPERTIES OF THE BUSINESS;

(ii) THE OPERATION OF THE CCRC ASSETS OR THE BUSINESS BY BUYER AFTER THE CLOSING IN ANY MANNER OTHER THAN AS USED AND OPERATED BY THE SELLER;

(iii) THE PROBABLE SUCCESS OR PROFITABILITY OF THE OWNERSHIP, USE OR OPERATION OF THE BUSINESS OR CCRC ASSETS BY BUYER AFTER THE CLOSING; OR

(iv) THE IMPACT OF THE COVID-19 PANDEMIC ON THE BUSINESS.

(c) Buyer acknowledges and agrees that except for the representations and warranties contained in Article IV of this Agreement, neither Seller nor any of its Affiliates, officers, directors, employees, agents, Representatives, nor any other Person, makes or shall be deemed to make any representation or warranty to Buyer, express or implied, at Applicable Law or in equity, on behalf of Seller with respect to the Business, the CCRC Assets or otherwise, including with respect to any other information provided to Buyer, whether on behalf of Seller or such other Persons. Seller hereby disclaims any representation or warranty except for the representations and warranties contained in Article IV of this Agreement and in any Disclosure Schedules delivered in connection with this Agreement, whether made by or attributed to Seller, or any of its Affiliates, officers, directors, employees, agents, Representatives or any other Person, notwithstanding the delivery or disclosure to Buyer or any of its officers, directors, employees, agents or representatives or any other Person of any documentation or other information by or

purportedly by Seller or any of its Affiliates, officers, directors, employees, agents, Representatives or any other Person.

Section 6.16 Interim Escrow Agreement. Promptly (and in any event within five (5) Business Days) following the entry of the Sale Order, the Buyer and Seller shall enter into an escrow agreement with the Escrow Agent (the “Interim Escrow Agreement”) providing for Buyer to fund \$1,200,000 in cash in immediately available funds (the “Interim Escrow Amount”) to the Escrow Agent, which Interim Escrow Agreement shall provide that (a) the Interim Escrow Amount shall be released to the Seller to fund operating costs of the Seller solely in excess of (i) \$300,000 *plus* (ii) the Seller’s then-available cash and (b) at Closing, or earlier termination of this Agreement in accordance with its terms, the then-remaining amount of the Interim Escrow Amount shall be released to the Buyer. For the avoidance of doubt no restructuring costs, including without limitation professional fees, shall be paid from the Interim Escrow Amount.

Section 6.17 Interim Consulting Agreement. Following the entry of the Sale Order, at Seller’s request, Seller and Buyer shall enter into an interim consulting agreement on mutually agreeable terms.

Section 6.18 Payment of Resident Refund Liabilities.

(a) At Closing, Buyer shall wire to an account designated by Seller in writing, an amount equal to the amount by which the aggregate Resident Refund Liabilities exceed Forty Million Seven Hundred Fifty Thousand Dollars (\$40,750,000) (the “Excess Refund Amount”), as set forth in Seller’s good faith calculation of the Excess Refund Amount provided in writing to Buyer with reasonably supporting detail no later than two (2) Business Days prior to the Closing. The Excess Refund Amount shall be held in trust by Seller (or Seller’s estate) for further distribution by Seller (or Seller’s estate) to Former Residents pursuant to a plan of liquidation, liquidating trust, or similar arrangement. In the event the Resident Refund Liabilities are less than \$40,750,000, the Member shall pay the difference between such amounts to the Buyer from the Member Financial Contribution Obligation to be used to satisfy entrance fee refund obligations that come due after the Closing Date, in accordance with the Settlement Agreement.

(b) Notwithstanding the foregoing, prior to Closing, the parties acknowledge and agree that Seller, in its sole discretion, may notify Buyer in writing that all or a portion of the Excess Refund Amount will be used to fund the Seller’s operating and restructuring costs (a “Cost Funding Request”), such use conditioned solely upon the Member’s agreement in writing to increase the Member Financial Contribution Obligation by an amount equal to the amount set forth by Seller in a Cost Funding Request.

**ARTICLE VII.
OTHER AGREEMENTS**

Section 7.01 Taxes.

(a) Any transfer, documentary, sales, use, stamp, registration and other similar non-income Taxes, and all conveyance fees, recording charges and other similar fees and charges (including any penalties and interest) incurred in connection with the

consummation of the Contemplated Transactions, but excluding for all purposes, the Asset Taxes (collectively, the “Transfer Taxes”) shall be borne by Buyer. Seller and Buyer shall use commercially reasonable efforts and cooperate in good faith to exempt the sale and transfer of the CCRC Assets from any Transfer Taxes, including under Section 1405(b)(8) of the New York Tax Law and Section 1146(a) of the Bankruptcy Code. Seller will, at its own expense, file all necessary Tax Returns and other documentation with respect to all Transfer Taxes, and, if required by Applicable Law, the parties will, and will cause their Affiliates to, join in the execution of any such Tax Returns and other documentation.

(b) Seller shall retain responsibility for, and shall bear and pay, all Asset Taxes, payroll Taxes, and withholding Taxes based upon operation or ownership of the CCRC Assets and the Business for any period ending prior to the Proration Date. Buyer shall bear and pay all Asset Taxes, payroll Taxes, and withholding Taxes assessed with respect to the CCRC Assets for any taxable period beginning on or after the Proration Date. Seller shall retain responsibility for, and shall bear and pay, all real estate taxes (or payments in lieu thereof) and special assessments levied on the Real Property (the “Real Estate Taxes”) for the portion of any Straddle Period ending prior to the Proration Date. Buyer shall bear and pay all Real Estate Taxes for the portion of any Straddle Period beginning on or after the Proration Date. For purposes of allocation between the parties of Real Estate Taxes assessed with respect to the CCRC Assets that are payable with respect to any Tax periods beginning before and ending after the Proration Date (“Straddle Periods”), the portion of any such Real Estate Taxes that are attributable to the portion of the Straddle Period that ends prior to the Proration Date shall be allocated pro rata per day between the period prior to the Proration Date (which shall be Seller’s responsibility) and the period from and after the Proration Date (which shall be Buyer’s responsibility). At the Closing, Real Estate Taxes with respect to each CCRC Asset for the applicable Straddle Period shall be prorated in accordance with the foregoing provisions based on (i) the Real Estate Tax assessment for such CCRC Asset for such Straddle Period, if available, (ii) if clause (i) is not available, then upon the assessed value for the applicable Straddle Period as of the Proration Date and applying either the applicable tax rate for such Straddle Period or to the extent the applicable tax rate for such Straddle Period is not available, the applicable tax rate for the immediately preceding Tax year, and (iii) if neither clause (i) nor (ii) is available, then, based on the Real Estate Taxes paid with respect to such CCRC Asset during the preceding Tax period. With respect to any not yet delinquent Taxes relating to a Tax year ending after the Closing Date, Buyer will assume responsibility for the actual payment of all such Taxes to the applicable Governmental Authority.

(c) Seller, on the one hand, or Buyer, on the other hand, as the case may be (the “Reimbursing Party”), shall provide reimbursement for any Tax paid by the other (the “Paying Party”) all or a portion of which is the responsibility of the Reimbursing Party in accordance with the terms of Section 7.01(b) or which represents an overpayment for Taxes by the Paying Party. Within a reasonable time prior to the payment of any such Tax, the Paying Party shall give notice to the Reimbursing Party of the Tax payable and the Paying Party’s and Reimbursing Party’s respective Liability therefor, although failure to do so will not relieve the Reimbursing Party from its Liability hereunder except to the extent the Reimbursing Party is prejudiced thereby.

(d) Buyer and Seller agree to furnish or cause to be furnished to each other, upon request, as promptly as practicable, such information and assistance relating to the CCRC Assets (including access to books and records and Tax Returns and related working papers dated before Closing) as is reasonably necessary for the preparation and filing of all Tax Returns, the making of any election relating to Taxes, the preparation for any audit by any Taxing authority, the prosecution or defense of any Claims, Actions or Proceedings relating to any Tax, and the claiming by Buyer of any federal, state or local business Tax credits or incentives that Buyer may qualify for in any of the jurisdictions in which any of the CCRC Assets are located; *provided, however*, that neither Buyer nor Seller shall be required to disclose the contents of its income Tax Returns to any Person. Any expenses incurred in furnishing such information or assistance pursuant to this Section 7.01(d) shall be borne by the party requesting it.

Section 7.02 Allocation of Purchase Price for Income Tax Purposes. Within one-hundred twenty (120) days post-Closing Date, the Buyer shall deliver a proposed Schedule 7.02 of the Disclosure Schedules setting forth a proposed allocation of the Purchase Price (and other items properly treated as consideration for federal income tax purposes) among the CCRC Assets solely for the purposes of determining income taxes, and Buyer and Seller will use commercially reasonable efforts to agree prior to the Closing Date on a final Schedule 7.02 of the Disclosure Schedules. The portion of the Purchase Price allocated to each CCRC Asset is referred to herein as the “Allocated Value” of such CCRC Asset. For purposes of this Agreement, Seller and Buyer agree to be bound by the Allocated Values set forth in any final Schedule 7.02 of the Disclosure Schedules, as required by Applicable Law. Seller and Buyer further agree that for the purpose of making any filings required to be made pursuant to Section 1060 of the Code, and the regulations thereunder, the purchase price as determined for federal income tax purposes shall be allocated among the CCRC Assets in a manner consistent with the Allocated Values, as set forth on any final Schedule 7.02 of the Disclosure Schedules (the “Tax Allocation”). If required to make any such filing, Seller and Buyer each agree (i) to report, and to cause their respective Affiliates to report, the federal, state and local income and other Tax consequences of the transactions contemplated herein as required by Section 1060(b) of the Code, and (ii) if required by U.S. federal income tax law, to jointly prepare Form 8594 (Asset Acquisition Statement under Section 1060 of the Code) as promptly as possible following the Closing Date and in a manner consistent with the Tax Allocation as revised to take into account subsequent adjustments to the purchase price as determined for applicable purposes, and (iii) to not take any position inconsistent with any such required Tax return, Action, Proceeding or otherwise, unless required to do so by any applicable Order after notice to and discussions with the other party, or with such other party’s prior consent; *provided, however*, that nothing contained herein shall prevent Buyer or Seller from settling any proposed deficiency or adjustment by any Governmental Authority based upon or arising out of the Tax Allocation, and neither Buyer nor Seller shall be required to litigate before any court any proposed deficiency or adjustment by any Governmental Authority challenging the Tax Allocation.

Section 7.03 Bulk Sales. To the extent applicable, Buyer and Seller hereby waive compliance with all “bulk sales,” “bulk transfer” and similar Applicable Law that may otherwise be applicable with respect to the sale and transfer of any or all of the CCRC Assets to Buyer.

Section 7.04 Adequate Assurance and Performance; Security Arrangements.

(a) Buyer shall provide adequate assurance as required under the Bankruptcy Code of the future performance by Buyer of the Assigned Contracts and the Residency Agreements. Buyer and Seller agree that they will promptly take all actions reasonably required to assist in obtaining a Bankruptcy Court finding that there has been an adequate demonstration of adequate assurance of future performance under the Assigned Contracts and the Residency Agreements, such as furnishing timely requested and factually accurate affidavits, non-confidential financial information and other documents or information for filing with the Bankruptcy Court and making Buyer's and Seller's employees and Representatives available to testify before the Bankruptcy Court.

(b) [Reserved.]

(c) Without limiting the provisions of Section 7.04(a), Buyer acknowledges that the bonds, surety bonds, letters of credit, guarantees, and/or cash deposits, set forth on Schedule 7.04(c) of the Disclosure Schedules (collectively the "Security Arrangements") have been provided by Seller and/or its Affiliates to secure the payment and/or performance of certain obligations related to the CCRC Assets. Buyer acknowledges that Seller has no duty to maintain any Security Arrangements after the Closing. To the extent Seller and/or any of their Affiliates have any obligations pursuant to any Security Arrangement or have pledged or otherwise provided any property that secures any such Security Arrangement (collectively, the "Seller's Obligations"), Seller shall take such actions, prior to Closing, as are necessary to cause Seller's Obligations and the Security Arrangements to be released and terminated, and any of Seller's property pledged or otherwise provided to secure such Security Arrangements returned to Seller, concurrent with the Closing. Notwithstanding the foregoing, Seller agrees the Post-Petition Entrance Fees are not part of a Security Arrangement, provided, however, the parties agree the Sale Order shall direct the Post-Petition Entrance Fees be paid over to Buyer at Closing.

Section 7.05 Employee Matters.

(a) No later than ten (10) Business Days before the Closing Date, Seller shall update the list of Employees on Schedule 4.12(a) of the Disclosure Schedules to reflect any and all employment hirings or terminations occurring after the Execution Date and prior to the Closing Date. In connection therewith, Seller will provide Buyer with Schedule 7.05 of the Disclosure Schedules, which is the list of all Employees hired or terminated after the Execution Date and prior to the Closing Date. In addition, Seller shall provide Buyer no later than five (5) Business Days following the Closing Date, with an accurate and complete list of any and all employment losses (within the meaning of the WARN Act) incurred during the ninety (90) day period prior to the Closing Date.

(b) Seller shall cause Buyer to receive, after the entry of the Sale Order, access to the Employees at times and in a manner requested by Buyer and reasonably acceptable to Seller, and with information reasonably requested by Buyer with respect to compensation, benefits and other employment terms and conditions with respect to the Employees. No fewer than ten (10) Business Days prior to the Closing Date and subject to Buyer's employment screening process, Buyer shall offer (or shall cause one of its Affiliates or vendors to offer) employment effective as of the Closing (or with respect to

Inactive Employees, from and after the date any such Inactive Employee returns to active employment) to substantially all Employees, including Inactive Employees, on such terms and conditions with respect to base salary, base wages, incentive compensation, annual cash incentive opportunities, and employee benefit plans, programs, policies, and arrangements that are substantially similar in the aggregate to what Buyer offers at other similar facilities that it owns. All such Employees, if any, who (i) are offered employment from Buyer or one of its Affiliates providing services at the Community (the “Buyer Employers”), (ii) accept such offer of employment from a Buyer Employer and (iii) commence employment with a Buyer Employer shall be referred to herein as the “Transferred Employees.”

(c) To the extent commercially practicable, the employment of each Transferred Employee with a Buyer Employer shall commence immediately upon the Closing. The employment of any Inactive Employee with a Buyer Employer shall be effective upon his or her return to active work, *provided that* the Inactive Employee reports to work with a Buyer Employer within fifteen (15) days after the end of any such approved leave, and, as of such date, such Inactive Employee shall be a Transferred Employee. Each Transferred Employee shall be hired on an “*at will*” basis unless otherwise agreed by Buyer. For the avoidance of doubt, the foregoing provision shall not be construed to restrict a Transferred Employee’s rights under the Uniformed Services Employment and Reemployment Rights Act of 1994, as amended.

(d) Seller shall terminate the employment of all Transferred Employees effective as of the Closing or, with respect to any Inactive Employee who becomes a Transferred Employee after the Closing Date in accordance with Section 7.05(c), upon their return to active work with a Buyer Employer. To the extent that any such termination would trigger severance obligations on the part of Seller, Buyer agrees to reasonably cooperate, at no out-of-pocket expense to Buyer, with Seller to obtain from the applicable Transferred Employee a waiver of any such right to receive severance (including by providing for such waiver in the applicable offer letters from a Buyer Employer). Subject to, and effective as of, the Closing, Seller hereby waives and releases each of the Transferred Employees from any and all contractual, common law or other restrictions related to non-competition or non-solicitation enforceable by Seller with respect to Buyer and its Affiliates with respect to the employment, of such individuals by Buyer Employer after their termination of employment with Seller, as the case may be. For purposes of clarity, Seller does not waive or release any Transferred Employees’ obligations related to confidential or proprietary information or trade secrets.

(e) Pursuant to the “Standard Procedure” provided in Section 4 of Revenue Procedure 2004-53, 2004-2 C.B. 320, (i) Buyer and the Seller shall report on a predecessor/successor basis as set forth therein, (ii) Seller will not be relieved from filing a Form W-2 with respect to any Transferred Employees for any tax period ending immediately prior to the Closing Date and the tax year including the Closing Date with respect to the portion of such year that such Transferred Employee was employed by Seller, as the case may be, and (iii) Buyer will undertake to file (or cause to be filed) a Form W-2 for each such Transferred Employee with respect to the portion of the year during which such Transferred Employees are employed by Buyer that includes the Closing Date,

excluding the portion of such year that such Transferred Employee was employed by Seller and its Affiliates.

(f) Seller shall pay any accrued but unused vacation, paid time-off or similar benefits (“Accrued PTO”) to which any Transferred Employee is entitled pursuant to the vacation policy or other arrangement applicable to such Transferred Employee immediately prior to the Closing.

(g) Nothing herein, express or implied, shall confer upon any other Persons (including any current or former employee or contractor of Seller, Buyer or any of their respective Affiliates) any rights or remedies hereunder, including any right to employment or continued employment for any specified period or continued participation in any Benefit Plan or other benefit plan, or any nature or kind whatsoever under or by reason of this Agreement. Nothing herein restricts or precludes the right of Buyer to terminate the employment of any Transferred Employee. Buyer and Seller agree that the provisions contained herein are not intended to be for the benefit of or otherwise be enforceable by, any third party, including any current or former Employee or Service Provider.

(h) Buyer shall provide COBRA continuation coverage (within the meaning of Section 4980B of the Code and the Treasury regulations thereunder) to all individuals who are “M&A qualified beneficiaries” (within the meaning of Treasury Regulation Section 54.4980B-9, Q&A-4) with respect to the Contemplated Transactions for the duration of the period to which such individuals are entitled to such coverage.

(i) Buyer shall direct that its 401(k) plan accept rollovers by Transferred Employees of their account balances and outstanding loans from Seller’s 401(k) plan.

(j) For a period of ninety (90) days following the Closing, Buyer shall not take any action that, when aggregated with any employment losses (as defined under the WARN Act) that occurred prior to Closing, would result in any liability to Seller under the WARN Act or any similar state or local Applicable Law.

Section 7.06 Post-Closing Books and Records and Personnel. At Closing, Seller will make available to Buyer all electronic copies of the Records that are maintained by or in the control of Seller, and, promptly following Closing and in any event no later than five (5) Business Days following Closing, Seller shall make available to Buyer all originals of the Records; *provided, however,* that Seller shall be entitled to retain any originals of the Records that are required to be retained as a result of the Bankruptcy Case, for such period of time sufficient to allow all matters under the Bankruptcy Case to be finally determined, and provided further that Buyer shall promptly receive copies of such originals that are required to be retained by Seller as a result of the Bankruptcy Case at its sole cost and expense. Subject to the foregoing, Seller shall be entitled to retain a copy of the Records delivered to Buyer, at Seller’s sole cost and expense. For one (1) year after the Closing Date (or such longer period as may be required by any Governmental Authority or ongoing Claim or Proceeding), (a) Buyer shall not destroy or dispose of any material Records received hereunder and (b) Buyer shall allow Seller (including, for clarity, any trust established under a chapter 11 plan of Seller or any other successors of Seller) and any of their Representatives reasonable access during normal business hours, at Seller’s sole expense and upon

reasonable advance notice, to all Records included in the CCRC Assets and in the possession or control of Buyer, for purposes relating to the Bankruptcy Case, the wind-down of the operations of Seller, the functions of any such trusts or successors, or other reasonable business purposes, and Seller (including any such trust or successors) and such Representatives shall have the right to make copies of any Records.

Section 7.07 Condemnation. The risk of any Loss to the Real Property by condemnation before the Closing shall continue to be borne by Seller. In the event any condemnation Proceeding is commenced or threatened prior to the Closing, Seller shall promptly give Buyer written notice thereof (in any event within five (5) Business Days after Seller first has actual Knowledge of the occurrence of same). If, prior to Closing, there is a material taking by eminent domain at the Real Property, Buyer shall have the right to treat this Agreement as null and void by providing Seller with written notice within ten (10) Business Days of receiving written notice of a material taking by eminent domain at the Real Property of Buyer's election to treat the Agreement as null and void, and the Deposit shall be refunded to Buyer within two (2) Business Days. If the Closing would otherwise be scheduled to take place within the period during which Buyer has the right to provide notice to Seller of termination of this Agreement as provided above, then the Closing Date may be extended by Buyer to accommodate the relevant period. If Buyer elects to proceed and to consummate the Contemplated Transactions despite said material taking, or if there is less than a material taking prior to Closing, there shall be no reduction in or abatement of the Purchase Price and Buyer shall be required to purchase the Real Property in accordance with the terms of this Agreement, and Seller shall assign to Buyer, without representation of warranty by or recourse against Seller, all of Seller's right, title and interest in and to any award made or to be made in the condemnation Proceeding (in which event Buyer shall have the right to participate in the adjustment and settlement of any insurance-related Claim relating to said Loss). For the purpose of this Section 7.07, the term "material" shall mean any taking which would, in Buyer's reasonable determination, (a) materially and adversely affect the access to CCRC Assets, (b) reduce available parking levels at the CCRC Assets below that required by Applicable Law, (c) in general cause a violation of, any applicable law or any Residency Agreement, rental agreement, loan agreement, mortgage, easement, covenant, restriction or other agreement or instrument affecting all or a portion of the Real Property, (d) result in the loss of any portion of the Real Property which is necessary to use, operate and/or maintain the balance of such Real Property, as currently used, operated and/or maintained, or (e) result in a condemnation award reasonably estimated to exceed \$3,000,000.00. The parties' obligations, if any, under this Section 7.07 shall survive the expiration or any termination of this Agreement.

Section 7.08 Payment of Broker and Finder's Fees. Each party shall pay all of the fees and costs and expenses due to its brokers, finders, and investment bankers, at the Closing. The parties' obligations under this Section 7.08 shall survive the expiration or any termination of this Agreement.

Section 7.09 Billing and Collection of Post-Closing Accounts Receivable.

(a) Reimbursements and charges for items and services rendered by Buyer after the Closing Date that are subject to reimbursement by a Third-Party Payor shall be handled as follows:

(i) Medicare and Medicaid Post-Closing Accounts Receivable. Following Closing until such time as (A) a tie-in notice is issued by CMS to link Seller's existing Medicare and Medicaid provider numbers for the Community to Buyer, and (B) a CMS Form 588 is processed by CMS to authorize Medicare and Medicaid payments for the Community to be deposited into a bank account maintained and controlled by Buyer, Buyer will continue to bill Medicare and Medicaid using Seller's existing Medicare and Medicaid provider numbers and the Medicare and Medicaid receipts will continue to be deposited into Seller's existing bank account that currently receives payments from Medicare and Medicaid for the Community. On or before the tenth (10th) Business Day of each calendar month following Closing, Seller shall promptly forward any such receipts received in the prior month to Buyer.

(ii) Non-Medicare and Non-Medicaid Third-Party Payor Post-Closing Accounts Receivable. Following Closing, (A) to the extent a Third-Party Payor (other than Medicare and Medicaid) permits Buyer to continue to bill such program using Seller's existing provider numbers until new provider numbers can be issued to Buyer, Buyer will handle billing and receipts for such Third-Party Payor program in a manner similar to Section 7.09(a)(i), and (B) to the extent a Third-Party Payor (other than Medicare and Medicaid) does not permit Buyer to continue to bill such program using Seller's existing provider numbers, Buyer shall not bill such Third-Party Payor using Seller's provider numbers for any items or services rendered by Buyer at the Community after the Closing Date. Buyer will not commence billing such Third-Party Payors for any items or services rendered by Buyer at the Community after the Closing Date until Buyer has obtained new provider numbers and, at such time, Third-Party Payor receipts will be deposited into bank accounts maintained and controlled by Buyer.

(b) Following the Closing, Buyer shall bill Medicare and Medicaid and all other Third-Party Payor programs in full compliance with the applicable conditions for participation and Healthcare Regulatory Laws.

(c) Seller shall cooperate with Buyer as reasonably required in order to permit Buyer to collect the post-Closing accounts receivable.

**ARTICLE VIII.
CONDITIONS PRECEDENT TO THE
OBLIGATION OF BUYER TO CLOSE**

Buyer's obligation to consummate the Contemplated Transactions pursuant to the terms of this Agreement is subject to the satisfaction, on or prior to the Closing, of each of the following conditions, unless waived by Buyer in writing:

Section 8.01 Accuracy of Representations and Warranties; Closing Certificate. Except for any changes permitted by the terms of this Agreement or consented to in writing by Buyer, each of the representations and warranties made by Seller in this Agreement or in any Transaction Document shall be true and correct, in all material respects (other than any

representation or warranty which is qualified by materiality, which shall be true and correct in all respects), on the Execution Date and shall be true and correct, in all material respects (other than any representation or warranty which is qualified by materiality, which shall be true and correct in all respects), as of the Closing Date as though such representations and warranties were made or given on and as of the Closing Date, unless such representation and warranty speaks only as of a specific date in which case it shall be true and correct as of such date.

Section 8.02 Performance of Agreement. Seller shall have performed in all material respects all of its covenants, agreements and obligations required by this Agreement to be performed or complied with by it prior to or upon the Closing.

Section 8.03 Seller Closing Certificate. Buyer shall have received a certificate, dated the Closing Date and signed by a duly authorized officer of Seller, that each of the conditions set forth in Section 8.01 and Section 8.02 have been satisfied (the “Seller Closing Certificate”).

Section 8.04 Conveyance of Property. Seller shall have conveyed to Buyer the Real Property, free and clear of all Liens, except Permitted Liens, to the extent permissible under Section 363(f) of the Bankruptcy Code.

Section 8.05 Bond Financing and Subordinated Financing and Release of All Liens. Seller shall have caused the Sale Order to provide that the sale of the CCRC Assets shall be free and clear of all Liens on the CCRC Assets, to the extent permissible under Section 363(f) of the Bankruptcy Code, including the Liens related to the Bond Financing.

Section 8.06 Delivery of Closing Documents. Seller shall have delivered or caused to be delivered to Buyer on the Closing each of the Transaction Documents required to be delivered pursuant to Section 10.02.

Section 8.07 Required Permits and Approvals. All of the Permits, Approvals, and consents set forth in Schedule 8.07 of the Disclosure Schedules shall have been received.

Section 8.08 Entry of Sale Order. The entry of Sale Order on or before December 29, 2023, and such Sale Order becoming a Final Order on or before January 12, 2024.

Section 8.09 No Material Adverse Effect. No Material Adverse Effect shall have occurred with respect to the Business or the CCRC Assets prior to the Closing.

Section 8.10 Additional Deliveries. Seller shall have delivered to Buyer such other documents or instruments as Buyer reasonably requests and are reasonably necessary to consummate the Contemplated Transactions.

**ARTICLE IX.
CONDITIONS PRECEDENT TO THE
OBLIGATION OF SELLER TO CLOSE**

The obligation of Seller to consummate the Contemplated Transactions pursuant to the terms of this Agreement is subject to the satisfaction, on or prior to the Closing, of each of the following conditions, unless waived by Seller in writing:

Section 9.01 Accuracy of Representations and Warranties. The representations and warranties of Buyer contained in this Agreement shall be true and correct, in all material respects (other than any representation or warranty which is qualified by materiality, which shall be true and correct in all respects), on the Execution Date and shall be true and correct, in all material respects (other than any representation or warranty which is qualified by materiality, which shall be true and correct in all respects), as of the Closing Date as though such representations and warranties were made or given on and as of the Closing Date, unless such representation and warranty speaks only as of a specific date in which case it shall be true and correct as of such date.

Section 9.02 Performance of Agreements. Buyer shall have performed in all material respects all of its covenants, agreements, and obligations required by this Agreement and each of the other Transaction Documents to be performed or complied with by it prior to or upon the Closing.

Section 9.03 Buyer Closing Certificate. Seller shall have received a certificate, dated the Closing Date and signed by a duly authorized officer of Buyer, that each of the conditions set forth in Section 9.01 and Section 9.02 have been satisfied (the “Buyer Closing Certificate”).

Section 9.04 Delivery of Closing Documents. Buyer shall have delivered or caused to be delivered to Seller on the Closing each of the Transaction Documents required to be delivered pursuant to Section 10.03.

Section 9.05 Interim Escrow Agreement. Buyer shall have entered into the Interim Escrow Agreement consistent with Section 6.16, funded the Interim Escrow Amount and performed in all material respects all of its covenants, agreements, and obligations required by the Interim Escrow Agreement.

Section 9.06 Unfavorable Action or Proceeding. On the Closing Date, no Orders, decrees, judgments or injunctions of any court or Governmental Authority shall be in effect, and no Claims, Proceedings or Actions shall be pending, which challenge or seek to challenge, or which could prevent or cause the rescission of, the consummation of the Contemplated Transactions.

Section 9.07 Final Sale Order. The Sale Order (a) shall have been entered by the Bankruptcy Court, and (b) shall have become a Final Order on or before January 12, 2024.

Section 9.08 Cure Costs. At the Closing, Buyer shall have paid the Cure Costs of (a) the Residency Agreements, and (b) the Assigned Contracts, together with any additional Cure Costs it has elected to pay.

Section 9.09 Governmental Approval. Except for the consents and approvals set forth on Schedule 8.07, Buyer shall have obtained all necessary authorizations, Permits, Approvals (including Regulatory Approvals), consents, orders, or approvals of, shall have made all declarations or filings with, and shall have allowed the expiration of waiting periods imposed by, any Governmental Authority or other third party necessary for the consummation of the Contemplated Transactions and operation of the Business.

**ARTICLE X.
CLOSING**

Section 10.01 Closing Date and Place. The Closing shall take place on the date that is two (2) Business Days after the satisfaction of all conditions to Closing contained in Article VIII and Article IX, or at such earlier or later date and time as may be expressly agreed upon in writing by Buyer and Seller (the “Closing Date”), but in no event later than December 31, 2023 (the “Outside Closing Date”); *provided, however*, that the Outside Closing Date may be extended upon written notice by either Buyer or Seller to the other party until March 31, 2024; and *provided, further*, that the Outside Closing Date may be further extended until June 30, 2024 by mutual written agreement of Buyer and Seller, *provided further* that, in each case, Buyer is diligently pursuing the Approvals required under Section 9.09. Time is of the essence in the performance of this Agreement.

Section 10.02 Deliveries of Seller. At the Closing, Seller shall deliver or cause to be delivered to Buyer and/or other Persons the following, in each case in form and substance reasonably satisfactory to Buyer, and to the extent required, executed by a duly authorized officer of Seller:

(a) a governmental certificate, dated as of a date as near as practicable to the Closing, showing that Seller (i) is duly organized and in good standing in the state of organization of Seller, and (ii) is qualified to do business in the state in which the Real Property is located;

(b) a certificate of the secretary (or the equivalent thereto if none) of Seller attesting as to the incumbency of each manager, officer, and authorized Representative of Seller who executes this Agreement and any of the other Transaction Documents to which it is a party, certifying that resolutions and consents necessary for Seller to act in accordance with the terms of this Agreement have been adopted or obtained (with copies thereof attached) and to similar customary matters;

(c) a copy of the Sale Order;

(d) a Deed conveying the Real Property, free and clear of all Liens other than the Permitted Liens, to the extent permissible under Section 363(f) of the Bankruptcy Code;

(e) a Bill of Sale, Assignment and Assumption Agreement transferring the CCRC Assets (other than the Real Property) and Assumed Liabilities to Buyer, free and clear of all Liens other than the Permitted Liens;

(f) [Reserved.];

(g) a certificate of non-foreign status under Section 1445 of the Code, complying with the requirements of the Income Tax Regulations promulgated pursuant to such Section;

(h) the Seller Closing Certificate;

(i) a true, correct and complete Rent Roll for the Real Property five (5) Business Days prior to Closing, certified by Seller, listing each Resident as of the Closing, the unit, bed or room number of such Resident, the amount of monthly fees to be paid by such Resident, the amount of security deposit, and the date of the Residency Agreement;

(j) for the Real Property, a base owner's Title Insurance Policy;

(k) a certificate or affidavit in form and substance reasonably required by the Title Company to delete the standard non-survey exceptions to the Title Insurance Policy;

(l) all electronic copies of the Records that are maintained by or in the control of Seller, and, promptly following Closing and in any event no later than five (5) Business Days following Closing, Seller shall make available to Buyer all originals of the Records; *provided however*, that Seller shall be entitled to retain any originals of the Records that are required to be retained as a result of the Bankruptcy Case, for such period of time sufficient to allow all matters under the Bankruptcy Case to be finally determined; and *provided further*, that Buyer shall promptly receive copies of such originals that are required to be retained by Seller as a result of the Bankruptcy Case at its sole cost and expense;

(m) the Flow of Funds Memorandum;

(n) all Permits, Approvals, and consents set forth on Schedule 8.07;

(o) a certificate of insurance evidencing that at Buyer's sole cost and expense, Seller has obtained (or caused to have been obtained), at Buyer's election in its sole discretion, tail coverage for insurance policies written on a claims-made basis. Such policies shall remain in full force and effect for a period of not less than three (3) years after the Closing Date. Coverage will apply for tort Claims arising out of acts, omissions or events that occurred at the CCRC Assets prior to the Closing Date, even if the Claim is first brought after the Closing Date. The policy will name Buyer as an additional insured on any applicable general liability, medical professional liability and umbrella liability policies and have coverage limits of not less than Four Million Dollars (\$4,000,000) per claim and in the aggregate;

(p) the Title Deliveries; and

(q) such additional information, materials, affidavits and certificates as Buyer shall reasonably request to evidence the satisfaction of the conditions to Seller's obligations hereunder, including title affidavits, such affidavits and indemnities as the Title Company may reasonably require to issue the Title Insurance Policy, the gap coverage and all endorsements and any other documents expressly required by this Agreement to be delivered by Seller at Closing, or as may be reasonably required by the Title Company.

Section 10.03 Deliveries of Buyer. At the Closing, Buyer shall deliver or cause to be delivered to Seller and/or other Persons, the following, in each case in form and substance

reasonably satisfactory to Seller, and to the extent required, executed by a duly authorized officer of Buyer:

- (a) the Purchase Price by wire transfer in accordance with Section 3.01, subject to the adjustments under Section 3.03;
- (b) the Cure Costs in accordance with Section 2.07;
- (c) the Bill of Sale, Assignment and Assumption Agreement transferring the CCRC Assets (other than the Real Property) and the Assumed Liabilities to Buyer, free and clear of all Liens other than the Permitted Liens;
- (d) [Reserved.];
- (e) the Buyer Closing Certificate;
- (f) a governmental certificate, dated as of a date as near as practicable to the Closing, showing that Buyer is (i) duly organized and in existence in the state of its formation, and (ii) is qualified to do business in the state where the Real Property is located;
- (g) a certificate of the secretary (or the equivalent thereto if none) of Buyer attesting as to the incumbency of each manager, officer, and authorized Representative of Buyer who executes this Agreement and any of the other Transaction Documents to which it is a party, certifying that resolutions and consents necessary for Buyer to act in accordance with the terms of this Agreement have been adopted or obtained (with copies thereof attached) and to similar customary matters;
- (h) all Approvals required pursuant to Section 9.09;
- (i) the Flow of Funds Memorandum; and
- (j) such additional information, materials, affidavits and certificates as Seller shall reasonably request to evidence the satisfaction of the conditions to Seller's obligations hereunder, including any documents expressly required by this Agreement or the other Transaction Documents to be delivered by Buyer or its Affiliates at Closing.

**ARTICLE XI.
SURVIVAL OF REPRESENTATIONS,
WARRANTIES AND COVENANTS**

Section 11.01 Survival. All covenants and agreements contained in this Agreement or any other Transaction Document which by their terms are to be performed in whole or in part, or which prohibit actions, at or subsequent to the Closing shall survive the Closing hereunder until all applicable statute of limitations or for such shorter period explicitly specified therein. The party that breaches such covenants and agreements (the "Breaching Party") shall be liable to, and shall hold harmless, the other party after the Closing for any Losses suffered or incurred by such other party as the result of the breach of such covenants and agreements by such Breaching Party. Subject to the foregoing, and excluding in the case of fraud or intentional misconduct, all other

covenants and agreements contained in this Agreement to be performed prior to the Closing, and all representations and warranties contained in this Agreement or in any certificates delivered at Closing, shall not survive the Closing and shall thereupon terminate, excluding any Proceedings for Losses in respect of any breach thereof.

ARTICLE XII. DEFAULT AND TERMINATION

Section 12.01 Termination Events. This Agreement may be terminated at any time prior to the Closing by written notice to the applicable party:

(a) by either Seller or Buyer, if a Governmental Authority issues a final, non-appealable ruling or Order prohibiting the Contemplated Transactions where such ruling or Order was not requested, encouraged or supported by any of Seller or Buyer;

(b) by mutual written consent of Seller and Buyer;

(c) by Buyer, if the Bankruptcy Court enters an Order (i) dismissing the Bankruptcy Case, (ii) converting the Bankruptcy Case to a case under chapter 7 of the Bankruptcy Code, or (iii) directing the appointment of a chapter 11 trustee or examiner with expanded powers;

(d) by Buyer in the event of any material breach by Seller of any of Seller's agreements, covenants, representations or warranties contained herein and where such breach (i) has a material and adverse impact on the Contemplated Transactions and the Business and (ii) has not been cured within thirty (30) Business Days after the giving of written notice thereof by Buyer to Seller (which notice shall specify the nature of such breach and be given as promptly as practicable); *provided, however*, that Buyer shall not be permitted to terminate this Agreement pursuant to this Section 12.01(d) if Buyer is itself in material breach of any of its representations, warranties, covenants or agreements contained herein (or in breach at all with respect to those representations, warranties, covenants and agreements that are qualified as to materiality or Material Adverse Effect or similar expressions);

(e) by Seller in the event of any material breach by Buyer of any of Buyer's agreements, covenants, representations or warranties contained herein and such breach (i) would result in the material failure of a condition set forth in Section 9.01 or Section 9.02 to be satisfied and (ii) has not been cured within thirty (30) Business Days after the giving of written notice thereof by Seller to Buyer (which notice shall specify the nature of such breach and be given as promptly as practicable); *provided, however*, that Seller shall not be permitted to terminate this Agreement pursuant to this Section 12.01(e) if Seller is itself in material breach of any of Seller's representations, warranties, covenants or agreements contained herein (or in breach at all with respect to those representations, warranties, covenants and agreements that are qualified as to materiality or Material Adverse Effect or similar expressions);

(f) by Buyer pursuant to Section 6.04(a)(iii), Section 6.13, or Section 7.07;

- (g) by Buyer if the Sale Order is not entered by the Bankruptcy Court on or before December 29, 2023, or the Sale Order does not become a Final Order by January 12, 2024;
- (h) by Buyer if Seller enters into an Alternative Transaction;
- (i) by either Buyer or Seller if the Closing has not occurred by the Outside Closing Date by no fault of the party terminating; or
- (j) by Buyer if the Settlement Agreement is terminated.

Section 12.02 Effect of Termination. Subject to Section 6.06, Section 6.13, Section 12.01, Section 12.03, Section 12.04, Section 12.05, and Section 12.06, in the event of termination of this Agreement by Buyer or Seller pursuant to this Section 12.02, all rights and obligations of the parties under this Agreement (except for any obligations pursuant to their terms are to continue following the Closing or after the termination of this Agreement) shall terminate without any Liability of any party to any other party. The provisions of this Section 12.02 (and, to the extent applicable to the interpretation or enforcement of such provisions, Article I and Article VIII) shall expressly survive the termination of this Agreement. Notwithstanding anything in this Agreement to the contrary, Buyer shall receive a refund of the Deposit only in the event of a termination of this Agreement due to (a) Seller's failure to perform its pre-Closing obligations as set forth in this Agreement, (b) the Sale Order is not entered by the Bankruptcy Court on or before December 29, 2023, (c) the transactions contemplated hereby are not completed for any other reason, or (d) termination of the Settlement Agreement; provided that, Buyer shall receive such refund only so long as Buyer is not otherwise in breach of any of its obligations under this Agreement or the cause of the requirements in clauses (a) through (d) being met. Buyer shall also receive the Break-Up Fee upon closing of such Alternative Transaction, which Break-Up Fee shall be paid solely from the proceeds of such Alternative Transaction and Seller agrees that any court order related to the sale of the CCRC Assets shall include a carve-out from the Bond Trustee's collateral permitting the Break-Up Fee. Upon the termination of this Agreement, any Interim Consulting Agreement or Interim Escrow Agreement shall terminate.

Section 12.03 Remedies Upon Default.

(a) If Seller defaults on its obligation to consummate the Contemplated Transactions or the Settlement Agreement is terminated and Buyer is not itself in material breach of any of its representations, warranties, covenants or agreements contained herein, Buyer shall be entitled to terminate this Agreement pursuant to Section 12.01 and have the Escrow Agent pay the Deposit to Buyer within two (2) Business Days of such termination; *provided, however*, that if such default of Seller or failure to consummate the Contemplated Transactions is the result of intentional fraud, or the willful misconduct of Seller, Buyer shall also be entitled to seek all remedies against Seller available at law or in equity.

(b) If Buyer defaults on its obligation to consummate the Contemplated Transactions and Seller is not itself in material breach of any of its representations, warranties, covenants or agreements contained herein, Seller shall be entitled to terminate this Agreement pursuant to Section 12.01 and have the Escrow Agent pay the Deposit to

Seller and, in the case of a willful breach by Buyer, to seek monetary damages available at law in an amount limited to Twenty-Two Million Five Hundred Thousand Dollars (\$22,500,000); *provided, however*, that if such default of Buyer or failure to consummate the Contemplated Transactions is the result of intentional fraud, or the willful misconduct of Buyer, Seller shall also be entitled to seek all remedies against Buyer available at law or in equity.

(c) In the event a Sale Order has been entered and the Closing has not occurred on or prior to the Outside Closing Date and provided Buyer has not defaulted on this Agreement, Buyer may elect to seek specific performance.

Section 12.04 Alternative Transaction. As authorized by the Bidding Procedures, in the event of termination pursuant to Section 12.01(h), (a) the Deposit shall be returned to Buyer, and in connection therewith, Seller shall promptly take all action necessary to cause the Escrow Agent to pay the Deposit to Buyer within two (2) Business Days, and (b) Seller shall pay to Buyer an additional amount equal to (i) 3% of the sum of the Purchase Price and entrance fee refunds to be paid at Closing and calculated as of July 31, 2023 (such sum the “Total Cash Consideration”) *plus* (ii) reimbursement of Buyer’s actual, reasonable and documented fees and expenses incurred, not to exceed 1% of the Total Cash Consideration (collectively, the “Break-Up Fee”), which Break-Up Fee shall be paid solely from the proceeds of the sale of the CCRC Assets and Business to a third party and shall be paid on the closing of such Alternative Transaction and Seller agrees that any court order related to the sale of the CCRC Assets and Business shall include a carve-out from the Bond Trustee’s collateral permitting the Break-Up Fee. Neither the Deposit nor the Break-Up Fee shall be due to Buyer if the Alternative Transaction was pursued as the result of a material breach by Buyer under this Agreement or Buyer’s failure or refusal to consummate the Contemplated Transactions after the satisfaction or waiver of all Closing conditions by Seller and Buyer under this Agreement.

Section 12.05 Obligations Upon Termination. Except as otherwise provided herein, if this Agreement is terminated, each of the parties shall bear its own costs incurred in connection with the Contemplated Transactions.

Section 12.06 Sole and Exclusive Remedy. Except for the obligations of Seller and Buyer set forth in Article XI, and except in the event of fraud or willful misconduct, Seller and Buyer each acknowledge and agree that prior to the Closing, such party’s sole and exclusive remedy with respect to any and all Claims made prior to the Closing for any breach of this Agreement or otherwise relating to the subject matter of this Agreement and the Contemplated Transactions shall be solely in accordance with, and limited to, Section 12.01, Section 12.02, Section 12.03 and Section 12.04. In addition, in no event shall the provisions of this Section 12.06 limit the non-prevailing party’s obligation to pay the prevailing party’s reasonable attorneys’ fees and costs pursuant to Section 13.12 hereof.

**ARTICLE XIII.
MISCELLANEOUS**

Section 13.01 Further Actions. From time to time before, at and after the Closing, each party will execute and deliver such other documents as reasonably requested by Buyer, Seller or Escrow Agent to consummate the Contemplated Transactions.

Section 13.02 Notices. All notices, demands or other communications given hereunder shall be in writing and shall be sufficiently given if delivered by facsimile (with written confirmation of receipt), by courier (including overnight delivery service), by email (as to communications that are not required notices or demands hereunder), or sent by registered or certified mail, first class, postage prepaid, addressed as follows:

If to Seller, to:

Amsterdam Continuing Care Health System, Inc.
1060 Amsterdam Avenue
New York, NY 10025
Attn: Brooke Navarre; Pamela Landman
Telephone No.: 516.472.6620
Email: bnavarre@theharborside.org
plandman@amsterdamcares.org

with copies to:

DLA Piper LLP (US)
200 South Biscayne Boulevard, Suite 2500
Miami, Florida 33131
Attn: Rachel Nanes and Russell Sass
Telephone No.: 305.423.8500
Email: rachel.nanes@us.dlapiper.com
russell.sass@us.dlapiper.com

DLA Piper LLP (US)
1900 North Pearl Street, Suite 2200
Dallas, Texas 75201
Attn: James Muenker
Telephone No.: 214.743.4559
E-mail: james.muenker@us.dlapiper.com

If to Buyer, to:

Life Care Services Communities LLC
Capitol Square
400 Locust Street, Suite 820
Des Moines, IA 50309
Attn: Dan Lahey and Graham Johnson

Email: laheydan@lcsnet.com
johnsongraham@lcsnet.com

with copies to:

Sidley Austin LLP
787 Seventh Avenue
New York, NY 10019
Attn: Thomas R. Califano and William E. Curtin
Email: tom.califano@sidley.com
wcurtin@sidley.com

or such other address as a party may from time to time notify the other parties in writing (as provided above). Any such notice, demand or communication shall be deemed to have been given (a) if so sent by facsimile, upon receipt as evidenced by the sender's written confirmation of receipt, (b) if so mailed, as of the date delivered, (c) if emailed, when sent (provided that e-mail does not constitute delivery of any communication that is a required notice or demand hereunder), or (d) if so delivered by courier, on the date received.

Section 13.03 Entire Agreement. This Agreement and the other Transaction Documents constitute the entire agreement and understanding between the parties with respect to the subject matter hereof and supersede any prior negotiations, agreements, understandings, or arrangements between the parties hereto with respect to the subject matter hereof.

Section 13.04 Binding Effect; Benefits. Except as otherwise provided herein, this Agreement shall inure to the benefit of and be binding upon the parties hereto and their respective successors or permitted assigns. Except to the extent specified herein, nothing in this Agreement, express or implied, shall confer on any person other than the parties hereto and their respective successors or permitted assigns any rights, remedies, obligations, or liabilities under or by reason of this Agreement.

Section 13.05 Assignment. This Agreement may not be assigned by any party prior to Closing without the written consent of the other party, which consent may be given or withheld in each such party's sole and absolute discretion, except that Buyer may assign this Agreement and its rights and obligations hereunder without the consent of, and upon written notice to, Seller (a) to an Affiliate of Buyer, (b) to a partnership in which Buyer or any Affiliate of Buyer is a general partner, or (c) a limited liability company in which Buyer or any Affiliate of Buyer is a manager or managing member.

Section 13.06 Amendments and Waivers; Governing Law; Consent to Jurisdiction and Venue; Jury Trial Waiver.

(a) Except to the extent the mandatory provisions of the Bankruptcy Code apply, this Agreement shall be governed by, and construed in accordance with, the laws of the State of New York applicable to contracts made and to be performed entirely in such state without regard to principles of conflicts or choice of laws or any other law that would make the laws of any other jurisdiction other than the State of New York applicable hereto.

(b) Without limitation of any party's right to appeal any Order of the Bankruptcy Court, (i) the Bankruptcy Court shall retain exclusive jurisdiction to enforce the terms of this Agreement and to decide any Claims, Actions or Proceedings which may arise or result from, or be connected with, this Agreement, any breach or default hereunder, or the Contemplated Transactions and (ii) any and all Claims, Actions or Proceedings relating to the foregoing shall be filed and maintained only in the Bankruptcy Court, and the parties hereby consent and submit to the exclusive jurisdiction and venue of the Bankruptcy Court and irrevocably waive the defense of an inconvenient forum to the maintenance of any such Claim, Action or Proceeding; *provided, however*, that, if the Bankruptcy Case is closed, all Claims, Actions or Proceedings arising out of or relating to this Agreement shall be heard and determined in a New York state court or a federal court sitting in New York, New York, and the parties hereby irrevocably submit to the exclusive jurisdiction and venue of such courts in any such Claim, Action or Proceeding and irrevocably waive the defense of an inconvenient forum to the maintenance of any such Action or Proceeding. The parties' consent to service of process by mail (in accordance with Section 13.02) or any other manner permitted by Applicable Law.

(c) EACH PARTY HEREBY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAWS, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN ANY PROCEEDING DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS AGREEMENT, THE OTHER TRANSACTION DOCUMENTS OR ANY OTHER AGREEMENT CONTEMPLATED HERETO AND THERETO OR THE CONTEMPLATED TRANSACTIONS OR THEREBY (WHETHER BASED ON CONTRACT, TORT OR ANY OTHER THEORY). EACH PARTY (A) CERTIFIES THAT NO REPRESENTATIVE, AGENT OR ATTORNEY OF ANY OTHER PARTY HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PARTY WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER AND (B) ACKNOWLEDGES THAT IT AND THE OTHER PARTIES HAVE BEEN INDUCED TO ENTER INTO THIS AGREEMENT BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION.

Section 13.07 Amendments; Waivers. No term or provision of this Agreement may be amended, waived, discharged, or terminated orally, except by an instrument in writing signed by Buyer and Seller with respect to any provision contained herein. Any waiver shall be effective only in accordance with its express terms and conditions.

Section 13.08 Severability. Any provision of this Agreement which is unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such unenforceability without invalidating the remaining provisions hereof, and any such unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction. To the extent permitted by Applicable Law, the parties hereto hereby waive any provision of Applicable Law now or hereafter in effect which renders any provision hereof unenforceable in any respect.

Section 13.09 Counterparts. This Agreement may be executed and accepted in one or more counterparts for the convenience of the parties, each of which will be deemed an original and all of which, taken together, shall constitute one and the same instrument. Delivery of a counterpart hereof via facsimile transmission or by electronic mail transmission shall be as effective as delivery of a manually executed counterpart hereof.

Section 13.10 References. All references in this Agreement to Articles and Sections are to Articles and Sections contained in this Agreement unless a different document is expressly specified.

Section 13.11 Disclosure Schedules; Schedules; Exhibits. All Disclosure Schedules and Exhibits referred to herein form an integral part of this Agreement and shall be deemed to be part of this Agreement to the same extent as if set forth in the text of this Agreement. All statements contained in certificates and other instruments attached hereto or delivered or furnished on behalf of any party hereto shall be deemed representations and warranties of that party pursuant to this Agreement.

Section 13.12 Closing Costs. Buyer and Seller shall each pay (a) their respective attorneys' fees and expenses and (b) any broker commissions due to any broker engaged by such party respectively.

Section 13.13 Attorneys' Fees. In the event either party brings an Action to enforce or interpret any of the provisions of this Agreement, the "prevailing party" in such Action shall, in addition to any other recovery, be entitled to its reasonable attorneys' fees and expenses arising from such Action, whether or not such matter proceeds to trial. For purposes of this Section 13.13, "prevailing party" shall mean, in the case of a Person asserting a Claim, such Person is successful in obtaining substantially all of the relief sought, and in the case of a Person defending against or responding to a Claim, such Person is successful in denying substantially all of the relief sought.

Section 13.14 Limited Liability. No past, present, or future member, partner, shareholder, director, officer or employee of any party to this Agreement shall have any Liability of any nature whatsoever in connection with or under this Agreement or any Transaction Document contemplated hereby or in connection with the Contemplated Transactions.

Section 13.15 Survival of Defined Terms. Where this Agreement provides that a term or provision shall survive the Closing or the expiration or earlier termination of this Agreement, any defined terms contained in Article I that are used in such surviving term or provision shall also survive the Closing or the expiration or earlier termination of this Agreement.

Section 13.16 Time of Essence. Time shall be of the essence with respect to all matters contemplated by this Agreement. The time in which any act is to be done under this Agreement is computed by excluding the first day (such as the Execution Date), and including the last day, unless the last day is not a Business Day, in which case that day is also excluded and the event time shall be extended to the next Business Day.

Section 13.17 No Third-Party Beneficiary. The provisions of this Agreement and of the documents to be executed and delivered at Closing are and will be for the benefit of Buyer and Seller and their permitted assignees only and are not for the benefit of any third party; and,

accordingly, no third party shall have the right to enforce the provisions of this Agreement or of the documents to be executed and delivered at Closing.

(THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK.)

IN WITNESS WHEREOF, each of the parties hereto has caused this Agreement to be executed as of the Execution Date.

SELLER:

**AMSTERDAM HOUSE CONTINUING CARE
RETIREMENT COMMUNITY, INC.,**

DocuSigned by:

By: Brooke Navarre

Name: Brooke Navarre

Title: President and Chief Executive Officer

BUYER:

LIFE CARE SERVICES COMMUNITIES LLC

By: _____

Name: _____

Title: _____

IN WITNESS WHEREOF, each of the parties hereto has caused this Agreement to be executed as of the Execution Date.

SELLER:

**AMSTERDAM HOUSE CONTINUING CARE
RETIREMENT COMMUNITY, INC.,**

By: _____
Name: _____
Title: _____

BUYER:

LIFE CARE SERVICES COMMUNITIES LLC

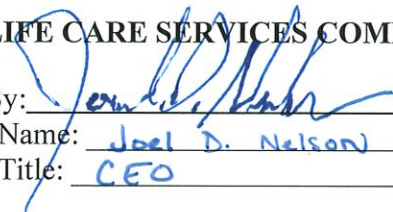
By:  _____
Name: Joel D. Nelson
Title: CEO

EXHIBIT A

Upon acceptance of the Application by the Agency for processing and completion of the Cost/Benefit Analysis, the Agency will attach a proposed PILOT Schedule hereto, together with an estimate of the net tax benefit/cost of the proposed PILOT Schedule.

EXHIBIT B

Fair Housing/Equal Housing Opportunity Policy to be adopted by Agency Applicants for Housing Projects

As part of our continuing effort to ensure compliance with federal, state, and local anti-discrimination laws, we would like to take this opportunity to remind you of our policies regarding equal housing opportunity. It is important for all employees to review his or her own actions in light of these requirements and for everyone to keep in mind the importance of treating all persons equally.

It is the policy and practice of this company not to engage in or assist the efforts of others to engage in housing discrimination. Consistent with that policy, we remind you that the antidiscrimination laws of the United States, New York State, and local laws are quite specific in the area of housing, and in conformance with those laws, you must not engage in any of the following conduct during the course of your work for this company:

1. Refuse to show, rent, sell, negotiate for the rental or sale of, or otherwise make unavailable or deny, housing to any person because of race, color, religion, creed, sex/gender, familial status (having or expecting a child under 18), national origin, ethnicity, disability, marital status, age, sexual orientation, military status, source of income or status as survivor of domestic violence (each a "prohibited basis");
2. Discriminate against any person in the terms, conditions or privileges of a rental or sale or in the provision of services or facilities in connection therewith because of a prohibited basis;
3. Make any verbal or written statement with respect to the rental or sale of housing that indicates any preference, limitation or discrimination concerning a prohibited basis, or any statement indicating an intention to make any such preference, limitation or discrimination;
4. Represent to any person because of a prohibited basis that any housing or unit is not available for inspection, rental or sale when such apartment is in fact so available;
5. Steer persons into or away from certain areas of a building, development or neighborhood because of a prohibited basis;
6. Refuse to provide a reasonable accommodation in rules, policies, practices or services for tenants, buyers, or applicants with disabilities; and
7. Refuse to allow a reasonable modification to individual units or common areas for tenants, buyers, or applicants with disabilities.

We are firmly committed to the goal of fair housing. You should understand that any violation of this Fair Housing/Equal Housing Opportunity Policy will lead to discipline, up to and including discharge.

EXHIBIT C

Sample Fair Housing Posters

U. S. Department of Housing and Urban Development



EQUAL HOUSING
OPPORTUNITY

We Do Business in Accordance With the Federal Fair
Housing Law

(The Fair Housing Amendments Act of 1988)

**It is illegal to Discriminate Against Any Person
Because of Race, Color, Religion, Sex,
Handicap, Familial Status, or National Origin**

- In the sale or rental of housing or residential lots
- In the provision of real estate brokerage services
- In advertising the sale or rental of housing
- In the appraisal of housing
- In the financing of housing
- Blockbusting is also illegal

Anyone who feels he or she has been
discriminated against may file a complaint of
housing discrimination:

1-800-669-9777 (Toll Free)
1-800-927-9275 (TTY)
www.hud.gov/fairhousing

U.S. Department of Housing and
Urban Development
Assistant Secretary for Fair Housing and
Equal Opportunity
Washington, D.C. 20410

Printed on 100% recycled paper

Form HUD-928.1 (8/2011)

**HOUSING
DISCRIMINATION IS
SOMETIMES **BLATANT**,
SOMETIMES **SUBTLE**,
BUT ALWAYS **UNLAWFUL**.**

DO YOU SUSPECT YOU HAVE BEEN DISCRIMINATED AGAINST BECAUSE OF YOUR AGE, RACE, DISABILITY, FAMILIAL STATUS, OR BECAUSE YOU ARE A MEMBER OF OTHER PROTECTED CLASSES? IF YOU WITNESS OR EXPERIENCE DISCRIMINATION, CONTACT THE NEW YORK STATE DIVISION OF HUMAN RIGHTS AT 1-888-392-3644 OR WWW.DHR.NY.GOV.

This advertisement may have been prepared by the NY State Division of Human Rights and U.S. Equal Opportunity Commission with United Way assistance.

STATE OF NEW YORK
DIVISION OF
HUMAN
RIGHTS

NY
WORKS



EXHIBIT D
Requirements for Affirmative Marketing Plans for Housing Projects

Affirmative marketing plans submitted by the Applicant shall be required only for affordable or “workforce” units and shall contain the following information:

1. Street address, village, town, zip code, and census tract number for the Project;
2. Number of affordable units to be marketed and whether they will be available for rent or purchase;
3. The number, if any, and location of market rate units included in the Project;
4. Whether the housing will be “housing for older persons”, defined as at least 80% occupancy of units with at least one person 55 or older or 100% occupancy of persons age 62 or older;
5. A description of how units will be advertised for sale or rental prior to first occupancy, including whether Applicant will utilize its own website, commercial websites, print media outlets, social media outlets such as Facebook, a sign at the project site, mailings, leaflets/flyers, brochures, and other forms of advertising;
6. A statement that the Applicant will use fair housing logo or phrase “Equal Housing Opportunity” on all advertising described above;
7. A statement that the Applicant will distribute written information regarding the availability of affordable units at the project to a list of organizations provided to the Applicant by the Agency, which list may be updated annually;
8. Whether the Applicant will conduct the marketing and initial rent-up or sales itself or contract with a third-party;
9. A statement that an initial application period with a specific start and end date will be utilized for accepting applications for consideration for the initial rental of the units and that the period will last for at least thirty (30) days after the marketing described in this plan is commenced. In addition, a statement that following the initial application period, all the applications submitted during the initial application period will be considered through the use of a lottery and not on a first-come first-served basis, unless the number of applications received during the initial application period is less than the total number of units available for rental.
10. A statement that the Applicant will maintain records of the activities it undertakes to implement its marketing plan.