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**SECOND AMENDED AND RESTATED  
MASTER PURCHASE AND SALE AGREEMENT**

among

**REDWOOD-ERC SENIOR LIVING HOLDINGS, LLC,  
REDWOOD-ERC MANAGEMENT, LLC,  
REDWOOD-ERC DEVELOPMENT, LLC,  
REDWOOD-ERC PROPERTIES, LLC,  
REDWOOD-ERC CONCORD, L.P.,  
REDWOOD-ERC DALLAS, LLC,  
REDWOOD-ERC HOUSTON, LLC,  
REDWOOD-ERC ASHBURN, LLC,  
REDWOOD-ERC LITTLETON, LLC,  
REDWOOD-ERC NOVI, LLC,  
REDWOOD-ERC KANSAS, LLC,  
REDWOOD-ERC TINTON FALLS II, LLC, and  
REDWOOD-ERC SENIOR CARE, LLC**

and

**ERICKSON RETIREMENT COMMUNITIES, LLC,  
ERICKSON GROUP, LLC,  
CONCORD CAMPUS, L.P.,  
DALLAS CAMPUS, LP,  
HOUSTON CAMPUS, L.P.,  
ASHBURN CAMPUS, LLC,  
LITTLETON CAMPUS, LLC,  
NOVI CAMPUS, LLC,  
KANSAS CAMPUS, LLC,  
TINTON FALLS CAMPUS II, LLC,  
WARMINSTER CAMPUS, L.P.,  
HINGHAM CAMPUS, LLC,  
LINCOLNSHIRE CAMPUS, LLC,  
NAPERVILLE CAMPUS, LLC,  
POINT VIEW CAMPUS II, LLC  
SENIOR CAMPUS CARE, LLC, and  
ERICKSON CONSTRUCTION, LLC**

**effective as of February 16, 2010**

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**SECOND AMENDED AND RESTATED  
MASTER PURCHASE AND SALE AGREEMENT**

**THIS SECOND AMENDED AND RESTATED MASTER PURCHASE AND SALE AGREEMENT** (this “Agreement”) is effective as of February 16, 2010 (the “Execution Date”) among **REDWOOD-ERC SENIOR LIVING HOLDINGS, LLC**, a Maryland limited liability company (“Redwood”), **REDWOOD-ERC MANAGEMENT, LLC**, a Maryland limited liability company (“ManagementCo”), **REDWOOD-ERC DEVELOPMENT, LLC**, a Maryland limited liability company (“DevCo”), **REDWOOD-ERC PROPERTIES, LLC**, a Maryland limited liability company (“PropCo”), **REDWOOD-ERC CONCORD, L.P.**, a Maryland limited partnership (“Redwood Concord”), **REDWOOD-ERC DALLAS, LLC**, a Maryland limited liability company (“Redwood Dallas”), **REDWOOD-ERC HOUSTON, LLC**, a Maryland limited liability company (“Redwood Houston”), **REDWOOD-ERC ASHBURN, LLC**, a Maryland limited liability company (“Redwood Ashburn”), **REDWOOD-ERC LITTLETON, LLC**, a Maryland limited liability company (“Redwood Littleton”), **REDWOOD-ERC NOVI, LLC**, a Maryland limited liability company (“Redwood Novi”), **REDWOOD-ERC KANSAS, LLC**, a Maryland limited liability company (“Redwood Kansas”), **REDWOOD-ERC TINTON FALLS II, LLC**, a Maryland limited liability company (“Redwood Tinton Falls II”), **REDWOOD-ERC SENIOR CARE, LLC**, a Maryland limited liability company (“Redwood Senior Care” and, together with Redwood Concord, Redwood Dallas, Redwood Houston, Redwood Ashburn, Redwood Littleton, Redwood Novi, Redwood Kansas, Redwood Tinton Falls II and DevCo, the “Subsidiary Buyers” and, together with ManagementCo and PropCo the “Acquisition Companies” and, all together with Redwood, the “Redwood Parties”), **ERICKSON RETIREMENT COMMUNITIES, LLC**, a Maryland limited liability company (“ERC”), **ERICKSON GROUP, LLC**, a Maryland limited liability company (“Parent”), **CONCORD CAMPUS, L.P.**, a Maryland limited partnership (“Concord Owner”), **DALLAS CAMPUS, LP**, a Maryland limited partnership (“Dallas Owner”), **HOUSTON CAMPUS, L.P.**, a Maryland limited partnership (“Houston Owner”), **ASHBURN CAMPUS, LLC**, a Maryland limited liability company (“Ashburn Owner”), **LITTLETON CAMPUS, LLC**, a Maryland limited liability company (“Littleton Owner”), **NOVI CAMPUS, LLC**, a Maryland limited liability company (“Novi Owner”), **KANSAS CAMPUS, LLC**, a Maryland limited liability company (“Kansas Owner”), **TINTON FALLS CAMPUS II, LLC**, a Maryland limited liability company (“Tinton Falls II Owner”), **WARMINSTER CAMPUS, L.P.**, a Maryland limited partnership (“Warminster Owner”), **HINGHAM CAMPUS, LLC**, a Maryland limited liability company (“Hingham Owner”), **LINCOLNSHIRE CAMPUS, LLC**, a Maryland limited liability company (“Lincolnshire Owner”), **NAPERVILLE CAMPUS, LLC**, a Maryland limited liability company (“Naperville Owner”), **POINT VIEW CAMPUS II, LLC**, a Maryland limited liability company (“PV Owner”), **SENIOR CAMPUS CARE, LLC**, a Maryland limited liability company (“SCC”), and **ERICKSON CONSTRUCTION, LLC**, a Maryland limited liability company (“Erickson Construction” and, together with Concord Owner, Dallas Owner, Houston Owner, Ashburn Owner, Littleton Owner, Novi Owner, Kansas Owner, Tinton Falls II Owner and SCC, the “Subsidiary Sellers” and, together with ERC, the “Sellers”). Parent and the Sellers are sometimes referred to herein interchangeably and collectively, as the context requires, as the “Erickson Parties”. The Redwood Parties and the Erickson Parties are sometimes referred to herein interchangeably and collectively, as the context requires, as a “Party” or the “Parties.”

**WHEREAS**, ERC and its Affiliates (defined below) are engaged in the business of managing, developing and owning continuing care retirement communities;

**WHEREAS**, Redwood, ManagementCo, Redwood-ERC Development, LLC, PropCo, Redwood Kansas, ERC, Parent and Kansas Owner (the “Original Parties”) entered into that certain Master Purchase and Sale Agreement (the “Original MPSA”) effective as of October 19, 2009 (the “Original Execution Date”);

**WHEREAS**, on the Original Execution Date, ERC and the other Debtors (defined below) filed voluntary bankruptcy actions under Chapter 11 of Title 11 of the United States Code (as amended, the “Bankruptcy Code”) in the United States Bankruptcy Court for the Northern District of Texas, Dallas Division (the “Bankruptcy Court”), styled as *In re: Erickson Retirement Communities, LLC, et al.*, case number 09-37010 (SGJ) (collectively, the “Bankruptcy Case”);

**WHEREAS**, the Original Parties amended and restated the Original MPSA in its entirety on November 11, 2009 (the “First Amended MPSA”);

**WHEREAS**, this Agreement amends and restates the First Amended MPSA in its entirety;

**WHEREAS**, upon the terms and conditions set forth herein and as authorized under Sections 105, 363, 365 and/or 1129 of the Bankruptcy Code, the Acquisition Companies), desire to purchase from the Sellers substantially all of the assets of the Sellers (other than the Excluded Assets (defined below)) in exchange for the payment by Redwood, for the account of Sellers, of certain amounts to creditors of the Sellers and the assumption by the Acquisition Companies of the respective Assumed Liabilities (defined below);

**WHEREAS**, the Erickson Parties believe, following consultation with their financial advisors and consideration of their available alternatives, that in light of the current circumstances, a sale of the assets of the Business is necessary to maximize value and is in the best interests of the Erickson Parties, their Affiliates and their respective estates, creditors and parties-in-interest; and

**WHEREAS**, the transactions contemplated by this Agreement (the “Transactions”) will be subject to the approval of the Bankruptcy Court and other applicable provisions of the Bankruptcy Code.

**NOW, THEREFORE**, in consideration of the foregoing and the mutual covenants and agreements set forth herein, the Parties, intending to be legally bound, agree as follows:

**Article I**        **DEFINITIONS; INTERPRETATION.**

**1.1**    **Definitions.** These terms shall, for all purposes of this Agreement, have the following meaning:

(a)    “Action” means any action, claim, proceeding, arbitration, suit, investigation or regulatory inquiry (whether civil, criminal, administrative or judicial), or any appeal therefrom.

(b)    “Affiliate” means, with respect to any Person, any other Person directly or indirectly controlling, controlled by, or under common control with such Person, where “control” means the power to direct the management and policies of a Person, directly or indirectly, whether through the ownership of voting securities, by contract or otherwise.

(c)    “Approval” means any approval, authorization, consent, license, franchise, order, or registration issued or granted by, filing with, or notice to, any Person.

(d) “B&R Notes” means all notes receivable due to ERC or any of its Affiliates from each of Brooksby Village, Inc. and Riderwood Village, Inc., including (i) the Second Amended and Restated Working Capital Promissory Note dated June 30, 2008 in the principal amount of \$14,032,807.23 made by Brooksby Village, Inc. in favor of ERC; (ii) the Purchase Money Note dated June 30, 2008 in the amount of \$19,715,086 made by Brooksby Village, Inc. in favor of Senior Living Limited Partnership; (iii) the Purchase Money Note in the amount of \$2,698,039 made by Riderwood Village, Inc. in favor of Senior Living Limited Partnership; (iv) the Second Amended and Restated Working Capital Promissory Note dated December 31, 2007 in the amount of \$5,000,000 made by Riderwood Village, Inc. in favor of ERC.

(e) “Business” means, collectively, the businesses conducted by the Sellers and the Transferred Landowners as of the Original Execution Date, including the business of managing, developing, and owning continuing care retirement communities, but excluding those businesses conducted at the ERC Retained Communities.

(f) “Business Day” means any day except Saturday, Sunday or any day on which commercial banks are authorized or required by Law to close in Baltimore, Maryland.

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

(h) “Community Loan” means each of (i) the loan from Ashby Ponds, Inc. to Ashburn Owner having an approximate balance of \$107.2 million; (ii) the loan from Maris Grove, Inc. to Concord Owner having an approximate balance of \$204.2 million; (iii) the loan from Highland Springs, Inc. to Dallas Owner having an approximate balance of \$86.4 million; (iv) the loan from Eagle’s Trace, Inc. to Houston Owner having an approximate balance of \$87.8 million; (v) the loan from Tallgrass Creek, Inc. to Kansas Owner having an approximate balance of \$33.5 million; (vi) the loan from Wind Crest, Inc. to Littleton Owner having an approximate balance of \$139.4 million; (vii) the loan from Fox Run Village, Inc. to Novi Owner having an approximate balance of \$165.1 million; and (viii) the loan from Ann’s Choice, Inc. to Warminster Campus, L.P., having an approximate balance of \$276.8 million.

(i) “Confirmation Order” means the order entered by the Bankruptcy Court in the Bankruptcy Case confirming the Reorganization Plan pursuant to Section 1129 of the Bankruptcy Code.

(j) “Contract” means any written or oral agreement, arrangement, lease, mortgage, contract, note, power of attorney, insurance policy, covenant, understanding, commitment or instrument.

(k) “Controlled Real Property” means, collectively, the Owned Real Property and the Managed Real Property.

(l) “Corporate Debt” means the indebtedness identified on Exhibit W.

(m) “Corporate Lenders” means the Persons to whom the Corporate Debt is owed.

(n) “Court Approval” means the entry of the Final Confirmation Order by the Bankruptcy Court, together with all other orders necessary to effect the Transactions.

(o) “Covered Entities” means, interchangeably and collectively as the context requires, the ERC Companies, the PACs and the Standalone NFPs.

(p) “Damages” means any loss, Liability, diminution of value, fine, penalty, judgment, award, cost or expense (including, without limitation, reasonable attorneys’ fees or any other reasonable out-of-pocket expenses incurred in connection with any Action) or damage.

(q) “Debtors” means Parent and the Sellers that filed the Bankruptcy Case.

(r) “Employees” means, interchangeably and collectively as context requires, (i) Erickson Employees; (ii) individuals employed by a Management Agreement Counterparty but managed by an ERC Company (including those who are actively employed or on leave, disability or other absence from employment, and including officers and directors); and (iii) any other individual who is determined to be an employee of any ERC Company.

(s) “Erickson Employees” means individuals who are classified by any ERC Company as an employee of an ERC Company, (including, in each case, those who are actively employed or on leave, disability or other absence from employment, and including officers and directors).

(t) “Environmental Claims” means all written accusations, allegations, investigations, written warnings, notice letters, liens, orders, written claims, written demands, suits or administrative or judicial actions for any injunctive relief, fines, penalties or any damage, including personal injury, property damage, lost use of property, natural resource damages or environmental response or remediation or removal costs arising out of Environmental Conditions on any real property.

(u) “Environmental Conditions” means the state of the environment, including natural resources, soil, air, surface water, subsurface ground water or any present or potential drinking water supply.

(v) “Environmental Requirements” means all present and future Laws and Permits relating in any way to human health (not including, however, Laws and Permits relating to patient care or services to residents), pollution, or protection of the environment.

(w) “ERC Companies” means, interchangeably and collectively as the context requires, ERC and the ERC Subs.

(x) “ERC Retained Communities” means the Retirement Communities known as (i) Monarch Landing, (ii) Sedgebrook, (iii) Linden Ponds, and (iv) Hickory Chase.

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

(z) “Final Confirmation Order” means the Confirmation Order, the operation or effect of which has not been reversed, stayed, modified, amended, vacated or supplemented and as to which order or judgment the time to appeal or seek review, rehearing, reargument, or certiorari has expired and as to which no appeal or petition for review, rehearing, reargument, or certiorari has been filed and remains pending.

(aa) “Final Order” means an order or judgment of the Bankruptcy Court, or other court of competent jurisdiction, other than the Final Confirmation Order, the operation or effect of which has not been reversed, stayed, modified, amended, vacated or supplemented and as to which order or judgment the time to appeal or seek review, rehearing, reargument or certiorari



has expired and as to which no appeal or petition for review, rehearing, reargument or certiorari has been filed and remains pending.

(bb) “GAAP” means United States generally accepted accounting principles consistently applied.

(cc) “Governance Documents” means, with respect to any entity, all documents (i) pursuant to which the legal existence of the entity is established (including, by way of example, the articles of organization of a limited liability company); (ii) that were adopted or approved by the owners, board of directors, managers or other similar management authority of the entity and set forth provisions for the regulation and management of the entity’s internal affairs (including, by way of example, the by-laws of a corporation); and (iii) that are binding upon any owners of the entity and establish the governance, economic and/or other rights of such owners in their capacity as such (including, by way of example, the partnership agreement of a partnership or the operating agreement of a limited liability company).

(dd) “Government Entity” means any federal, state, local or foreign government, court, agency, commission, department or other authority or instrumentality.

(ee) “Hazardous Materials” means any substance which is or becomes defined as a hazardous substance, hazardous waste, hazardous material, pollutant, contaminant or similar material, including (without limitation) petroleum and petroleum based products, asbestos or any other wastes, substances, products, pollutants or other materials that are regulated pursuant to any Environmental Requirement.

(ff) “Independent Contractor” means any natural person or any entity that serves primarily as a vehicle through which a single natural person provides products or services, in each case engaged by any Transferred Landowner or any Seller as an independent contractor.

(gg) “IP” means, interchangeably and collectively as the context requires, the following: (i) patents and invention disclosures, including continuations, divisionals, continuations-in-part, renewals and reissues; (ii) trademarks, service marks, trade names, trade dress, designs, logos, emblems, signs or insignia, slogans, domain names and other similar designations of source or origin, together with all goodwill symbolized by the foregoing; (iii) copyrights and copyrightable material; (iv) trade secrets and other confidential information, know-how, customer lists, prospect lists, business plans, inventions, proprietary processes, formulae, algorithms, models and methodologies; (v) rights of publicity and privacy relating to the use of the names, likenesses, voices, signatures and biographical information of natural persons; (vi) all rights with respect to hardware, software, computer programs, computer program code (including source code and executable code), the algorithms underlying any computer program, documentation associated with any software, data and databases, to the extent not otherwise embodied in the foregoing clauses (i)-(vi); (vii) all moral rights and/or rights of attribution and/or integrity in any of the foregoing; (viii) registrations and applications for any of the foregoing; (ix) the right to sue for past infringement or unauthorized use of any of the foregoing; and (x) all other intellectual property.

(hh) “IRS” means the Internal Revenue Service.

(ii) “JCE” means John C. Erickson

(jj) “Knowledge of the Erickson Parties” means the actual knowledge of the following individuals, and the knowledge such individuals would have after making reasonable inquiry of employees reporting directly to them: JCE, Gerald F. Doherty, Jeffrey A. Jacobson, Rick Grindrod, Mark R. Erickson, Debra B. Doyle, Adam Kane, Scott Erickson, Matthew J. Narrett, M.D., Tom Neubauer, Tom Brod and Wayne Rush.

(kk) “Landowner Retained Cash” means, interchangeable and collectively as the context requires, the Ashburn Retained Cash, the Concord Retained Cash, the Dallas Retained Cash, the Houston Retained Cash, the Littleton Retained Cash and the Novi Retained Cash.

(ll) “Laws” means all applicable federal, state, local and foreign laws (including common law), codes, statutes, rules, regulations, ordinances and policies, and all applicable orders, judgments, arbitration awards, decrees, administrative or judicial promulgations, injunctions, determinations, Permits of, agreements with, and rulings of or by any Government Entity.

(mm) “Liability” means any debt, liability, commitment or obligation of any kind, character or nature whatsoever, secured or unsecured, accrued, fixed, absolute, contingent or otherwise, and whether due or to become due.

(nn) “Liens” means all mortgages, liens, pledges, security interests, and charging orders and any other encumbrance, right or interest of any kind or character, whether vested or contingent, that evidences or secures a debt, payment obligation or adverse ownership interest in the property in question, including any (i) interest of joint tenants, tenants in common and tenants by the entirety; (ii) community or other marital property interest; or (iii) interests arising from any divorce decree, separation agreement, prenuptial agreement or other similar domestic relations order or agreement.

(oo) “Management Agreement Counterparty” means the Person for whom an ERC Company is engaged to perform management services under a Management Agreement currently in effect.

(pp) “Material Adverse Effect” means, with respect to a Person, any change, effect, circumstance or event that individually or in the aggregate (i) is materially adverse to the business, financial condition, results of operations, prospects or assets of such Person, or (ii) will materially adversely affect the ability of such Person to perform its obligations under this Agreement or timely consummate the Transactions; *provided, however*, that the Parties agree that a decline of up to seventy-five percent (75%) in the amount of initial entrance deposits collected from prospective residents, in the aggregate across all Retirement Communities, over the period from the Original Execution Date to the Closing Date, shall not constitute a Material Adverse Effect.

(qq) “Medical Claims Cash” means all cash held by ERC for the purpose of paying self-funded medical or dental claims, medical or dental insurance premiums (including stop-loss premiums), and related administrative expenses, including amounts reflected as accounts 10250 and 10255 on the ERC balance sheet.

(rr) “NFP” means any not-for-profit entity that is a Management Agreement Counterparty.

(ss) “NSC” means National Senior Campuses, Inc., a Maryland non-stock corporation.

(tt) “Option Period” means the period beginning on the date of this Agreement and ending at 11:59 p.m. on the first (1st) anniversary of the Closing Date.

(uu) “Ordinary Course” means, with respect to any Person, the ordinary course of such Person’s business, consistent with past practice in nature, scope and magnitude; *provided, however,* the Parties acknowledge and agree that initial entrance deposits collected from prospective residents, in the aggregate across all Retirement Communities, over the period from the Original Execution Date to the Closing Date may decline by as much as seventy-five percent (75%).

(vv) “Permits” means all applicable Approvals, permits (including environmental, construction and operation permits), licenses, certificates, exemptions, classifications and other similar documents, rights and authorizations issued by any Government Entity.

(ww) “Person” means an individual, a sole proprietorship, a partnership, a corporation, an association, an institution, a joint stock company, a limited liability company, a trust, a joint venture, an unincorporated organization, or a Government Entity or any other legal entity.

(xx) “Petition Date” means the date on which a Debtor filed its petition for relief commencing the Bankruptcy Case.

(yy) “Project Debt” means the indebtedness identified on Exhibit X.

(zz) “Project Lenders” means the Persons to whom the Project Debt is owed.

(aaa) “Reorganization Plan” means a Debtor's amended and restated plan of reorganization under Chapter 11 of the Bankruptcy Code, as consented to by Redwood, as the same is to be filed and may be amended pursuant to Section 7.1.

(bbb) “Representatives” means, with respect to any person, the directors, officers, employees, financial advisors, attorneys, accountants, consultants, agents and other authorized representatives of such Person.

(ccc) “Required Percentage” means, with respect to any class of creditors, collectively, (i) more than one-half of the number of such creditors and (ii) such creditors representing at least two-thirds of the dollar amount of the debt held by such creditors.

(ddd) “Retirement Communities” means continuing care retirement communities owned, managed or under development by ERC or one of its Affiliates as of the Original Execution Date.

(eee) “Standalone NFPs” means all NFPs other than the NSC-Supported NFPs.

(fff) “Subsidiary” means, with respect to any Person, an entity beneficially owned, directly or indirectly through one or more other Persons, by such Person.

(ggg) “Tax-Exempt Bond” means any security (i) the proceeds of which were used to acquire, finance or refinance any property used or to be used by any ERC Company or any NFP;

and (ii) with respect to which there has been delivered an opinion of counsel to the effect that the interest on such security is excludable from gross income for federal income tax purposes.

(hhh) “Taxes” means all taxes, assessments, charges, duties, fees, levies or other governmental charges (including interest, penalties or additions associated therewith), including income, franchise, capital stock, real property, personal property, tangible, estimated withholding, employment, payroll, social security, unemployment compensation, disability, transfer, sales, use, excise, gross receipts, value-added and all other taxes of any kind imposed by any Government Entity, whether disputed or not, and any charges, interest or penalties imposed or that may be imposed thereon by any Government Entity.

(iii) “Tax Return” means any return, declaration, report, claim for refund, or information return or statement relating to Taxes, including any schedule or attachment thereto, and including any amendment thereof.

(jjj) “Transferred Claims” means, with respect to each Seller, all of such Seller’s claims and causes of action (including counterclaims and similar rights) and rights of recovery related thereto, including avoidance actions arising under the Bankruptcy Code and director and officer liability claims.

(kkk) “Transferred Contracts” means the Contracts listed on Exhibit D (as such Exhibit D may be modified from time to time by Redwood after the Execution Date).

(lll) “Warminster Purchase Option Agreement” means the Amended and Restated Purchase Option Agreement, dated as of December 1, 2005, by and among Warminster Owner, ERC and Ann’s Choice, Inc.

**1.2 Additional Defined Terms.** In addition to the terms defined in Section 1.1, each of the following terms is defined in the Section set forth opposite such term:

<u>Term</u>	<u>Section</u>
Acquisition Companies .....	Preamble
Agreement .....	Preamble
Alternative Transaction .....	7.5(c)
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**1.3 Interpretation.** Unless the context of this Agreement otherwise clearly requires, (a) references to the plural include the singular, and references to the singular include the plural, (b) references to any gender include the other genders, (c) the words “include,” “includes” and “including” do not limit the preceding terms or words and shall be deemed to be followed by the

words “without limitation”, (d) the terms “hereof”, “herein”, “hereunder”, “hereto” and similar terms in this Agreement refer to this Agreement as a whole and not to any particular provision of this Agreement, (e) the terms “day” and “days,” if not capitalized, mean and refer to calendar day(s), and (f) the terms “year” and “years” mean and refer to calendar year(s). Unless otherwise set forth herein, references in this Agreement to any document, instrument or agreement (including this Agreement) (A) includes and incorporates all schedules and other attachments thereto, (B) includes all documents, instruments or agreements issued or executed in replacement thereof and (C) means such document, instrument or agreement, or replacement or predecessor thereto, as amended, modified or supplemented from time to time in accordance with its terms and in effect at any given time. Unless otherwise specified, (x) all Articles, Sections and Schedules referenced herein are Articles, Sections and Schedules of this Agreement; and (y) all accounting terms not defined in this Agreement shall be construed in accordance with GAAP.

## **Article II      THE PURCHASE AND SALE.**

**2.1      Purchased Assets.** Subject to the terms, conditions and other provisions of this Agreement, at the Closing:

(a)      ERC shall grant, sell, assign, transfer and deliver to PropCo, and PropCo shall purchase from ERC, all right, title, and interest in the limited partnership interests or limited liability company interests, as the case may be (the “Transferred Landowner Interests”), in and to the ERC Subs listed on Exhibit C (the “Transferred Landowners”), free and clear of all Liens and Liabilities encumbering said ownership interests.

(b)      Intentionally reserved.

(c)      ERC shall grant, sell, assign, transfer and deliver to ManagementCo, and ManagementCo shall purchase from ERC, free and clear of all Liens and Liabilities encumbering ERC’s interests therein, all right, title and interest in:

(i)      the Transferred Management Contracts (if any);

(ii)     the B&R Notes;

(iii)    all other assets and properties of ERC of every kind and description, wherever located, whether real, personal or mixed, tangible or intangible, owned, leased or licensed, other than Excluded Assets and other than assets owned by the Transferred Landowners (which are being transferred indirectly by PropCo’s acquisition of the Transferred Landowner Interests) (collectively, the “Other Transferred Assets” and, together with the Transferred Landowner Interests, Transferred Management Contracts and the B&R Notes, the “ERC Assets”), including:

(A)     cash and cash equivalents of ERC (other than Medical Claims Cash and Cash Collateral) in an amount not to exceed Ten Million Dollars (\$10,000,000);

(B)     all Medical Claims Cash;



- (C) all cash collateral securing any Assumed Liability (collectively, the "Cash Collateral");
- (D) the Transferred Contracts to which ERC is a party;
- (E) furnishings, furniture, supplies, tools, machinery, monitoring and other equipment and other personal property and fixed assets;
- (F) all IP, including all data pertaining to Retirement Communities and residents thereof (unless prohibited by Law), and all techniques, methodologies, processes, programs, brand standards and analyses related thereto;
- (G) original books and records, including, to the extent permitted by applicable Law, (x) all personnel records for Transferred Employees, and (y) all Organizational Documents and minute books of the Transferred Landowners;
- (H) Permits, to the extent transferrable pursuant to applicable Law;
- (I) all Transferred Claims of ERC;
- (J) insurance policies; and
- (K) the real property at each of 701, 703, 705 and 813 Maiden Choice Lane, Baltimore, Maryland 21228.

(d) Kansas Owner shall grant, sell, assign, transfer and deliver to Redwood Kansas, and Redwood Kansas shall purchase from Kansas Owner, all assets of Kansas Owner, free and clear of all Liens and Liabilities (except for Assumed Liabilities to be assumed by Redwood Kansas and the Liens securing such Liabilities) all assets and properties of Kansas Owner of every kind and description, wherever located, whether real, personal or mixed, tangible or intangible, owned, leased or licensed, including all real property, all Transferred Claims of Kansas Owner, all initial entrance deposits (the "Kansas IEDs") and all Transferred Contracts to which Kansas Owner is a party, but not including any Excluded Assets (collectively, the "Kansas Assets").

(e) Ashburn Owner shall grant, sell, assign, transfer and deliver to Redwood Ashburn, and Redwood Ashburn shall purchase from Ashburn Owner, free and clear of all Liens and Liabilities (except for Assumed Liabilities to be assumed by Redwood Ashburn and the Liens securing such Liabilities) all assets and properties of Ashburn Owner of every kind and description, wherever located, whether real, personal or mixed, tangible or intangible, owned, leased or licensed, including cash and cash equivalents in the amount of \$1,900,000 (the "Ashburn Retained Cash"), all real property, all Transferred Claims of Ashburn Owner and all Transferred Contracts to which Ashburn Owner is a party, but not including any Excluded Assets (collectively, the "Ashburn Assets").

(f) Concord Owner shall grant, sell, assign, transfer and deliver to Redwood Concord, and Redwood Concord shall purchase from Concord Owner, free and clear of all Liens and Liabilities (except for Assumed Liabilities to be assumed by Redwood Concord and the Liens securing such Liabilities) all assets and properties of Concord Owner of every kind and

description, wherever located, whether real, personal or mixed, tangible or intangible, owned, leased or licensed, including cash and cash equivalents in the amount of \$6,300,000 (the "Concord Retained Cash"), all real property, all Transferred Claims of Concord Owner and all Transferred Contracts to which Concord Owner is a party, but not including any Excluded Assets (collectively, the "Concord Assets").

(g) Dallas Owner shall grant, sell, assign, transfer and deliver to Redwood Dallas, and Redwood Dallas shall purchase from Dallas Owner, free and clear of all Liens and Liabilities (except for Assumed Liabilities to be assumed by Redwood Dallas and the Liens securing such Liabilities) all assets and properties of Dallas Owner of every kind and description, wherever located, whether real, personal or mixed, tangible or intangible, owned, leased or licensed, including cash and cash equivalents in the amount of \$1,700,000 (the "Dallas Retained Cash"), all real property, all Transferred Claims of Dallas Owner and all Transferred Contracts to which Dallas Owner is a party, but not including any Excluded Assets (collectively, the "Dallas Assets").

(h) Houston Owner shall grant, sell, assign, transfer and deliver to Redwood Houston, and Redwood Houston shall purchase from Houston Owner, free and clear of all Liens and Liabilities (except for Assumed Liabilities to be assumed by Redwood Houston and the Liens securing such Liabilities) all assets and properties of Houston Owner of every kind and description, wherever located, whether real, personal or mixed, tangible or intangible, owned, leased or licensed, including cash and cash equivalents in the amount of \$1,800,000 (the "Houston Retained Cash"), all real property, all Transferred Claims of Houston Owner and all Transferred Contracts to which Houston Owner is a party, but not including any Excluded Assets (collectively, the "Houston Assets").

(i) Littleton Owner shall grant, sell, assign, transfer and deliver to Redwood Littleton, and Redwood Littleton shall purchase from Littleton Owner, free and clear of all Liens and Liabilities (except for Assumed Liabilities to be assumed by Redwood Littleton and the Liens securing such Liabilities) all assets and properties of Littleton Owner of every kind and description, wherever located, whether real, personal or mixed, tangible or intangible, owned, leased or licensed, including cash and cash equivalents in the amount of \$2,100,000 (the "Littleton Retained Cash"), all real property, all Transferred Claims of Littleton Owner and all Transferred Contracts to which Littleton Owner is a party, but not including any Excluded Assets (collectively, the "Littleton Assets").

(j) Novi Owner shall grant, sell, assign, transfer and deliver to Redwood Novi, and Redwood Novi shall purchase from Novi Owner, free and clear of all Liens and Liabilities (except for Assumed Liabilities to be assumed by Redwood Novi and the Liens securing such Liabilities) all assets and properties of Novi Owner of every kind and description, wherever located, whether real, personal or mixed, tangible or intangible, owned, leased or licensed, including cash and cash equivalents in the amount of \$5,600,000 (the "Novi Retained Cash"), all real property, all Transferred Claims of Novi Owner and all Transferred Contracts to which Novi Owner is a party, but not including any Excluded Assets (collectively, the "Novi Assets").

(k) Tinton Falls II Owner shall grant, sell, assign, transfer and deliver to Redwood Tinton Falls II, and Redwood Tinton Falls II shall purchase from Tinton Falls II Owner, free and clear of all Liens and Liabilities (except for Assumed Liabilities to be assumed by Redwood Tinton Falls II and the Liens securing such Liabilities) all assets and properties of Tinton Falls II Owner of every kind and description, wherever located, whether real, personal or mixed, tangible or intangible, owned, leased or licensed, including all real property, all Transferred Claims of

Tinton Falls II Owner and all Transferred Contracts to which Tinton Falls II Owner is a party, but not including any Excluded Assets (collectively, the "Tinton Falls II Assets").

(l) Erickson Construction shall grant, sell, assign, transfer and deliver to DevCo, and DevCo shall purchase from Erickson Construction, all assets and properties of Erickson Construction of every kind and description, wherever located, whether real, personal or mixed, tangible or intangible, owned, leased or licensed, including all Transferred Claims of Erickson Construction and all Transferred Contracts to which Erickson Construction is a party, but not including any Excluded Assets (collectively, the "Construction Assets").

(m) SCC shall grant, sell, assign, transfer and deliver to Redwood Senior Care, and Redwood Senior Care shall purchase from SCC, all assets and properties of SCC of every kind and description, wherever located, whether real, personal or mixed, tangible or intangible, owned, leased or licensed, including all Transferred Claims of SCC and all Transferred Contracts to which SCC is a party, but not including any Excluded Assets (collectively, the "SCC Assets") and, together with the Ashburn Assets, the Concord Assets, the Dallas Assets, the Houston Assets, the Kansas Assets, the Littleton Assets, the Novi Assets, the Tinton Falls II Assets, the Construction Assets and the ERC Assets, collectively the "Purchased Assets").

(n) Notwithstanding any provision of this Agreement identifying any particular Acquisition Company as the purchaser of any Purchased Asset, from time to time prior to Closing, Redwood may designate any other Acquisition Company to be the purchaser of such Purchased Asset.

**2.2 Excluded Assets.** Notwithstanding anything herein to the contrary, the Purchased Assets will not include the following assets of any Seller (collectively, the "Excluded Assets"):

(a) cash and cash equivalents of ERC (other than Medical Claims Cash and Cash Collateral) in excess of Ten Million Dollars (\$10,000,000);

(b) the real property at 5525 Research Park Drive, Baltimore, Maryland 21250;

(c) equity securities of, and other ownership interests of any kind in, Affiliates of ERC other than the Transferred Landowners ("Excluded Affiliates");

(d) all Contracts other than the Transferred Contracts, the B&R Notes and the Transferred Management Contracts (the "Excluded Contracts"), which Excluded Contracts (to the extent entered into by a Transferred Landowner or by the Sellers in connection with the ERC Assets) shall be rejected by the applicable Debtor in bankruptcy;

(e) the Organizational Documents and minute books of ERC and the Excluded Affiliates;

(f) Permits and residents' records, if any that ERC is prohibited by applicable Law from transferring to ManagementCo;

(g) personnel records for Erickson Employees who are not Transferred Employees ("Retained Employees") and, to the extent ERC is prohibited by applicable Law from transferring such records to ManagementCo, for Transferred Employees;

(h) all employee compensation and benefit plans, programs, policies and arrangements, including Employee Plans;

(i) all initial entrance deposits of Subsidiary Sellers, other than the Kansas IEDs and all IEDs collected by Warminster Owner after November 27, 2009;

(j) cash and cash equivalents (A) of Ashburn Owner other than the Ashburn Retained Cash, (B) of Concord Owner other than the Concord Retained Cash, (C) of Dallas Owner other than the Dallas Retained Cash, (D) of Houston Owner other than the Houston Retained Cash, (E) of Littleton Owner other than the Littleton Retained Cash, and (F) of Novi Owner other than the Novi Retained Cash; and

(k) the real property consisting of Lot 1, Block 1 (consisting of 12.5 acres±) and Lot 1, Block 2 (consisting of 18 acres±), as shown on the Erickson Subdivision Plat recorded on November 29, 2005 at Reception No. 2005113790, County of Douglas, State of Colorado.

**2.3 Assumed Liabilities.** Subject to the terms, conditions, and other provisions of this Agreement, at and effective as of the Closing:

(a) each Redwood Party shall assume only the following Liabilities of the Sellers, and only to the extent specified with respect to each Redwood Party, but no other Liabilities:

(i) Each Subsidiary Buyer shall assume only the following Liabilities of the applicable Subsidiary Seller that are to be paid, performed or discharged by the such Subsidiary Seller after the Closing with respect to matters solely and exclusively arising from or related to the period after the Closing (collectively, the "Assumed Subsidiary Liabilities"), but no other Liabilities:

(A) Liabilities under the Transferred Contracts it purchases from such Subsidiary Seller;

(B) Liabilities under each of the applicable Amended and Restated Community Loan (defined below) Contracts; and

(C) With respect to Redwood Kansas, the Liabilities of Kansas Owner arising after the Closing with respect to \$14,950,000 (principal amount) Transportation Development District Special Assessment Bonds, Series 2006 issued by the City of Overland Park, Kansas (the "Assumed Kansas Liabilities").

(ii) ManagementCo shall assume only the Liabilities of ERC under the Transferred Contracts it purchases from ERC and Transferred Management Contracts, that are to be paid, performed or discharged by the applicable Seller after the Closing with respect to matters solely and exclusively arising from or related to the period after the Closing (the "Assumed Management Liabilities"), but no other Liabilities.

The Assumed Management Liabilities and the Assumed Subsidiary Liabilities are sometimes referred to collectively as the "Assumed Liabilities".

**2.4 Excluded Liabilities.** Notwithstanding anything herein to the contrary, except for the Assumed Liabilities, no Redwood Party shall assume, agree to pay, discharge or satisfy, or otherwise have any responsibility for any Liability of any Erickson Party or Affiliate of any Erickson Party (collectively, the "Excluded Liabilities"), including for avoidance of doubt any Liabilities:

(a) for Taxes (other than real property taxes and assessments ratably attributable to the period after Closing pursuant to Section 4.3(b));

(b) arising out of or related to any Excluded Asset;

(c) under the Transferred Contracts arising from or related to matters occurring thereunder prior to the Closing;

(d) under the Transferred Management Contracts arising from or related to matters occurring thereunder prior to the Closing;

(e) related to Retained Employees, or related to Transferred Employees to the extent such Liability is attributable to events or circumstances occurring or existing at or prior to the Closing, including all Liabilities with respect to severance benefits;

(f) under or related to any employee compensation or benefit plan, program, policy or arrangement presently or formerly maintained or contributed to by any Erickson Party, Management Agreement Counterparty, any of their respective Affiliates, or any other Person, including or related to any Employee Plans;

(g) any indebtedness other than the Amended and Restated Community Loans and the Assumed Kansas Liabilities; or

(h) otherwise attributable to or arising out of the ownership or operation of any Purchased Assets or the Business as of or prior to the Closing (including any Environmental Claims, and Liabilities arising out of violations of Law).

**2.5 Options to Acquire Certain Additional Assets.**

(a) ERC hereby grants to Redwood or its designee the exclusive and irrevocable right to purchase, at any time during the Option Period on terms and conditions mutually agreed upon by ERC and Redwood as set forth in an option agreement entered into between ERC and Redwood, all right, title, and interest in and to the limited liability company interests in and to Hingham Owner, subject to receipt of all Approvals of Governmental Entities and third Persons necessary for the consummation of such purchase,.

(b) Hingham Owner hereby grants to Redwood or its designee the exclusive and irrevocable right to purchase, at any time during the Option Period on terms and conditions mutually agreed upon by Hingham Owner and Redwood as set forth in an option agreement entered into between Hingham Owner and Redwood, all right, title, and interest in and to any or all assets and properties of Hingham Owner of every kind and description, wherever located, whether real, personal or mixed, tangible or intangible, owned, leased or licensed, subject to receipt of all Approvals of Governmental Entities and third Persons necessary for the consummation of such purchase.

(c) ERC hereby grants to Redwood or its designee the exclusive and irrevocable right to purchase, at any time during the Option Period on terms and conditions mutually agreed upon by ERC and Redwood as set forth in an option agreement entered into between ERC and Redwood, all right, title, and interest in and to the limited liability company interests in and to Lincolnshire Owner, subject to receipt of all Approvals of Governmental Entities and third Persons necessary for the consummation of such purchase,.

(d) Lincolnshire Owner hereby grants to Redwood or its designee the exclusive and irrevocable right to purchase, at any time during the Option Period on terms and conditions mutually agreed upon by Lincolnshire Owner and Redwood as set forth in an option agreement entered into between Lincolnshire Owner and Redwood, all right, title, and interest in and to any or all assets and properties of Lincolnshire Owner of every kind and description, wherever located, whether real, personal or mixed, tangible or intangible, owned, leased or licensed, subject to receipt of all Approvals of Governmental Entities and third Persons necessary for the consummation of such purchase.

(e) ERC hereby grants to Redwood or its designee the exclusive and irrevocable right to purchase, at any time during the Option Period on terms and conditions mutually agreed upon by ERC and Redwood as set forth in an option agreement entered into between ERC and Redwood, all right, title, and interest in and to the limited liability company interests in and to Naperville Owner, subject to receipt of all Approvals of Governmental Entities and third Persons necessary for the consummation of such purchase,.

(f) Naperville Owner hereby grants to Redwood or its designee the exclusive and irrevocable right to purchase, at any time during the Option Period on terms and conditions mutually agreed upon by Naperville Owner and Redwood as set forth in an option agreement entered into between Naperville Owner and Redwood, all right, title, and interest in and to any or all assets and properties of Naperville Owner of every kind and description, wherever located, whether real, personal or mixed, tangible or intangible, owned, leased or licensed, subject to receipt of all Approvals of Governmental Entities and third Persons necessary for the consummation of such purchase.

(g) ERC hereby grants to Redwood or its designee the exclusive and irrevocable right to purchase, at any time during the Option Period on terms and conditions mutually agreed upon by ERC and Redwood as set forth in an option agreement entered into between ERC and Redwood, all right, title, and interest in and to the limited liability company interests in and to PV Owner, subject to receipt of all Approvals of Governmental Entities and third Persons necessary for the consummation of such purchase,.

(h) PV Owner hereby grants to Redwood or its designee the exclusive and irrevocable right to purchase, at any time during the Option Period on terms and conditions mutually agreed upon by PV Owner and Redwood as set forth in an option agreement entered into between PV Owner and Redwood, all right, title, and interest in and to any or all assets and properties of PV Owner of every kind and description, wherever located, whether real, personal or mixed, tangible or intangible, owned, leased or licensed, subject to receipt of all Approvals of Governmental Entities and third Persons necessary for the consummation of such purchase.

### **Article III COMMITMENT FEE; CONSIDERATION.**

**3.1 Commitment Fee.** As an inducement for the Redwood Parties to enter into this Agreement, ERC has paid One Million Five Hundred Thousand Dollars (\$1,500,000) (the

“Commitment Fee”) to Redwood. Redwood has placed, and agrees to maintain between the Execution Date and the Closing Date, \$25,000,000 in bank accounts in the name of certain of the Acquisition Companies to facilitate consummation of the Transactions.

**3.2 Closing Statement.** (a) Three (3) Business Days prior to the Closing Date, ERC shall deliver to Redwood a draft of the written statement contemplated by Section 3.2(b).

(b) On the Closing Date, ERC shall deliver to Redwood a written statement, certified by the principal financial officer of ERC as being true, complete and accurate to the best of his/her knowledge, information and belief setting forth, as of the Closing:

- (i) the amount of ERC’s cash and cash equivalents (other than Medical Claims Cash and Cash Collateral) on hand (the “Closing Date Cash Amount”);
- (ii) the amount of Medical Claims Cash and the amount of Cash Collateral;
- (iii) if the Closing Date Cash Amount is:
  - (A) less than Ten Million Dollars (\$10,000,000), the difference between the Closing Date Cash Amount and Ten Million Dollars (\$10,000,000) (such difference, the “Purchase Price Cash Offset”), or
  - (B) greater than Ten Million Dollars (\$10,000,000), the excess of the Closing Date Cash Amount over Ten Million Dollars (\$10,000,000) (such excess, the “Distributable Cash on Hand”);
- (iv) the total amount of initial entrance deposits collected by Transferred Landowners (excluding Warminster Owner) and the Sellers (excluding Kansas Owner) after November 27, 2009 (the “Post-November 27 IEDs”); and
- (v) the “Closing Cash Payment,” calculated, subject to Section 8.1(a), as Three Hundred Sixty-Five Million Dollars (\$365,000,000), less (x) the Purchase Price Cash Offset (if any), (y) the NSC Payment and (z) the Post-November 27 IEDs.

**3.3 Consideration.** (a) In consideration for the sale, assignment, and conveyance of the Sellers’ right, title, and interest in, to and under the Purchased Assets, Redwood shall, on behalf of ManagementCo, PropCo and the Subsidiary Buyers, at the Closing pay the Closing Cash Payment, for the account of the Debtors, by wire transfer of immediately available funds, to be applied by the Debtors, subject to the terms and conditions of the DIP Order and the Reorganization Plan, in the following order of priority:

- (i) first, to the payment in full of the Debtors’ professional fees, including the success fees of Alvarez & Marsal and Houlihan Lokey, as authorized by the Bankruptcy Court; and

- (ii) second, the remainder to be applied in accordance with (x) the Reorganization Plans, as confirmed by the Final Confirmation Order, and the DIP Order, or (y) a final order of the Bankruptcy Court.

(b) The Redwood Parties shall assume the Assumed Liabilities (with respect to each Redwood Party, only to the extent specified with respect to such Redwood Party as specified herein).

(c) To the extent the actual amount of cash and cash equivalents conveyed by Ashburn Owner, Concord Owner, Dallas Owner, Houston Owner, Littleton Owner and/or Novi Owner to the applicable Subsidiary Buyer at Closing is less than the applicable amount of Landowner Retained Cash stated in Section 2.1, the Closing Cash Payment shall be reduced on a dollar-for-dollar basis.

**3.4 Allocation.** Prior to Closing, Redwood shall notify ERC and each applicable Subsidiary Seller in writing as to the manner in which the consideration payable to it by Redwood under this Agreement will be allocated among the Purchased Assets for Tax purposes (the "Purchase Price Allocation"). The Parties agree to make consistent use of the Purchase Price Allocation for all Tax purposes and in all filings with, and declarations and reports to, all Governmental Entities. In any Action relating to the determination of any Tax, no Party shall contest the Purchase Price Allocation or assert that the Purchase Price Allocation is not correct.

#### **Article IV CLOSING.**

**4.1 Closing.** The closing of the Transactions (the "Closing") shall occur as soon as reasonably practicable, but in any event no later than the fifth (5th) Business Day, following the day upon which all of the conditions to Closing have been satisfied or waived (other than those conditions which by their terms cannot be satisfied until the Closing), at the offices of Venable LLP in Baltimore, Maryland, or at such other date and location as Redwood and ERC may agree upon in writing. The date on which the Closing actually occurs, or the date on which Redwood and ERC agree the Closing is deemed to occur, is referred to herein as the "Closing Date."

#### **4.2 Closing Deliveries.**

(a) At the Closing:

- (i) ERC shall execute (as applicable) and deliver:
  - (A) the Distributable Cash on Hand (if any) by wire transfer of immediately available funds in accordance with (x) the Reorganization Plans, as confirmed by the Final Confirmation Order, or (y) a final order of the Bankruptcy Court;
  - (B) to PropCo, an Assignment of Limited Liability Company Interests with respect to each of the Transferred Landowners that is a limited liability company, each in substantially the form attached hereto as Exhibit G (the "LLC Interest Assignments");
  - (C) to PropCo, an Assignment of Limited Partnership Interests with respect to each of the Transferred Landowners that is a limited



partnership, each in substantially the form attached hereto as Exhibit H (the “LP Interest Assignments”);

- (D) to ManagementCo, an Assignment and Assumption Agreement with respect to the Transferred Management Contracts in substantially the form attached hereto as Exhibit I (the “Management Contract Assignment”);
- (E) to ManagementCo, an Assignment of Trademarks and Domain Names in substantially the form attached hereto as Exhibit J (the “Trademark & Domain Name Assignment”);
- (F) to ManagementCo, an Assignment of Copyrights in substantially the form attached hereto as Exhibit L (the “Copyright Assignment”);
- (G) to ManagementCo, a Bill of Sale with respect to the Other Transferred Assets (except for those covered by the Trademark & Domain Name Assignment) in substantially the form attached hereto as Exhibit K (the “ERC Bill of Sale” and, together with the LLC Interest Assignments, the LP Interest Assignments, the Management Contract Assignment, the Trademark & Domain Name Assignment, and the Copyright Assignment, the “ERC Conveyance Documents”);
- (H) to Redwood, a mutually-acceptable Non-Competition Agreement, entered into solely as an inducement for the Redwood Parties to consummate the Transactions, and not for any other consideration;
- (I) to Redwood, a certificate executed by its principal executive officer as to the satisfaction of the conditions in Sections 8.1(a), 8.1(b) and 8.1(e) or identifying any material respect in which any representation of ERC is no longer true and correct;
- (J) to Redwood, a certificate executed by the Secretary or an Assistant Secretary of ERC (x) as to the incumbency of the individual(s) signing the applicable Erickson Agreements on behalf of ERC and (y) certifying that the resolutions of the Board of Directors of ERC approving this Agreement and the Transactions (copies of which shall be attached to such certificate) are true and correct, are in full force and effect, and have not been rescinded, modified, amended or supplemented;
- (K) a certified copy of the Court Approval;
- (L) a certificate executed by ERC, or if ERC is a disregarded entity for federal income Tax purposes, by the entity that is the owner of ERC for such purposes, in the form prescribed under Treasury Regulation Section 1.1445-2(b), that ERC, or, if applicable, such

owner, is not a foreign person within the meaning of Section 1445(f)(3) of the Code; and

- (M) to ManagementCo, (x) the Closing Date Cash Amount or Ten Million Dollars (\$10,000,000), whichever is less, (y) the Medical Claims Cash, and (z) the Cash Collateral.
- (ii) Parent shall execute (as applicable) and deliver:
    - (A) to Redwood, a mutually-acceptable Non-Competition Agreement, entered into solely as an inducement for the Redwood Parties to consummate the Transactions, and not for any other consideration; and
    - (B) to Redwood, a certificate executed by the Secretary or an Assistant Secretary of Parent (x) as to the incumbency of the individual(s) signing the applicable Erickson Agreements on behalf of Parent and (y) certifying that the resolutions of the board of directors or other similar governing body of Parent approving this Agreement and the Transactions (copies of which shall be attached to such certificate) are true and correct, are in full force and effect, and have not been rescinded, modified, amended or supplemented.
  - (iii) Transferred Landowners shall execute and deliver resignations of the managers, directors and officers, as applicable, of the Transferred Landowners, to Redwood as requested by Redwood.
  - (iv) Each Subsidiary Seller shall execute and deliver to the applicable Subsidiary Buyer:
    - (A) a special warranty deed conveying to such Subsidiary Buyer fee simple title to the Owned Real Property owned by such Subsidiary Seller (if any) (other than Owned Real Property expressly included in the Excluded Assets), subject only to the applicable Assumed Liabilities (if any), and in form and substance satisfactory to Redwood (the “Real Property Conveyance Documents”);
    - (B) a Bill of Sale with respect to all other assets of such Subsidiary Seller (except for those covered by the Real Property Conveyance Documents) in substantially the form attached hereto as Exhibit K (collectively, together with the Real Property Conveyance Documents, the “Subsidiary Conveyance Documents”);
    - (C) a certificate executed by the Secretary or an Assistant Secretary of such Subsidiary Seller (x) as to the incumbency of the individual(s) signing the applicable Erickson Agreements on behalf of such Subsidiary Seller and (y) certifying that the resolutions of the board of directors (or other similar governing

body) and member(s) of such Subsidiary Seller approving this Agreement and the Transactions (a copy of which shall be attached to such certificate) are true and correct, are in full force and effect, and have not been rescinded, modified, amended or supplemented; and

- (D) a certificate executed by such Subsidiary Seller, or if such Subsidiary Seller is a disregarded entity for federal income Tax purposes, by the entity that is the owner of such Subsidiary Seller for such purposes, in the form prescribed under Treasury Regulation Section 1.1445-2(b), that if such Subsidiary Seller owns any real property, or, if applicable, such owner, is not a foreign person within the meaning of Section 1445(f)(3) of the Code.
- (v) Redwood shall execute (as applicable) and deliver:
- (A) the Closing Cash Payment;
  - (B) to ERC, the Commitment Fee plus (if any) the excess of the Transaction Cost Advance over the actual amount of the Redwood Transaction Costs;
  - (C) to NSC, by wire transfer of immediately available funds, Nine Million Dollars (\$9,000,000) (the “NSC Payment”);
  - (D) intentionally reserved;
  - (E) to ERC, a certificate executed by its principal executive officer as to the satisfaction of the conditions in Sections 8.2(a) and 8.2(b); and
  - (F) to ERC, a certificate executed by the Secretary or an Assistant Secretary of Redwood (x) as to the incumbency of the individual(s) signing the applicable Redwood Agreements on behalf of Redwood and (y) certifying that the resolutions of the board of directors or other similar governing body of Redwood approving this Agreement and the Transactions (copies of which shall be attached to such certificate) are true and correct, are in full force and effect, and have not been rescinded, modified, amended or supplemented.
- (vi) PropCo shall execute and deliver:
- (A) the LLC Interest Assignments;
  - (B) the LP Interest Assignments; and
  - (C) a certificate executed by the Secretary or an Assistant Secretary of PropCo (x) as to the incumbency of the individual(s) signing the applicable Redwood Agreements on behalf of PropCo and

(y) certifying that the resolutions of the board of directors or other similar governing body of PropCo approving this Agreement and the Transactions (copies of which shall be attached to such certificate) are true and correct, are in full force and effect, and have not been rescinded, modified, amended or supplemented.

- (vii) Intentionally Reserved.
- (viii) ManagementCo shall execute and deliver:
  - (A) to ERC, the Management Contract Assignment, the ERC Bill of Sale, the Trademark & Domain Name Assignment, and the Copyright Assignment;
  - (B) to JCE, the Consulting and License Agreement; and
  - (C) to ERC, a certificate executed by the Secretary or an Assistant Secretary of ManagementCo (x) as to the incumbency of the individual(s) signing the applicable Redwood Agreements on behalf of ManagementCo and (y) certifying that the resolutions of the board of directors or other similar governing body of ManagementCo approving this Agreement and the Transactions (copies of which shall be attached to such certificate) are true and correct, are in full force and effect, and have not been rescinded, modified, amended or supplemented.
- (ix) Each Subsidiary Buyer shall execute and deliver to the applicable Subsidiary Seller:
  - (A) the Subsidiary Conveyance Documents; and
  - (B) a certificate executed by the Secretary or an Assistant Secretary of such Subsidiary Buyer (x) as to the incumbency of the individual(s) signing the applicable Redwood Agreements on behalf of such Subsidiary Buyer and (y) certifying that the resolutions of the board of directors or other similar governing body of such Subsidiary Buyer approving this Agreement and the Transactions (copies of which shall be attached to such certificate) are true and correct, are in full force and effect, and have not been rescinded, modified, amended or supplemented.
- (x) Warminster Owner shall execute and deliver to Ann's Choice, Inc. a amendment to the Warminster Purchase Option Agreement reasonably satisfactory to Warminster Owner and Ann's Choice, Inc., which amendment shall provide that if (x) Ann's Choice, Inc. exercises its option to purchase the Retirement Community known as "Ann's Choice," and (y) the appraised purchase price of such Retirement Community is less than \$75,000,000, then Warminster Owner will pay the amount of such shortfall to Ann's Choice, Inc. out of initial entrance

deposits collected by Warminster Owner after November 27, 2009, up to a maximum amount of \$10,000,000.

(b) At the Closing, each Party shall execute and deliver such other instruments of transfer and/or assignment, certificates, deeds, bills of sale, evidence of filing and/or recording, and other documents as are reasonably necessary to effectuate the Transactions.

**4.3 Prorations.** The following prorations relating to the Purchased Assets will be made as of the Closing Date, with ERC and its Affiliates liable to the extent that such items relate to any time period up to and including the Closing Date and Redwood and its Affiliates liable to the extent that such items relate to periods subsequent to the Closing Date, by appropriate cash payments of the applicable amounts from Redwood to ERC and/or from ERC to Redwood, as the case may be, each of which shall be made reasonably promptly after a written request therefor, accompanied by reasonable supporting documentation, is submitted to ERC by Redwood, or vice-versa as the case may be: (a) monthly rent and any additional rent or charges (including common area maintenance charges) with respect to the Leased Real Property; (b) real and personal property taxes and assessments relating to the Assets, the Leased Real Property and the Business; (c) water, sewer and other similar types of taxes, and installments on special benefit assessments; (d) electric, gas, telephone and utility charges; and (e) charges under maintenance and service contracts and fees under licenses transferred to or assumed by Redwood.

**Article V REPRESENTATIONS AND WARRANTIES OF THE ERICKSON PARTIES.**

Except as expressly set forth in the correspondingly numbered part of the disclosure schedule delivered by the Erickson Parties that is attached hereto as Exhibit T (the "Erickson Disclosure Schedule"), the Erickson Parties make the representations and warranties set forth in this Article V to the Redwood Parties, as of the Original Execution Date and as of the Closing Date, which representations and warranties are being relied upon by the Redwood Parties and shall survive the Closing:

**5.1 Organization.** (a) ERC and Parent are limited liability companies duly formed, validly existing and in good standing under the laws of the State of Maryland.

(b) Part 5.1(b) of the Erickson Disclosure Schedule sets forth a true and complete list of all Subsidiaries of ERC (including the Transferred Landowners and the Subsidiary Sellers) (the "ERC Subs"), and identifies the jurisdiction of incorporation or formation for each ERC Sub. Each ERC Sub that owns a Retirement Community or that is an Erickson Party is duly formed, validly existing and in good standing under the laws of the jurisdiction identified as its jurisdiction of incorporation or formation on Part 5.1(b) of the Erickson Disclosure Schedule.

(c) The Governance Documents of each of the Sellers and each of the Transferred Landowners are in full force and effect, and neither any of the Sellers nor any of the Transferred Landowners is in violation of any provision of its Governance Documents in any material respect. The Erickson Parties have previously delivered or made available to the Redwood Parties true and complete copies of the Governance Documents of each of the Sellers and each of the Transferred Landowners and all other documents, records, proceedings, actions and similar matters of a material nature relating to the organization and/or organizational status of each of the Sellers and each of the Transferred Landowners, including minute books and equity issuance records.

(d) Part 5.1(d) of the Erickson Disclosure Schedule sets forth a true and complete list of all NFPs, and identifies, to the Knowledge of the Erickson Parties, which NFPs are supported organizations of NSC (the “NSC-Supported NFPs”). To the Knowledge of the Erickson Parties, NSC has no supported organizations other than the NSC-Supported NFPs.

**5.2 Authorization.** Each Erickson Party has the right, power and authority to execute and deliver this Agreement and all other agreements entered into in connection with this Agreement to which it is a party (collectively, the “Erickson Agreements”), and to perform its respective obligations under the Erickson Agreements, and to consummate the transactions contemplated by the Erickson Agreements. The execution and delivery of each applicable Erickson Agreement by each Erickson Party, and the performance by each Erickson Party of its obligations under such Erickson Agreements, and the consummation of the transactions provided for in the Erickson Agreements, have been duly and validly authorized and approved by all necessary corporate, partnership or limited liability company action on the part of such Erickson Party. Each Erickson Agreement (i) has been (or, at the Closing, shall have been) duly executed and delivered by the applicable Erickson Party(ies), and (ii) constitutes (or, at the Closing, shall constitute) a valid and binding agreement of the applicable Erickson Party(ies), enforceable against the applicable Erickson Party(ies) in accordance with their respective terms, subject to applicable bankruptcy, insolvency, reorganization, moratorium and other similar laws affecting the enforceability of creditors’ rights generally, general equitable principles and the discretion of courts in granting equitable remedies.

**5.3 Non-Contravention.** Subject to receipt of the Approvals described on Part 5.4 of the Erickson Disclosure Schedule, neither the execution and delivery of any Erickson Agreement by any Erickson Party, nor the consummation of the transactions contemplated by any Erickson Agreement, does or would, after the giving of notice or the lapse of time or both: (a) conflict with, result in a breach of, constitute a default under, or violate the Governance Documents of any Seller or any Transferred Landowner, or any Law applicable to any Erickson Party or any Transferred Landowner that would adversely affect the ability of the Erickson Parties to consummate the Transactions, or would adversely affect the conduct of the Business that is being acquired by the Redwood Parties; (b) conflict with, result in a breach of, constitute a default under, result in the acceleration of any rights or obligations under, create in any Person the right to accelerate any rights or obligations under or amend, modify, cancel or refuse to perform under, or require any notice under any Transferred Contract or other arrangement, to which any Erickson Party or any Transferred Landowner is a party, or by which any of their respective assets or properties are bound that would adversely affect the ability of the Erickson Parties to consummate the Transactions, or would adversely affect the conduct of the Business that is being acquired by the Redwood Parties; or (c) result in the creation of, or give any Person the right to create, any Lien upon any Purchased Asset or any right, property or asset of any Transferred Landowner.

**5.4 No Approvals.** Except for the Court Approval and except as otherwise set forth on Part 5.4 of the Erickson Disclosure Schedule, no Approval of any Government Entity or other Person is required in connection with the execution, delivery and performance of any Erickson Agreement by any Erickson Party, or the consummation of the transactions contemplated thereby.

**5.5 Title to, Condition of, and Sufficiency of Assets.** (a) Except as set forth in Part 5.5(a) of the Erickson Disclosure Schedule:

- (i) ERC is the sole and exclusive legal and equitable owner of all right, title and interest in, and has good and marketable title to, all of the ERC

Assets, free and clear of all Liens other than Liens securing the Project Debt;

- (ii) Each Transferred Landowner is the sole and exclusive legal and equitable owner of all right, title and interest in, and has good and marketable title to, all of the assets it purports to own (other than the real property owned by the Transferred Landowners), free and clear of all Liens other than Liens securing the Project Debt; and
- (iii) each Subsidiary Seller is the sole and exclusive legal and equitable owner of all right, title and interest in, and has good and marketable title to, all of Purchased Assets it has agreed to sell pursuant to this Agreement (other than real property), free and clear of all Liens other than Liens securing the Project Debt.

(b) The Purchased Assets and the assets of the Transferred Landowners are all of the assets required for the operation of the Business.

(c) As of the Closing Date, Erickson Construction, LLC will hold no assets. All assets of Erickson Construction, LLC that were not disposed of to third Persons prior to the Closing Date, including all construction drawings and documents relating to Retirement Communities, will have been transferred to ERC and will be included in the Other Transferred Assets.

## **5.6 Financial Matters.**

(a) Part 5.6(a) of the Erickson Disclosure Schedule contains a true and complete copy of:

- (i) the audited consolidated balance sheets, statements of income, statements of cash flows and statements of changes in members' deficit and other comprehensive income of ERC and the ERC Subs as of and for the year ended December 31, 2007, together with the report thereon of ERC's independent public accountants (the "Annual ERC Financials"); and
- (ii) the unaudited consolidated balance sheets and statements of income of ERC and the ERC Subs as of and for the year ended December 31, 2008 and for the eight (8) month period ended August 31, 2009 (the "Interim ERC Financials").

(b) The Erickson Parties have previously delivered or made available to the Redwood Parties true and complete copies of:

- (i) audited financial statements of each ERC Sub that owns a Retirement Community or is an Erickson Party (other than the ERC Subs identified in Part 5.6(b) of the Erickson Disclosure Schedule (the "Non-Reporting ERC Subs")) as of, and for the years ended, December 31, 2007 (collectively, the "Annual ERC Sub Financials");
- (ii) unaudited balance sheets and statements of income of each ERC Sub that owns a Retirement Community or is an Erickson Party (other than the

Non-Reporting ERC Subs) as of and for the year ended December 31, 2008 and for the eight (8) month period ended August 31, 2009 (the “Interim ERC Sub Financials”);

- (iii) audited (to the extent available, or otherwise unaudited) financial statements of each of the Standalone NFPs as of, and for the years ended December 31, 2007 and December 31, 2008 (collectively, the “Annual Standalone NFP Financials”); and
- (iv) unaudited balance sheets and statements of income of each Standalone NFP (other than the ones identified in clause (iii) above) as of and for years ended December 31, 2007 and December 31, 2008 and for the eight (8) month period ended August 31, 2009 (the “Unaudited NFP Financials” and, together with the Annual ERC Financials, the Interim ERC Financials, the Annual ERC Sub Financials, the Interim ERC Sub Financials and the Annual Standalone NFP Financials, the “Erickson Financials”).

(c) The Erickson Parties have previously delivered or made available to the Redwood Parties copies (which, to the Knowledge of the Erickson Parties, are true and complete copies) of:

- (i) audited (to extent available) financial statements of each NSC-Supported NFP as of, and for the years ended, December 31, 2007 and 2008 (collectively, the “Annual NSC-Supported NFP Financials”);
- (ii) unaudited balance sheets and statements of income of each NSC-Supported NFP as of and for the eight (8) month period ended August 31, 2009 (the “Interim NSC-Supported NFP Financials” and, together with the Annual NSC-Supported NFP Financials, the “NSC-Supported NFP Financials”);
- (iii) audited (to extent available) financial statements of NSC as of, and for the years ended, December 31, 2007 and 2008 (collectively, the “Annual NSC Financials”); and
- (iv) unaudited balance sheets and statements of income of NSC as of and for the eight (8) month period ended August 31, 2009 (the “Interim NSC Financials” and, together with the Annual NSC Financials, the “NSC Financials”).

(d) Each of the balance sheets included in the Erickson Financials and, to the Knowledge of the Erickson Parties, each of the balance sheets included in the NSC Financials and the NSC-Supported NFP Financials, fairly presents in all material respects the financial position of the Person(s) to which it relates as of the date of such balance sheet, in accordance with GAAP (except, with respect to the Interim ERC Financials, the Interim ERC Sub Financials, the Interim Standalone NFP Financials, the Interim NSC Financials and the Interim NSC-Supported NFP Financials (collectively, the “Interim Financials”), for the omission of footnotes and normal year-end adjustments). Each of the statements of income and statements of cash flows included in the Erickson Financials and, to the Knowledge of the Erickson Parties, each of the statements of income and statements of cash flows included in the NSC Financials and the NSC-Supported



NFP Financials, fairly presents in all material respects the results of operations (or, in the case of the NFPs, the changes in net assets) and cash flows of the Person(s) to which it relates as of the date of such statement, in accordance with GAAP (except, with respect to the Interim Financials, for the omission of footnotes and normal year-end adjustments).

(e) Neither any Seller nor any Transferred Landowner, has any Liability except for Liabilities (i) reflected or reserved for in the balance sheets included in the Interim Financials, or (ii) incurred in the Ordinary Course since July 31, 2009.

(f) There is no Affiliate or Subsidiary of ERC that is not included in the Erickson Financials, except for (i) the Non-Reporting ERC Subs, (ii) JCE Holding Corp., (iii) J&N Nevada Holding, Inc., (iv) Senior Living Limited Partnership, (v) the 2002 John C. Erickson GST Trust, (vi) the 2002 Nancy A. Erickson GST Trust, (vii) Paul L. Erickson, Trustee of the Irrevocable Trust of John C. Erickson U/A Dated January 1, 2002, (viii) Erickson Media, LLC and the Subsidiaries of Erickson Media, LLC, (ix) Maritime, Inc. and (x) Erickson Aviation, LLC.

(g) The outstanding principal and interest balance of each of the B&R Notes is set forth on Part 5.6(g) of the Erickson Disclosure Schedule.

(h) The amount of Medical Claims Cash as of the Execution Date is set forth on Part 5.6(h) of the Erickson Disclosure Schedule.

**5.7 Absence of Changes.** Since July 31, 2009, the Covered Entities and, to the Knowledge of the Erickson Parties, NSC and the NSC-Supported NFPs have each conducted their respective business in the Ordinary Course, and there has not been any event, occurrence or development (a) which, individually or in the aggregate, was, or could reasonably be expected to be, materially adverse to the prospects, business, assets, financial condition or results of operations of any of them; or (b) that, if it occurred after the Execution Date, would require the consent of Redwood pursuant to Section 7.1.

**5.8 Status of Projects.** The Erickson Parties have previously delivered or made available to Redwood a true and complete copy of the most recent project status report provided to each Person who has extended credit to any ERC Company that owns, manages or develops Retirement Communities. Such status reports are complete and accurate in all material respects.

**5.9 Related Party Transactions.** Neither any Seller nor any of the Transferred Landowners has made or entered into any Contract, loan or guaranty with any officer, director, employee, stockholder, member, trustee, beneficiary, partner of, or other Person acting on behalf of (each, a "Related Person") any Covered Entity or any NFP, or any of their respective Affiliates, except for:

(a) operating transactions in the Ordinary Course among ERC Companies (all material terms of which have been disclosed prior to the date hereof by the Erickson Parties to the Redwood Parties);

(b) normal employee compensation arrangements in the Ordinary Course (all material terms of which have been previously disclosed by the Erickson Parties to the Redwood Parties);

(c) the Management Agreements; and

(d) the transactions described on Part 5.9 of the Erickson Disclosure Schedule.

**5.10 Tax Matters.** Each Erickson Party, on behalf of itself and any of its Employee Plans which may be required to file Tax Returns, and, to the Knowledge of the Erickson Parties, each of the NFPs, has duly prepared and filed with the appropriate Government Entity all Tax Returns required by Law within the time or extended time required or permitted, and has timely paid all Taxes required to be paid when due and as shown on such Tax Returns. Each Erickson Party, and, to the Knowledge of the Erickson Parties, each of the NFPs, has withheld and paid over to the appropriate taxing authority all Taxes which they are required to withhold from amounts paid or owing to any employee, stockholder, creditor or other third party. All such Tax Returns were accurate and complete as filed and/or amended. Neither ERC nor any ERC Sub that owns a Retirement Community is a party to any pending or threatened Action by any Government Entity for the assessment or collection of Taxes. No Erickson Party has requested or been granted an extension of time for filing any Tax Return which has not yet been filed or has consented to extend to a date later than the date hereof the time in which any Tax may be assessed or collected by any taxing authority. No amounts are owed or will be owed by any Seller or Transferred Landowner with respect to any prior Tax audits or reviews by any Government Entity. No Erickson Party (i) has been a member of an affiliated group filing a consolidated federal income Tax Return or (ii) has any liability for the Taxes of any Person under Treasury Regulation §1.1502-6 (or any similar provision of Law), as a transferee or successor, by contract or otherwise. Each Seller is, and since inception has been, either a partnership or an entity disregarded from its owner pursuant to Treasury Regulation §301.7701.3. Each Transferred Landowner and each Subsidiary Seller is, and since inception has been, an entity disregarded from its owner pursuant to Treasury Regulation §301.7701.3.

**5.11 Exempt and Political Organizations.** (a) Each Standalone NFP and, to the Knowledge of the Erickson Parties, NSC and each NSC-Supported NFP:

- (i) is exempt from federal income Tax under Section 501(a) of the Code by reason of being an organization described in Section 501(c)(3) of the Code;
- (ii) is not a private foundation within the meaning of Section 509 of the Code;
- (iii) has received a determination letter (a “Determination Letter”) from the IRS recognizing its status as a tax-exempt public charity (i.e., not a private foundation) described in Section 501(c)(3) of the Code; and
- (iv) is exempt from state income, franchise, sales, use and similar Taxes in each of the states in which it conducts activities, holds property or was chartered, and has applied for and received formal recognition of such status from each such state that does not automatically provide exemptions to organizations whose exempt status is recognized by the IRS.

(b) Part 5.11(b) of the Erickson Disclosure Schedule sets forth, to the Knowledge of the Erickson Parties, a true and complete list of all determination letters, letter rulings and information letters issued by the IRS, all written technical advice furnished by the IRS, and all closing agreements and correspondence with the IRS (including requested rulings), in each case relating to NSC or any NFP (the “IRS Rulings”). The Erickson Parties have:

- (i) previously delivered or made available to the Redwood Parties true and complete copies of all IRS Rulings relating to the Standalone NFPs; and
  - (ii) obtained copies (which, to the Knowledge of the Erickson Parties, are true and complete copies) of all IRS Rulings relating to NSC or any NSC-Supported NFP from NSC, and previously delivered or made such copies available to the Redwood Parties.
- (c) Without limiting the generality of Section 5.13(a):
- (i) the activities of each Standalone NFP and, to the Knowledge of the Erickson Parties, NSC and the NSC-Supported NFPs, are being conducted, and have been conducted at all times since the issuance of each applicable IRS Ruling, in compliance with all IRS Rulings;
  - (ii) no Determination Letter has been modified, limited, revoked or superseded by the IRS; and
  - (iii) there has been no change in the facts and circumstances which served as the basis for the Determination Letter of any Standalone NFP or, to the Knowledge of the Erickson Parties, NSC or any NSC-Supported NFP, of a nature or to a degree as would warrant any action by the IRS to modify, limit, revoke or supersede any such Determination Letter.
- (d) No NFP is a party to any joint venture or partnership with (i) any ERC Company, (ii) any Affiliate of an ERC Company, or (iii) to the Knowledge of the Erickson Parties, any other Person.
- (e) To the Knowledge of the Erickson Parties, there is no pending, or any basis for, any Action which calls into question (i) the validity or enforceability of any Tax-Exempt Bonds or of any of the other Contracts or certifications entered into or given in relation to any Tax-Exempt Bonds; or (ii) the excludability from gross income for federal income tax purposes of the interest on any Tax-Exempt Bonds.
- (f) Part 5.11(f) of the Erickson Disclosure Schedule sets forth a true and complete list of all committees (each, a “PAC”) established as “separate segregated funds” within the meaning of the United States Federal Election Campaign Act (“FECA”) for which any ERC Company or any Affiliate of an ERC Company is the “connected organization” within the meaning of FECA.

**5.12 Legal Proceedings.** Except as set forth on Part 5.12 of the Erickson Disclosure Schedule and except for such matters where the potential Damages are less than Fifty Thousand Dollars (\$50,000):

- (a) there are no Actions, orders, awards, decrees or judgments, pending against or binding upon any Seller, Transferred Landowner, Employee Plan, or any real property owned by an ERC Sub; and
- (b) to the Knowledge of the Erickson Parties, there are no Actions, orders, awards, decrees or judgments (i) threatened against any Seller, Transferred Landowner, Employee Plan,

or real property owned by an ERC Sub; or (ii) pending or threatened against any Controlled Real Property.

**5.13 Compliance With Laws; Permits.** (a) Each Seller and each Transferred Landowner is in material compliance with all applicable Laws. Neither any Seller nor any Transferred Landowner has received any notification that has not lapsed or been withdrawn by any Government Entity asserting a violation of any Law or threatening to revoke any Permit.

(b) Each Covered Entity, and to the Knowledge of the Erickson Parties, NSC and each NSC-Supported NFP, has obtained and maintained, and is in compliance with all Permits necessary for its existence and the conduct of its business and/or activities, all of which are all in full force and effect.

**5.14 Questionable Activities.** Neither ERC nor any ERC Sub that owns a Retirement Community or is an Erickson Party has directly or indirectly:

(a) made any unlawful contribution, gift, entertainment, bribe, kickback, rebate, payoff or other payment to any Person in connection with the Business;

(b) established or maintained any unlawful or unrecorded fund of any such ERC Company monies or other assets; or

(c) made any false or fictitious entry on the books or records of any such ERC Company.

**5.15 Material Contracts.**

(a) Part 5.15(a) of the Erickson Disclosure Schedule sets forth, as of the date hereof, a complete and accurate list of all Contracts of the following types to which ERC or any ERC Sub that owns a Retirement Community or is an Erickson Party is a party, or by which such ERC Company or such ERC Company's properties or assets are bound (the "Material Contracts"):

- (i) Contracts to manage any Retirement Community or any real property, business or charitable activity in connection with a Retirement Community (collectively, the "Management Agreements");
- (ii) Contracts with any provider of health care products or services involving expenditures or revenue in excess of \$250,000 annually;
- (iii) Contracts under which ERC or any ERC Sub that owns a Retirement Community or is an Erickson Party is a lessor, lessee, sublessor, sublessee, licensor or licensee of any real property (the "Real Property Leases"), stating in each case the street address or other reasonable descriptor of the land, buildings or other improvements covered thereby (the "Leased Real Property");
- (iv) Contracts relating to the development of, or the construction of any improvements on, any real property (collectively, the "Development Contracts");

- (v) Contracts under which any Seller, any Transferred Landowner or other ERC Sub that owns a Retirement Community or is an Erickson Party or, to the Knowledge of the Erickson Parties, any NFP, has incurred, assumed or guaranteed any indebtedness for borrowed money in excess of \$250,000 individually and \$1,000,000 in the aggregate (the "Credit Facilities");
- (vi) Contracts under which any ERC Company has the right or option to purchase any real property;
- (vii) Contracts imposing non-competition or any other restriction with respect to the geographical area, scope or type of operations of any ERC Company or Parent;
- (viii) Contracts containing any "change of control" provision with respect to any ERC Company or Parent;
- (ix) Contracts involving an investment by any Seller or any Transferred Landowner in any Person that is not also an ERC Company, including any partnership, limited liability company or joint venture;
- (x) Contracts under which any revenue, profit or income of the Business is required to be, or may be, shared with any third Person;
- (xi) employment Contracts;
- (xii) Contracts with any Employee containing any restrictive covenants;
- (xiii) Contracts that involve aggregate payments in excess of \$250,000 per annum;
- (xiv) Contracts relating to IP (other than in-bound, nonexclusive license agreements for unmodified, commercially available, off-the-shelf software); and
- (xv) to the extent not described elsewhere in this Section 5.15(a), Contracts that are material to the Business.

(b) The Erickson Parties have previously delivered or made available to the Redwood Parties a true and complete copy of each written Material Contract, and provided on Part 5.15(a) of the Erickson Disclosure Schedule a reasonably complete and accurate summary description of the material terms of any unwritten Material Contract.

(c) Each Material Contract is in full force and effect and is legal, valid, binding and enforceable against each ERC Company that is a party thereto and, to the Knowledge of the Erickson Parties, is legal, valid, binding and enforceable against all other parties thereto in accordance with its terms, subject to applicable bankruptcy, insolvency, reorganization, moratorium and other similar laws affecting the enforceability of creditors' rights generally, general equitable principles and the discretion of courts in granting equitable remedies. There does not exist under any Material Contract (other than the Credit Facilities) any default or condition or event that, after notice or lapse of time or both, would constitute a material default

on the part of the ERC Company that is a party thereto or to Knowledge of the Erickson Parties, on the part of any other party thereto.

(d) Attached as Part 5.15(d) of the Erickson Disclosure Schedule are true and correct copies of the current forms of residence and care agreement for each Retirement Community. Each such form complies with applicable Laws and has been approved, to the extent necessary, by all applicable Government Entities. All residence and care agreements with present residents of the Retirement Communities conform substantially to the applicable form of residence and care agreement included in Part 5.15(d) of the Erickson Disclosure Schedule.

(e) Except as set forth on Part 5.15(e) of the Erickson Disclosure Schedule, neither ERC nor any of its Affiliates is a party to any Contract with any Person, or has made any offer to any Person, under which, in connection with any Retirement Community owned or managed by ERC or an ERC Sub, ERC or such Affiliate:

- (i) is obligated to provide special, subsidized or unique or discounted services, amenities or cash payments, subsidies or reimbursements (including with respect to entrance deposits) that are not generally available to other residents; or
- (ii) has agreed or offered to assist such Person in connection with the sale, leasing or other disposition of their home.

#### **5.16 Real Property.**

(a) With respect to each Real Property Lease, to the Knowledge of the Erickson Parties, (i) the Person that is the lessee, sublessee or licensee thereunder (the “Tenant”) has not subleased or licensed any of the Leased Real Property or given any third Person any license or other right to occupy any portion of the Leased Real Property; (ii) neither the Tenant nor any other party to the Real Property Lease has waived any term or condition thereof, and all covenants to be performed to date by the Tenant and, to the Knowledge of the Erickson Parties, all other parties to thereto, have been performed; (iii) the Tenant has not collaterally assigned or granted any security interest in the Real Property Lease or any interest therein; (iv) the Tenant is not obligated under or a party to, any option, right of first refusal or other contractual right to purchase any Leased Real Property or any portion thereof or interest therein; and (v) each such Real Property Lease is legal, valid, binding, enforceable and in full force and effect.

(b) A true and complete list of:

- (i) all real property that is owned by any ERC Company (the “Owned Real Property”) is set forth on Part 5.16(b)(i) of the Erickson Disclosure Schedule, including in each case (A) the street address or other reasonable descriptor of the property and (B) the name of the ERC Company that owns such property; and
- (ii) all real property that is managed by an ERC Company, or at which any business is managed by any ERC Company, in each case pursuant to a Management Agreement (the “Managed Real Property”) is set forth on Part 5.16(b)(ii) of the Erickson Disclosure Schedule, including in each case (A) the street address or other reasonable descriptor of the property,

(B) the name of the owner of such property and (C) the ERC Company that manages such property.

(c) With respect to each parcel of Owned Real Property, the ERC Company identified on Part 5.16(b)(i) of the Erickson Disclosure Schedule as the owner of such parcel (i) is the sole owner of such parcel, and (ii) holds good, marketable and insurable title to such parcel free and clear of all Liens, other than the Project Debt and matters set forth on the Title Policies. To the Knowledge of the Erickson Parties, with respect to each parcel of Managed Real Property, the Person identified on Part 5.16(b)(ii) of the Erickson Disclosure Schedule as the owner of such parcel is the sole owner of such parcel.

(d) With respect to each parcel of Owned Real Property the ERC Companies obtained the title insurance policies identified in Part 5.16(d) of the Erickson Disclosure Schedule (the "Title Policies").

(e) There are no condemnation, eminent domain or other similar proceedings pending, or to the Knowledge of the Erickson Parties, threatened, with respect to any Owned Real Property. Except as set forth in the Contracts and documents referenced in the Title Policies that create or evidence conditions or exceptions to title affecting the real property covered thereby, there are no special assessments or other assessments for public improvements or otherwise affecting any Owned Real Property, and, to the Knowledge of the Erickson Parties, there are no contemplated improvements affecting any Owned Real Property that may result in a special assessment against such Owned Real Property.

#### **5.17 Environmental Matters.**

(a) Except as set forth on Part 5.17(a) of the Erickson Disclosure Schedule:

- (i) there are no pending, or to the Knowledge of the Erickson Parties threatened, Environmental Claims relating to any Owned Real Property, real property that was previously owned or operated by any Transferred Landowner or any Seller or any of their predecessors that has been transferred to a Person that is not an ERC Company, or with respect to the development of, or the operation of the Business on, any of the foregoing or on any of the Controlled Properties (collectively, the "Covered Property and Operations");
- (ii) none of the ERC Companies has received any written, or to the Knowledge of the Erickson Parties, oral notification of any Environmental Claims or any actual or alleged violation of any Environmental Requirements, including for any disposal, release or threatened release at any location of any Hazardous Materials generated at, or transported from, the Covered Property and Operations;
- (iii) to the Knowledge of the Erickson Parties, there are no Environmental Conditions at or on the Owned Property or any other property which could result in or give rise to, and no ERC Company has treated, stored, disposed of, arranged for or permitted the disposal of, transported, handled, released, or exposed any Person to any Hazardous Materials, so as to give rise to, any Environmental Claims or any liabilities under Environmental Requirements, nor are there any Environmental

Conditions at any Controlled Properties which could interfere with any Redwood Party's operation of the business of any ERC Company or the performance under any management agreement by ManagementCo or any of its respective Affiliates; and

- (iv) Neither this Agreement nor the consummation of the transaction that is the subject of this Agreement will result in any obligations for site investigation or cleanup, or notification to or consent of government agencies or third parties, pursuant to any of the so-called "transaction-triggered" or "responsible property transfer" Environmental Requirements.

(b) The Erickson Parties have previously delivered or made available to the Redwood Parties true and complete copies of all material environmental audits, assessments, reports, documents, and correspondence relating to any of its current or former properties or any unresolved Environmental Conditions between any Government Entity and any ERC Company and, to the extent in ERC's possession, between any Government Entity and any NFP.

**5.18 Intellectual Property.**

(a) All IP that is owned by any ERC Company ("Owned IP") and, to the Knowledge of the Erickson Parties, all IP that is used by any ERC Company pursuant to a license agreement ("Licensed IP"): (i) has been duly maintained, is valid and subsisting, is in full force and effect and has not been cancelled, expired or abandoned; and (ii) no claim by any third party contesting the validity, enforceability, use or ownership of such IP has been made that is currently outstanding or is threatened, and there are no grounds for the same. None of the Owned IP, and no aspect of the conduct of the Business, infringes, violates, dilutes, misappropriates or interferes with, any IP rights of any Person. No ERC Company has brought or threatened a claim against any Person alleging infringement, violation, dilution or misappropriation of, or interference with, any Owned IP. No Person has brought or threatened a claim against any Covered Entity, or to the Knowledge of the Erickson Parties, NSC or any NSC-Supported NFP, alleging infringement, violation, dilution or misappropriation of, or interference with, any IP. No IP used or held for use in connection with the Business is owned or held by any Affiliate of JCE that is not an ERC Company. The Owned IP and Licensed IP constitute all of the IP used by ERC and its Affiliates in the operation of the Business as of each of the Original Execution Date and the Closing Date.

(b) Part 5.18(b)(i) of the Erickson Disclosure Schedule sets forth a true and complete list of all Owned IP that is registered, or with respect to which any ERC Company has filed an application, with any Government Entity, stating for each the serial number, registration number and/or application number therefor.

**5.19 Labor & Employment Matters.** (a) Part 5.19(a) of the Erickson Disclosure Schedule sets forth a true and complete list, as of the Original Execution Date, of all Employees and Independent Contractors to whom any ERC Company or group of ERC Companies has made, or caused any Management Agreement Counterparty to make, payments in the twelve (12) months immediately preceding the Original Execution Date exceeding One Hundred Thousand Dollars (\$100,000).

(b) At all times, (i) the ERC Companies have properly classified, or caused the applicable Management Agreement Counterparty to properly classify (as the case may be) (A) Employees and Independent Contractors as employees or independent contractors, as appropriate;



and (B) Employees as exempt or non-exempt for purposes of the Fair Labor Standards Act and similar state Laws; and (ii) all Employees have been paid properly under applicable federal, state and local wage and hour Laws.

(c) There is no:

- (i) collective bargaining agreement to which any ERC Company or Management Agreement Counterparty is a party or otherwise bound;
- (ii) labor union representing any Employees;
- (iii) to the Knowledge of the Erickson Parties, (A) organizational effort with respect to the formation of a collective bargaining unit presently being made or threatened by any Employees, or (B) any active current efforts by any Person encouraging or soliciting any Employees to engage or participate in any such organizational effort;
- (iv) pending or, to the Knowledge of the Erickson Parties, threatened strike, slowdown, work stoppage, lockout or other collective labor action or dispute by or with respect to any Employees;
- (v) unfair labor practice complaints against any ERC Company or Management Agreement Counterparty pending or, to the Knowledge of the Erickson Parties, threatened before the National Labor Relations Board or other applicable Government Entity; or
- (vi) labor dispute currently subject to any grievance procedure, arbitration or litigation with respect to any Employee.

(d) Part 5.19(d) of the Erickson Disclosure Schedule sets forth a true and complete list of all matters occurring within the three (3) years immediately prior to the Original Execution Date that, if they existed today, would be within the scope of the representation and warranty in Section 5.19(c).

## **5.20 Employee Plans.**

(a) Set forth in Part 5.20 of the Erickson Disclosure Schedule is a complete and correct list of all “employee benefit plans” within the meaning of Section 3(3) of ERISA, all fringe benefit plans within the meaning of Section 6039D of the Code, and all other bonus, incentive-compensation, deferred-compensation, profit-sharing, equity-based (including any option, appreciation-right, profit-interest, phantom-bonus, equity-purchase or employee - ownership, savings, severance, change-in-control, supplemental-unemployment, layoff, salary-continuation, retirement, pension, health, life-insurance, disability, accident, group-insurance, vacation, holiday, sick-leave, fringe-benefit, or welfare plan, and any other employee compensation or benefit plan, agreement, policy, practice, commitment, contract or understanding, or employment agreement (whether qualified or nonqualified, currently effective or terminated, written or unwritten) that (i) is, or within the last six (6) years has been, maintained or contributed to (or required to be contributed to) by either any of the Erickson Parties, any Management Agreement Counterparty, or any other corporation or trade or business controlled by, controlling, or under common control (within the meaning of Section 414(b), (c), (m) or (o) of the Code or Section 4001(a)(14) or 4001(b) of ERISA) with any of the Erickson Parties or any

Management Agreement Counterparty (“ERISA Affiliate”), or with respect to which any of the Erickson Parties or Management Agreement Counterparties, or any ERISA Affiliate thereof, has or may have any liability, and (ii) provides benefits to any current or former director, officer, employee, or service provider (or dependent thereof) regardless of how (or whether) liabilities for the provision of benefits are accrued or assets are acquired or dedicated with respect to the funding thereof (individually, a “Employee Plan”, and collectively, the “Employee Plans”).

(b) No Employee Plan is (i) a “Defined Benefit Employee Plan” (as defined in Section 414(j) of the Code); (ii) a “Multiemployer Employee Plan” (as defined in Section 3(37) of ERISA); or (iii) a plan subject to Section 412 of the Code or Section 302 or Title IV of ERISA, (collectively, a “Title IV or MP Plan”) nor have the Erickson Parties or the Management Agreement Counterparties, nor any ERISA Affiliate thereof, ever maintained or contributed to any such a plan, or had an obligation to contribute to such a Title IV or MP Plan. Neither the Erickson Parties, the Management Agreement Counterparties, nor any ERISA Affiliate thereof, has an obligation to indemnify or contribute to the obligation of any other party with respect to a Title IV or MP Plan. Also set forth in Part 5.20 is a complete and correct list of all ERISA Affiliates of the Erickson Parties and the Management Agreement Counterparties during the last six (6) years.

(c) The Erickson Parties have delivered to the Redwood Parties true, accurate, and complete copies of (i) the documents comprising each Employee Plan (or, with respect to any Employee Plan that is unwritten, a detailed written description of eligibility, participation, benefits, funding arrangements, assets, and any other matters that relate to the respective obligations of the Erickson Parties, the Management Agreement Counterparties, and any ERISA Affiliate thereof); (ii) all trust agreements, insurance contracts, or any other funding instruments related to the Employee Plans; (iii) all current rulings, determination letters, no-action letters, or advisory opinions from the IRS, the U.S. Department of Labor, or any other Governmental Entity that pertain to each Employee Plan and any open requests therefor; (iv) the most recent actuarial and financial reports (audited and/or unaudited) and the annual reports filed with any Governmental Entity with respect to the Employee Plans during the current year and each of the three preceding years; (v) all collective bargaining agreements pursuant to which contributions to any Employee Plan(s) have been made or obligations incurred (including both pension and welfare benefits) by the Erickson Parties, the Management Agreement Counterparties, or any ERISA Affiliate thereof; (vi) all securities registration statements filed with respect to any Employee Plan; (vii) all contracts with third-party administrators, actuaries, investment managers, consultants, and other independent contractors that relate to any Employee Plan, and (viii) all summary plan descriptions, summaries of material modifications and employee handbooks, regarding the Employee Plans.

(d) Full and timely payment has been made of all contributions that are required under applicable law or regulation or the terms of each Employee Plan and premiums due or payable with respect to insurance policies funding any Employee Plan with respect to all periods prior to the Closing Date.

(e) The Erickson Parties, the Management Agreement Counterparties, and each ERISA Affiliate thereof have, at all times complied, and currently comply, in all material respects, with the terms of each Employee Plan and the Code, ERISA and all other applicable Laws for their welfare benefit plans, including (i) COBRA and (ii) any applicable state statutes mandating health insurance continuation coverage for employees.

(f) (i) The form of each all Employee Plan is in compliance with the applicable terms of ERISA, the Code, and any other applicable laws, including the Americans with Disabilities Act of 1990, the Family Medical Leave Act of 1993, and the Health Insurance Portability and Accountability Act of 1996, and such plans have been operated in compliance with terms of the Employee Plan and all such Laws; (ii) neither the Erickson Parties, the Management Agreement Counterparties, nor any fiduciary of an Employee Plan has violated the requirements of Section 404 of ERISA; and (iii) all required reports and descriptions of the Employee Plans (including but not limited to Form 5500 Annual Reports, Summary Annual Reports and Summary Employee Plan Descriptions, and Summaries of Material Modifications) have been (when required) timely filed with the IRS, the U.S. Department of Labor, or other Governmental Entity and distributed as required, and all notices required by ERISA or the Code or any other Laws with respect to the Employee Plans have been appropriately given.

(g) Each Employee Plan that is intended to be qualified under Section 401(a) of the Code has received a favorable determination letter from the IRS or is the subject of an IRS opinion letter, and there are no circumstances that will or could result in revocation of any such favorable determination or opinion letter. Each trust created under any Employee Plan (that is intended to be qualified under Section 401(a) of the Code) has been determined to be exempt from taxation under Section 501(a) of the Code, and there is no circumstance that will or could result in a revocation of such exemption.

(h) No Employee Plan that is an employee welfare benefit plan (as defined in Section 3(1) of ERISA) utilizes a trust as a funding vehicle.

(i) With respect to each Employee Plan, no event has occurred or condition exists that will or could give rise to a loss of any intended tax consequence or to any tax liability under Section 511 of the Code.

(j) With respect to each Employee Plan, neither the Erickson Parties, any Management Agreement Counterparties, nor any ERISA Affiliate thereof, nor any fiduciary of an Employee Plan, has acted or failed to act with respect to such Employee Plan in any manner which constitutes a breach of fiduciary responsibility under ERISA or has engaged in a transaction with respect to any Employee Plan that could subject any of the Erickson Parties, any Management Agreement Counterparties, any ERISA Affiliate thereof, or the Redwood Parties to any tax liability or penalty imposed by either Section 4975 of the Code or Section 502(l) of ERISA, or result in a violation of Section 406 of ERISA. Neither the entering into of this Agreement, nor the consummation of the Transactions, will result in the potential assessment of a tax liability or penalty under Section 4975 of the Code or Section 502(l) of ERISA nor result in a violation of Section 406 of ERISA. Neither the Erickson Parties, the Management Agreement Counterparties, nor any ERISA Affiliate thereof, is obligated to indemnify or contribute to the liability of any third party with respect to a breach of fiduciary responsibility under ERISA or any tax liability or penalty imposed by either Section 4975 of the Code or Section 502(l) of ERISA.

(k) Each Seller has maintained workers' compensation coverage as required by applicable state law through purchase of insurance and not by self-insurance or otherwise except as disclosed in Part 5.20 of the Erickson Disclosure Schedule.

(l) Except as disclosed in Part 5.20 of the Erickson Disclosure Schedule, neither the entering into of this Agreement nor the consummation of the Transactions will accelerate the time of vesting or the time of payment, or increase the amount, of compensation due to any director, employee, officer, former employee, or former officer of any of the Erickson Parties or any

Management Agreement Counterparty. There are no contracts or arrangements maintained by the Erickson Parties or any Management Agreement Counterparty providing for payments that could subject any person to liability for tax under Section 4999 of the Code.

(m) Except for the continuation coverage requirements of COBRA or other similar applicable Laws, neither the Erickson Parties nor any Management Agreement Counterparty, nor any ERISA Affiliate thereof, has any obligations or potential liability for benefits to employees, former employees, directors, or other service providers, or their respective dependents following termination of employment or retirement under any of the Employee Plans that are employee welfare benefit plans (as defined in Section 3(1) of ERISA).

(n) (i) Neither the entering into of this Agreement nor any of the occurrence of any of the Transactions will result in an amendment, modification, or termination of any of the Employee Plans; (ii) no written or oral representations have been made to any employee or former employee of the Erickson Parties, the Management Agreement Counterparties, or any ERISA Affiliate thereof, promising or guaranteeing any employer payment or funding for the continuation of medical, dental, life, or disability coverage for any period of time (except to the extent of coverage required under COBRA or any similar applicable Laws mandating continuation or conversion coverage)).

(o) No Employee Plan provides, or has provided, “nonqualified deferred compensation” to any “service provider” (within the meaning of Section 409A of the Code) which could subject such “service provider” to gross income inclusion or tax pursuant to Section 409A of the Code. Any Employee Plan subject to Section 409A of the Code has been operated in compliance with Section 409A of the Code and the regulations and any other guidance promulgated thereunder.

(p) There have been no material changes in the financial condition of any Employee Plans from that stated in the annual report (as described in Section 103 of ERISA) most recently filed for such Employee Plan.

(q) There are no actions, lawsuits, arbitrations, audits, inquiries, investigations, proceedings or claims (other than routine claims for benefits made in the ordinary course and qualified domestic relations or medical child support orders) pending or threatened with respect to any Employee Plan or the operation thereof (whether brought or threatened to be brought by or against a participant or beneficiary, a trustee, a plan administrator, an Erickson Party, Management Agreement Counterparty, ERISA Affiliate, or any director, officer or employee thereof and including matters pending before or threatened by the Internal Revenue Service, Department of Labor, or other Governmental Entity), and neither the Erickson Parties, any Management Agreement Counterparties, nor any ERISA Affiliate has knowledge of any facts which could give rise to any such action, lawsuit, arbitration, audit, inquiry, investigation, proceeding or claim

(r) None of the assets of the Erickson Parties, the Management Agreement Counterparties, or their ERISA Affiliates are subject to any liens under ERISA or the Code, and no event has occurred, or condition exists, which could subject any of such assets to any future liability, obligation or lien with respect to any Employee Plan or Title IV or MP Plan.

(s) With respect to any Employee Plan that is unfunded, the Erickson Parties, the Management Agreement Counterparties, and all ERISA Affiliates have adequately provided for

and their financial statement accurately reflects (in accordance with GAAP), the amount of all accrued benefits and obligations under such Employee Plan.

**5.21 No Brokers.** Except as set forth on Part 5.21 of the Erickson Disclosure Schedule, there is no investment banker, broker, finder or other intermediary that has been retained by or is authorized to act on behalf of any Erickson Party, or any of their respective Affiliates, who is or might be entitled to any fee or commission in connection with the Transactions.

**5.22 Disclosure.** No representation or warranty or other statement made by any Erickson Party in this Agreement, or in any of the documents delivered pursuant to this Agreement, contains any untrue statement or omits to state a material fact necessary to make any of them, in light of the circumstances in which it was made, not misleading.

## **Article VI REPRESENTATIONS AND WARRANTIES OF REDWOOD.**

Except as expressly set forth in the correspondingly numbered part of the disclosure schedule delivered by Redwood that is attached hereto as Exhibit U (the "Redwood Disclosure Schedule"), Redwood makes the representations and warranties set forth in this Article VI to ERC, as of the Original Execution Date and as of the Closing Date, which representations and warranties are being relied upon by ERC and shall survive the Closing:

**6.1 Organization.** Each Redwood Party is a limited liability company duly formed, validly existing and in good standing under the laws of the State of Maryland. The Governance Documents of each Redwood Party are in full force and effect, and no Redwood Party is in violation of any provision of its Governance Documents.

**6.2 Authorization.** Each Redwood Party has the right, power and authority to execute and deliver this Agreement and all other agreements entered into in connection with this Agreement to which it is a party (collectively, the "Redwood Agreements"), and to perform its respective obligations under the Redwood Agreements, and to consummate the transactions contemplated by the Redwood Agreements. The execution and delivery of the Redwood Agreements by each Redwood Party, and the performance by each Redwood Party of its respective obligations under the Redwood Agreements, and the consummation of the transactions provided for in the Redwood Agreements has been or, as of Closing, shall have been duly and validly authorized and approved by all necessary limited liability company action on the part of each Redwood Party. Each Redwood Agreement (i) has been or, as of Closing, shall have been duly executed and delivered by the applicable Redwood Party(ies), and (ii) constitutes, or as of Closing shall constitute, a valid and binding agreement of the applicable Redwood Party(ies), enforceable against the applicable Redwood Party(ies) in accordance with their respective terms, subject to applicable bankruptcy, insolvency, reorganization, moratorium and other similar laws affecting the enforceability of creditors' rights generally, general equitable principles and the discretion of courts in granting equitable remedies.

**6.3 Non-Contravention.** Subject to receipt of the Approvals described on Part 6.4 of the Redwood Disclosure Schedule, neither the execution and delivery of any Redwood Agreement by any Redwood Party, nor the consummation of the transactions contemplated by any Redwood Agreement, does or would, after the giving of notice or the lapse of time or both: (a) conflict with, result in a breach of, constitute a default under, or violate the Governance Documents of any Redwood Party, or any Law applicable to any Redwood Party; (b) conflict with, result in a breach of, constitute a default under, result in the acceleration of any rights or obligations under, create in any Person the right to accelerate any rights or obligations under or amend, modify,

cancel or refuse to perform under, or require any notice under any Contract or other arrangement, to which any Redwood Party is a party, or by which any of their respective assets or properties are bound; or (c) result in the creation of, or give any Person the right to create, any Lien upon any right, property or asset of any Redwood Party.

**6.4 No Approvals.** Except as otherwise set forth on Part 6.4 of the Redwood Disclosure Schedule, no Approval of any Government Entity or other Person is required in connection with the execution, delivery and performance of, or the consummation of the transactions contemplated by, any Redwood Agreement by any Redwood Party.

**6.5 No Brokers.** Except for Stifel Nicolaus & Company, Incorporated, there is no investment banker, broker, finder or other intermediary that has been retained by or is authorized to act on behalf of any Redwood Party, or any of their respective Affiliates, who is or might be entitled to any fee or commission in connection with the Transactions.

**6.6 Disclosure.** No representation or warranty or other statement made by any Redwood Party in this Agreement or in any of the documents delivered pursuant to this Agreement contains any untrue statement or omits to state a material fact necessary to make any of them, in light of the circumstances in which it was made, not misleading.

## **Article VII ADDITIONAL AGREEMENTS.**

**7.1 Bankruptcy Matters.** (a) Within five (5) calendar days after the Execution Date, ERC shall, and shall cause each of the other Debtors to, file the Reorganization Plan (drafts of which shall have been provided to Redwood sufficiently in advance of filing and shall be acceptable to Redwood) and a related amended disclosure statement, (the "Disclosure Statement"), with the Bankruptcy Court and seek to obtain approval of the Disclosure Statement and the Confirmation Order with respect to the Reorganization Plan as expeditiously as possible, and in any event, within thirty (30) calendar days and seventy-five (75) calendar days, respectively, of the Execution Date. The Reorganization Plan, Disclosure Statement and Confirmation Order shall each be in form and substance satisfactory to the Redwood Parties in their sole and absolute discretion.

(b) The Debtors shall provide the Redwood Parties with copies of all material motions, orders, applications and supporting papers and notices prepared by the Debtors (including, without limitation, forms of orders and notices to interested parties), as soon as practicable, prior to their being filed with the Bankruptcy Court, relating to this Agreement, the Transactions or the Reorganization Plan, and shall consult as reasonably practicable with the Redwood Parties or their counsel prior to taking any significant action with respect to the Transactions or Reorganization Plan. Without the consent of the Redwood Parties, the Debtors shall not take any significant action with respect to the Reorganization Plan or Transactions that is inconsistent with the transactions and terms contemplated by this Agreement. With respect to all other motions, orders, applications and supporting papers and notice, the Debtors will use reasonable efforts to provide the Redwood Parties with copies thereof, where practicable, prior to their submission, and shall, in all cases, provide the Redwood Parties and its counsel with copies of such submissions or correspondence after the filing thereof. All papers forwarded to the Redwood Parties under this section may be provided in draft form.

(c) Pursuant to the Reorganization Plan, on or prior to the Closing Date, each of the Transferred Landowners and each of the Sellers that is a Debtor will emerge as a reorganized entity and shall receive, subject to the provisions of the Reorganization Plan, a discharge of all

Liabilities (other than Liabilities that will be Assumed Liabilities at Closing) pursuant to the applicable provisions of the Bankruptcy Code.

(d) Sellers' obligations to pay (i) Redwood Transaction Costs pursuant to Section 7.6(a), and (ii) any Termination Fee pursuant to Section 9.2, shall constitute administrative expenses (which shall be super-priority administrative expense claims, senior to all other administrative expense claims and payable out of Sellers' cash or other collateral securing Sellers' obligations to its senior secured prepetition lenders, prior to any recovery by such lenders) of Sellers under section 364(c)(1) of the Bankruptcy Code.

**7.2 Conduct of Business.** (a) From the Execution Date until the Closing, except as otherwise contemplated by this Agreement or to the extent Redwood shall otherwise consent in writing, the Erickson Parties shall: (a) conduct the Business in the Ordinary Course, (b) use reasonable best efforts to maintain and preserve intact the organization, employees and advantageous business relationships of the Business and retain the services of its officers and key employees, and (c) take no action which would materially adversely affect or materially delay the ability of the Redwood Parties to obtain any necessary Approvals for the transactions contemplated hereby or to perform their covenants under this Agreement.

(b) During the period from the Execution Date to the Closing Date, except as expressly contemplated or permitted by this Agreement or as expressly required by applicable Law, the Erickson Parties shall not, and shall, to the extent falling within the scope of and permitted by the Management Agreements, use commercially reasonable efforts to cause the NFPs not to, without the prior written consent of Redwood:

- (i) issue any debt securities or otherwise incur any indebtedness for borrowed money, assume, guarantee, endorse or otherwise as an accommodation become responsible for the obligations of any other Person in excess of \$250,000, except for the debtor-in-possession credit facility approved by the Bankruptcy Court order dated December 18, 2009 (the "DIP Financing") and any draws thereunder, or make any loans or advances or renewals thereof to any Person;
- (ii) amend, modify or replace the DIP Financing or fail to comply with any of the terms thereof;
- (iii) adjust, split, combine, reclassify, convert or exchange any of its capital stock or equity interests or any securities or obligations convertible into or exchangeable for any shares of its capital stock or equity interests;
- (iv) make, declare or pay any dividend or make any other distribution on, whether payable in cash, stock, equity interests, property or otherwise any of its capital stock or equity interests or any securities or obligations convertible into or exchangeable for any shares of its capital stock or equity interests;
- (v) redeem, purchase or otherwise acquire, any of its capital stock or equity interests or any securities or obligations convertible into or exchangeable for any shares of its capital stock or equity interests;

- (vi) grant any stock appreciation rights, restricted stock, bonus stock, stock options or any similar awards or rights in respect of any of its capital stock or equity interests or any securities or obligations convertible into or exchangeable for any shares of its capital stock or equity interests;
- (vii) sell, pledge or encumber any additional capital stock or equity interests or any securities or obligations convertible into or exchangeable for any shares of its capital stock or equity interests;
- (viii) sell, transfer, mortgage, license, encumber (except for Liens granted to secure the DIP Financing) or otherwise dispose of any of its properties or assets;
- (ix) make any investment either by purchase of stock or securities, contributions to capital, property transfers, or purchase of any property or assets of any other Person;
- (x) increase or decrease its equity ownership position in any Person;
- (xi) amend or terminate any Material Contract;
- (xii) except in the Ordinary Course, enter into any Contract that, if it had existed on the Execution Date, would have been a Material Contract;
- (xiii) establish, adopt, amend or terminate any plan or any agreement, arrangement or plan of any kind, or engage in any transaction with, or for the benefit of, any officers, directors, members, managers or Employees, including any collective bargaining, bonus, profit sharing, thrift, compensation, stock option, restricted stock, pension, retirement, deferred compensation, employment, termination and severance agreement, trust, fund, policy or arrangement;
- (xiv) pay any bonus to any officers, directors, members, managers or Employees;
- (xv) increase in any manner the compensation or fringe benefits of any officers, directors, members, managers or Employees;
- (xvi) settle, agree to settle or compromise any Action (whether or not commenced prior to the Execution Date and including any Action relating to this Agreement or the Transactions) for an amount in excess of \$250,000;
- (xvii) amend its Governance Documents;
- (xviii) enter into any new line of business, discontinue any line of business, relocate or terminate any operations or otherwise materially change the business currently conducted by it;
- (xix) acquire or agree to acquire, by merging or consolidating with, or by purchasing an equity interest in, or all or a portion of the assets of, or by



any other manner, any other Person, or engage in any divestiture, merger, consolidation, conversion or dissolution;

- (xx) incur any capital expenditures in excess of \$250,000 individually or \$1,000,000 in the aggregate, except in accordance with any cash receipt and disbursement budget approved by the lender of the DIP Financing;
- (xxi) change any Tax election, file any amended Tax Return, enter into any closing agreement, settle or compromise any liability with respect to Taxes, agree to any adjustment of any Tax attribute, change (or make a request to any taxing authority to change) any of its methods of reporting income or deductions;
- (xxii) take any action with respect to changing its accounting methods, principles or practices, other than changes required by applicable Law or GAAP or regulatory accounting as concurred in by ERC's independent accountants;
- (xxiii) commit any act or omission which could reasonably be expected to constitute a material breach or default under any Material Contract;
- (xxiv) take any action (or fail to take any action) that could reasonably be expected to result in the loss, lapse, abandonment, invalidity or unenforceability of any material Owned IP;
- (xxv) take any action that is intended or could reasonably be expected to violate any applicable Law or result in any of the conditions set forth in Article VIII not being satisfied in a timely manner;
- (xxvi) distribute, pay out, transfer or otherwise use, or fail to make Ordinary Course contributions to, any Medical Claims Cash other than solely for the purpose of paying medical or dental insurance premiums (including stop-loss premiums), related administrative expenses or self-funded medical or dental claims (up to applicable levels of stop-loss) incurred under the applicable group health Employee Plans, as contemplated by Section 7.3(c); or
- (xxvii) agree or commit to do any of the foregoing.

**7.3 Employee and Employee Benefits Matters.** (a) The Redwood Parties are not obligated to hire any Erickson Employees, but may interview and discuss potential employment with all Erickson Employees; *provided, however*, it is the intention of the Redwood Parties to hire substantially all employees of ERC at Closing, subject to ongoing due diligence. Prior to Closing, Redwood will provide ERC with a list of Erickson Employees to whom a Redwood Party has made an offer of employment that has been accepted to be effective upon the Closing (the "Transferred Employees"). Effective immediately prior to the Closing, ERC will, or will cause its applicable Affiliate to, terminate the employment of all Transferred Employees.

(b) As of 11:59 p.m., on the Closing Date, all Transferred Employees shall cease participation in all Employee Plans, except with respect to benefits accrued as of, or claims incurred on or prior to, such time. Beginning on the day immediately following the Closing Date,

Redwood or its Affiliates will provide employee benefit coverages for Transferred Employees under new or existing plans sponsored by Redwood or one of its Affiliates. ERC shall terminate the Erickson Retirement Communities, LLC 401(k) Plan on the day immediately prior to the Closing Date and shall take all such actions as are necessary to (i) fully vest Transferred Employees in all of their account balances under such plan, (ii) permit Transferred Employees to rollover their account balances (including notes associated with plan loans if permitted by the third party administrator) to a 401(k) plan sponsored by Redwood or one of its Affiliates as soon as reasonably practicable on or following the Closing Date and (iii) not place any Transferred Employees' plan loans into default prior to the date of such rollovers as long as such rollovers occur prior to the last day of the calendar quarter following the calendar quarter in which the Closing Date occurs.

(c) Prior to the Closing, ERC shall use Medical Claims Cash solely for the purpose of paying self-funded medical or dental claims (up to applicable levels of stop-loss), medical or dental insurance premiums (including stop-loss premiums) and related administrative expenses under group health Employee Plans. Following the Closing, the Redwood Parties shall reimburse ERC (or, in the Redwood Parties' discretion, pay the claims administrator directly) for the cost (up to applicable levels of stop-loss) of eligible self-funded medical or dental claims incurred under group health Employee Plans, up to a maximum amount, in the aggregate, equal to the Medical Claims Cash delivered to the Redwood Parties at Closing.

(d) The Erickson Parties shall be responsible (regardless of whether such responsibility would be imposed on the Erickson Parties under Section 54.4980B-9 of the Treasury Regulations) for satisfying any and all Liabilities under the continuation coverage provisions of the *Consolidated Omnibus Budget Reconciliation Act of 1985*, as amended ("COBRA"), and any applicable state Law to provide continuation coverage to or with respect to all employees or former employees of the Erickson Parties, the Management Agreement Counterparties, and any ERISA Affiliates thereof, and the beneficiaries of such employees, as a result of any "qualifying event" occurring prior to the Closing or as a result of the Transactions; *provided, however*, that the Acquisition Companies shall provide COBRA to M&A qualified beneficiaries (as such term is defined under Section 54.4980B-9 of the Treasury Regulations of the Code) under the new group health plans sponsored by the Acquisition Companies immediately following the Closing Date.

(e) In respect of notices and payments relating to events occurring prior to the Closing or as a result of the Transactions, ERC shall be responsible for and assume all liability for any and all notices, payments, fines or assessments due to any Government Entity, pursuant to any Law with respect to the employment, discharge or layoff of any Erickson Employees (including, for this purpose, any Employee who is not classified by an ERC Company as an Erickson Employee, but who is later determined to be an Employee of any ERC Company) as of or before the Closing, including pursuant to the WARN Act.

(f) Nothing expressed or implied in this Section 7.3 will confer upon any Erickson Employee (including, for this purpose, any Employee who is not classified by an ERC Company as an Erickson Employee, but who is later determined to be an Employee of any ERC Company), any employee of any Redwood Party, or any legal representative of any such Person, any rights or remedies, including any right to employment or continued employment for any specified period, of any nature or kind whatsoever under or by reason of this Agreement. Nothing in this Agreement (i) will limit or restrict in any way the right of the Redwood Parties to modify, amend, terminate or establish employee benefit plans or arrangements in whole or in part at any time after the Closing Date, (ii) shall be construed to establish, amend, or modify any benefit plan, program,

agreement or arrangement, or (iii) is intended to confer upon any individual (including Employees, retirees, or dependents or beneficiaries of Employees or retirees) any right as a third-party beneficiary of this Agreement.

**7.4 ERC Retained Community Contracts.** Prior to Closing, Redwood will provide ERC with a list of:

(a) the existing management Contracts relating to ERC Retained Communities with respect to which ManagementCo has executed new replacement management Contracts satisfactory to ManagementCo (to be effective as of Closing); and

(b) the existing management Contracts relating to ERC Retained Communities with respect to which ManagementCo has not executed new replacement management Contracts, and which ManagementCo has elected to assume at the Closing (the “Transferred Management Contracts”).

**7.5 No Solicitation.** (a) Except as authorized and directed by the Order entered by the Bankruptcy Court in the Bankruptcy Case on November 6, 2009 (docket number 272) approving, *inter alia*, bidding procedures for the sale of substantially all of the Debtors’ assets (the “Bidding Procedures Order”), none of the Erickson Parties, any of their Affiliates, or any of their Representatives will directly or indirectly (i) solicit, initiate, encourage, facilitate (including by way of furnishing information) or take any other action designed to facilitate any inquiries or proposals regarding any merger, share exchange, consolidation, sale of assets, assumption of liabilities, sale of shares of capital stock (including by way of a tender offer) or similar transactions involving any of the Erickson Parties or any of their Subsidiaries that, if consummated, would constitute an Alternative Transaction (any of the foregoing inquiries or proposals being referred to herein as an “Alternative Proposal”); (ii) participate in any discussions or negotiations with third parties regarding an Alternative Transaction; or (iii) enter into any agreement regarding any Alternative Transaction.

(b) Intentionally deleted.

(c) As used in this Agreement, “Alternative Transaction” means any of (i) a transaction pursuant to which any Person or group of Persons (other than a Redwood Party), directly or indirectly, acquires or would acquire more than 25% of the outstanding equity ownership interests of any Erickson Party or any of their Subsidiaries; (ii) a merger, share exchange, consolidation or other business combination involving any Erickson Party or any of their Subsidiaries; (iii) any transaction pursuant to which any Person or group of Persons (other than a Redwood Party) acquires or would acquire control of assets of any Erickson Party or any of their Subsidiaries; or (iv) any other consolidation, business combination, share exchange, recapitalization or similar transaction involving any Erickson Party or any of their Subsidiaries, other than the Transactions.

(d) ERC will notify Redwood promptly (but in no event later than 24 hours) after the receipt by any Erickson Party or any of their Subsidiaries of any Alternative Proposal, or any modification of or amendment to any Alternative Proposal, or any request for information relating to any Erickson Party or any of their Subsidiaries, or for access to the properties, books or records of any Erickson Party or any of their Subsidiaries by any Person who has made, or ERC reasonably believes may make, an Alternative Proposal. Such notice to Redwood will be made orally and in writing, and will indicate the identity of the Person requesting such information or access, and the material terms of any such Alternative Proposal. ERC will keep Redwood fully

informed, on a current basis, of any material changes in the status and any material changes or modifications in the terms of any such Alternative Proposal, indication or request.

(e) Intentionally deleted.

(f) Except as authorized and directed by the Bidding Procedures Order, the Erickson Parties and their Subsidiaries and Representatives will immediately cease and cause to be terminated any existing discussions or negotiations with any Persons (other than the Redwood Parties) conducted heretofore with respect to any of the foregoing. The Erickson Parties and their Subsidiaries and Representatives will use commercially reasonable efforts to cause all persons other than the Redwood Parties and their Representatives who have been furnished confidential information regarding the Erickson Parties and their Subsidiaries within the 12 months preceding the Original Execution Date to return or destroy such information, except to the extent the Debtors are authorized and directed by the Bidding Procedures Order to make such information available to such persons. Except as authorized by the Bidding Procedures Order, the Erickson Parties agree not to, and to cause their Subsidiaries not to, release any third party from the confidentiality provisions of any agreement to which any Erickson Party or any of their Subsidiaries is or may become a party, and will immediately take all steps necessary to terminate any approval that may have been heretofore given under any such provisions authorizing any person to make an Alternative Proposal.

(g) The Erickson Parties will ensure that all of their Representatives are aware of the restrictions described in this Section 7.5. It is understood that any violation of the restrictions set forth in this Section 7.5 by any Representative of any Erickson Party or any of their Subsidiaries will be deemed to be a breach of this Section 7.5 by the Erickson Parties.

**7.6 Expenses.** (a) ERC shall pay the reasonable, documented, out-of-pocket expenses incurred by the Redwood Parties in connection with their due diligence investigation of the ERC Companies, the preparation and negotiation of this Agreement, and the closing of the Transactions, up to a maximum amount of Five Hundred Thousand Dollars (\$500,000) (the "Redwood Transaction Costs"). ERC has heretofore advanced the sum of Five Hundred Thousand Dollars (\$500,000) in cash to Redwood as an advance against ERC's obligation to pay the Redwood Transaction Costs (the "Transaction Cost Advance"), and Redwood acknowledges receipt of same.

(b) Except as otherwise set forth in this Agreement (including Section 7.6(a)), the Parties shall pay all of their own expenses relating to the transactions contemplated by this Agreement, including, the fees and expenses of their own Representatives.

**7.7 Access to Information.** (a) At all times prior to the Closing Date, the Erickson Parties shall, and shall cause their Affiliates to, permit the Redwood Parties and their counsel and other professional advisors to have reasonable access to the Business to perform due diligence, to examine the Contracts, books, records and other information of the Business, and make, or have made, copies thereof; *provided; however*, that such access shall be during normal business hours, upon reasonable prior notice and in a manner so as not to interfere with the normal business operations of the Business.

(b) Following the Closing, unless otherwise prohibited by Law, each Party will afford each other Party, its counsel and its accountants, during normal business hours, reasonable access to the books, records and other data relating to the Business and the right to make copies and extracts therefrom, to the extent that such access may be reasonably required by the

requesting Party in connection with (i) the preparation of Tax Returns, (ii) compliance with the requirements of any Government Entity, (iii) any actual or threatened legal action, or (iv) for any other legitimate or proper business purpose.

(c) No Party shall be entitled to charge any other Party for the cost of providing copies of any Contracts, books, records and other information to such other Party.

**7.8 Efforts to Satisfy Conditions.** Each of the Parties agrees to use commercially reasonable best efforts to cause all conditions to closing for which such Party is responsible to be satisfied as promptly as practicable after the Execution Date.

**7.9 Further Assurances.** From and after the Closing, from time to time and without further consideration, each Party will execute and deliver such instruments and take such other commercially reasonable action reasonably requested by one or more of the other Parties in order to effect the Transactions.

**7.10 Transfer Taxes.** To the extent the Transactions are not exempt from such Taxes pursuant to Section 1146 of the Bankruptcy Code, all transfer Taxes, including excise, sales, use, value added, real property transfer, stamp, documentary, filing, recordation, notarial and other similar taxes and fees that may be imposed or assessed as a result of the transactions contemplated by this Agreement, together with any interest, additions or penalties with respect thereto and any interest in respect of such additions or penalties shall be paid one-half by the Redwood Parties and one-half by the Erickson Parties.

**7.11 Publicity; Confidentiality.** A Party may only issue a press release or make a public statement concerning this Agreement and the Transactions if such press release or public statement is made in form and substance, and at a time, to which all other Parties have consented after good faith consultation. Otherwise, no Party hereto shall make any public disclosure concerning this Agreement, the Transactions, or the existence of and/or particulars of any negotiations related hereto, including the terms, conditions, consideration to be paid or other facts related to this Agreement, except to the extent that public disclosure is required by applicable Law, in which case, to the extent practicable, the Parties will use their reasonable best efforts to reach mutual agreement on disclosure language prior to making such disclosure. Each Erickson Party will, and will cause its Affiliates and Representatives to, maintain in confidence all written, oral or other information obtained in confidence ("Confidential Information") from another Party in connection with this Agreement or the Transactions, including this Agreement and the terms hereof, unless the use or disclosure of such Confidential Information is reasonably necessary in connection with (a) any obtaining any Approval; (b) the Bankruptcy Case; (c) negotiations with the Corporate Lenders, Project Lenders and other holders of ERC's debt and other obligations (and each of the foregoing party's representatives) and applicable state regulatory authorities; or (d) a valid court order; *provided, however*, that no Party shall disclose, or knowingly permit any other Person to disclose, any Confidential Information of the other Party without such other Party's prior written consent. Notwithstanding the foregoing, ERC may disclose this Agreement as authorized and directed by the Bidding Procedures Order.

**7.12 Liquidation of Cash Equivalents.** Prior to Closing, ERC shall liquidate all of its cash equivalents to cash, as necessary to permit ERC to deliver the Distributable Cash on Hand in accordance herewith in the form of cash, and not cash equivalents.

**7.13 Notice of Material Developments.** Each Party shall give prompt written notice to the other Parties of (i) any material variances in any of its representations or warranties contained in

Articles V or VI herein, as the case may be, (ii) any breach of any covenant hereunder by such Party, and (iii) any other material development of which it becomes aware affecting the ability of such Party to consummate the transactions contemplated by this Agreement.

**Article VIII CONDITIONS PRECEDENT.**

**8.1 Conditions to the Obligations of the Redwood Parties.** The obligations of the Redwood Parties to effect the Transactions are subject to the satisfaction at or prior to the Closing of the following conditions, unless waived in writing by Redwood:

(a) the representations and warranties of the Erickson Parties set forth in this Agreement shall be true and correct in all material respects (except that those representations and warranties that are limited by materiality, Material Adverse Effect, or similar expressions shall be true and correct in all respects) as of the Execution Date and as of the Closing Date as if made at and as of the Closing Date (except where such representations or warranties are made expressly as of a specific date, and then as of such date; *provided, however*, that notwithstanding anything herein to the contrary, Redwood shall only be entitled to elect not to close the Transactions under Section 8.1(a), (b) or (c), or terminate this Agreement pursuant to Section 9.1(b)(i), if the aggregate amount of the inaccuracies of the representations and warranties of ERC or the breaches of the covenants of the Erickson Parties exceeds One Million Dollars (\$1,000,000); it being further agreed that if such inaccuracies or breaches exceed Two Hundred Fifty Thousand Dollars (\$250,000), but are less than One Million Dollars (\$1,000,000), the Closing Cash Payment shall be reduced dollar-for-dollar by the amount of such inaccuracies and breaches;

(b) the Erickson Parties shall have performed in all material respects all obligations required to be performed by each of them under this Agreement at or prior to the Closing;

(c) the Erickson Parties shall have executed, as applicable, and delivered to Redwood all of the documents and other items required to be delivered by each of them at the Closing pursuant to Section 4.2(a);

(d) no Action shall be pending or threatened before any Government Entity that seeks to or does, and no Law shall be in effect that does, prevent consummation of any of the Transactions;

(e) since the Original Execution Date there shall not have occurred any event, change or circumstance that could reasonably be expected to constitute a Material Adverse Effect on ERC; *provided, however*, that the Redwood Parties acknowledge and agree that no Material Adverse Effect on ERC shall be deemed to arise from the filing of the Bankruptcy Case or the Reorganization Plans;

(f) the Court Approval shall have been obtained and be in full force and effect;

(g) intentionally reserved;

(h) intentionally reserved;

(i) all applicable counterparties shall have executed and delivered a waiver and release of all claims against the Redwood Parties, the Sellers, the Transferred Landowners and the Purchased Assets, in form and substance acceptable to Redwood in its sole and exclusive discretion;

(j) with respect to each Retirement Community (other than the ERC Retained Communities):

- (i) each Subsidiary Buyer and the applicable NFP shall have agreed upon mutually-acceptable modifications to each Community Loan and amended and restated documentation for such modified Community Loan (in each case, an “Amended and Restated Community Loan”);
- (ii) the applicable NFP and ManagementCo shall have executed new Contracts, including new Management Contracts, Master Lease and Use Contracts and working capital loan Contracts, satisfactory to ManagementCo (to be effective as of Closing) to replace all Contracts existing as of the Original Execution Date, provided, that each such Management Contract shall have a term of at least ten (10) years; and
- (iii) ERC shall have terminated all Development Contracts and Management Contracts existing as of the Original Execution Date.

(k) intentionally reserved;

(l) all third Persons whose Approval is necessary under any Contract or applicable Law (i) for the consummation of the Transactions or (ii) for Redwood to own and operate the Business following the Closing as it was conducted as of the Petition Date by the Erickson Parties (including all Approvals identified in Part 5.4 of the Erickson Disclosure Schedule), shall have given such Approval in writing, or the Bankruptcy Court shall have entered orders binding such persons in lieu of such Approvals;

(m) (i) all necessary third Persons shall have agreed to Redwood’s \$50,000,000 credit facility, the purpose of which is to fund post-Closing working capital and/or project development needs of the Acquisition Companies (the “Working Capital Facility”), which Working Capital Facility shall have a first lien on all assets of the Acquisition Companies and the Transferred Landowners; and (ii) Redwood shall have provided ERC with a copy of the executed documents evidencing the Working Capital Facility;

(n) ERC, Parent and such other Affiliates of ERC as Redwood may identify prior to Closing shall have each changed their respective entity name to a different name satisfactory to Redwood;

(o) such Affiliates of ERC as Redwood may identify prior to Closing shall have been dissolved;

(p) the waiting period under the Hart-Scott-Rodino Antitrust Improvements Act of 1976 (the “HSR Act”) applicable to the consummation of the Transactions shall have expired or been terminated;

(q) JCE shall have executed and delivered:

- (i) a mutually-acceptable Non-Competition Agreement with ManagementCo, entered into solely as an inducement for the Redwood Parties to consummate the Transactions, and not for any other consideration; and

- (ii) a mutually-acceptable Consulting and License Agreement with ManagementCo, providing for payments by ManagementCo to JCE of One Million Dollars (\$1,000,000) per year over a five (5) year period (the “Consulting and License Agreement”).

(r) Scott Erickson, Mark Erickson and such other Persons as Redwood may identify prior to Closing shall each have executed and delivered a mutually-acceptable Non-Competition Agreement with ManagementCo, entered into solely as an inducement for the Redwood Parties to consummate the Transactions, and not for any other consideration; and

(s) Redwood and ERC shall have entered into a lease satisfactory to Redwood with respect to the real property at 5525 Research Park Drive, Baltimore, Maryland 21250.

**8.2 Conditions to the Obligations of the Erickson Parties.** The obligations of the Erickson Parties to effect the Transactions are subject to the satisfaction at or prior to the Closing of the following conditions, unless waived in writing by ERC:

(a) the representations and warranties of Redwood set forth in this Agreement shall be true and correct in all material respects (except that those representations and warranties that are limited by materiality, Material Adverse Effect or similar qualifications shall be true and correct in all respects) as of the Execution Date and as of the Closing Date as if made at and as of the Closing Date (except where such representations or warranties are made expressly as of a specific date, and then as of such date);

(b) Redwood shall have performed in all material respects all obligations required to be performed by it under this Agreement at or prior to the Closing;

(c) the Redwood Parties shall have executed, as applicable, and delivered to ERC all of the documents and other items required to be delivered by each of them at the Closing pursuant to Section 4.2(a);

(d) no Action shall be pending or threatened before any Government Entity that seeks to or does, and no Law shall be in effect that does, prevent consummation of any of the Transactions;

(e) the Court Approval shall have been obtained and be in full force and effect; and

(f) the waiting period under the HSR Act applicable to the consummation of the Transactions shall have expired or been terminated.

**Article IX TERMINATION.**

**9.1 Termination.** This Agreement may be terminated prior to the Closing:

(a) by mutual written consent of Redwood and ERC;

(b) by Redwood:

- (i) if there has been a material breach by any Erickson Party of any representation or warranty contained herein or in the due and timely performance of any covenant or agreement contained herein;



- (ii) if the Bankruptcy Court shall not have entered an order approving the Disclosure Statement in form and substance satisfactory to Redwood on or before March 9, 2010; *provided, however*, that Redwood may not terminate this Agreement pursuant to this Section 9.1(b)(ii) if ERC pays \$2,000,000 to Redwood by wire transfer of immediately available funds;
  - (iii) if the Closing shall not have occurred on or before April 30, 2010 (the "Outside Closing Date") by reason of the failure of any condition precedent under Section 8.1 (unless such failure was solely within the control of a Redwood Party);
  - (iv) if the Court Approval shall not have been obtained by the Outside Closing Date, or the Confirmation Order has been entered but stayed as of such date or has not become a Final Order within ten (10) days thereafter;
  - (v) if any condition precedent under Section 8.1 shall have become incapable of fulfillment other than as a result of breach by Redwood, and such condition is not waived by Redwood;
  - (vi) if ERC or any of its Affiliates has filed any pleading or entered into any agreement (other than this Agreement and other than the Bidding Procedures Motion approved by Redwood) relating or otherwise regarding (A) the sale, transfer, lease or other disposition, directly or indirectly, of a material portion of the Purchased Assets or (ii) a proposed plan of reorganization that is not acceptable to Redwood or that differs from the terms of this Agreement;
  - (vii) if ERC or any of its Affiliates selects a bid by someone other than Redwood as the "highest and best offer" in accordance with the Bidding Procedures Order; or
  - (viii) if any secured lenders to ERC or any of its Affiliates exercise rights under Section 363(k) of the Bankruptcy Code.
- (c) by ERC:
- (i) if there has been a material breach by any Redwood Party of any representation or warranty contained herein or in the due and timely performance of any covenant or agreement contained herein, ERC has notified Redwood of such breach in writing, and the breach has not been cured within ten (10) Business Days after delivery of such notice; or
  - (ii) if the Closing shall not have occurred on or before the Outside Closing Date by reason of the failure of any condition precedent under Section 8.2 (unless such failure was solely within the control of an Erickson Party).

## 9.2 Effect of Termination.

- (a) A "Triggering Event" shall be deemed to have occurred if:

- (i) Redwood terminates this Agreement pursuant to any of Sections 9.1(b)(i), (ii), (iii), (iv), (v), (vi), (vii) or (viii); or
- (ii) any Alternative Transaction is consummated on or before September 12, 2010.

(b) Immediately upon the occurrence of any Triggering Event, and provided that Redwood is not otherwise in material breach of this Agreement, ERC shall pay Redwood (collectively, the "Termination Fee"):

- (i) One Million Five Hundred Thousand Dollars (\$1,500,000),
- (ii) plus, if the Triggering Event under Section 9.2(a)(ii) occurs, an additional One Million Five Hundred Thousand Dollars (\$1,500,000) payable at the closing of the Triggering Event, and
- (iii) less the Commitment Fee then held by Redwood.

**Article X INDEMNIFICATION.**

**10.1 By the Erickson Parties.** Each Erickson Party shall, jointly and severally, in accordance with this Article X, indemnify, defend, protect and hold harmless the Redwood Parties and their respective assigns, successors and Affiliates (collectively, the "Redwood Indemnitees") from, against and in respect of all Actions asserted against, and all Damages asserted against or suffered, sustained, incurred or paid by, any Redwood Indemnatee (collectively, "Redwood Losses") in connection with or arising out of (a) the breach or inaccuracy of any representation or warranty of the Erickson Parties set forth in this Agreement or any other Erickson Agreement; or (b) the nonfulfillment of any covenant or agreement in this Agreement or any other Erickson Agreement on the part of any Erickson Party.

**10.2 By the Redwood Parties.** Each Redwood Party shall, jointly and severally, in accordance with this Article X, indemnify, defend, protect and hold harmless the Erickson Parties and their respective assigns, successors and Affiliates (collectively, the "Erickson Indemnitees") from, against and in respect of all Actions asserted against, and all Damages asserted against or suffered, sustained, incurred or paid by, any Erickson Indemnatee (collectively, "Erickson Losses") in connection with or arising out of (a) the breach or inaccuracy of any representation or warranty of the Redwood Parties set forth in this Agreement or any other Redwood Agreement, or (b) the nonfulfillment of any covenant or agreement in this Agreement or any other Redwood Agreement on the part of any Redwood Party.

**10.3 Notice of Claims.** A Person entitled to indemnification under this Article X (an "Indemnified Party") shall notify the Persons obligated to provide such indemnification under this Article X (the "Indemnifying Party") in writing promptly after becoming aware following the Closing of any Damages which an Indemnified Party shall have determined has given rise to a claim for indemnification under Article X. Such written notice (a "Claim Notice") shall include an estimate of the Damages, if known, the method of computation thereof and a reference to the specific provisions of this Agreement in respect of which it seeks indemnification. It is agreed that no delay on the part of any Indemnified Party in notifying the Indemnifying Party shall relieve the Indemnifying Party from its obligations hereunder, except to the extent said Indemnifying Party is prejudiced by such failure to give notice. If the Indemnifying Party notifies the Indemnified Party that it does not dispute the claim or the estimated amount of Damages

described in such Claim Notice, or fails to notify the Indemnified Party within thirty (30) days after delivery of such Claim Notice whether the Indemnifying Party disputes the claim or the estimated amount of Damages described in such Claim Notice, the estimated Damages in the amount specified in the Indemnified Party's Claim Notice (an "Undisputed Indemnity Amount") will be conclusively deemed a Liability of the Indemnifying Party and the Indemnifying Party shall pay the amount of such Damages to the Indemnified Party. If the Indemnifying Party has timely disputed its liability with respect to such claim or the estimated amount of Damages, the dispute shall be resolved, and the amount, if any, of Damages payable by the Indemnifying Party to the Indemnified Party (a "Resolved Indemnity Amount") shall be determined, in accordance with Section 11.6. The provisions of this Section 10.3 do not apply to Third Party Actions.

**10.4 Third Party Actions.** (a) If any third Person shall commence an Action against any Indemnified Party following the Closing (a "Third Party Action") with respect to any matter which may give rise to a claim for indemnification under this Article X, then the Indemnified Party shall notify the Indemnifying Party as the case may be, in writing promptly after becoming aware of such Third Party Action describing in reasonable detail the Third Party Action (such notice being hereinafter called a "Third Party Action Notice"), which notice shall include a reference to the specific provisions of this Agreement in respect of which it seeks indemnification. It is agreed that no delay on the part of any Indemnified Party in notifying the Indemnifying Party shall relieve the Indemnifying Party from its obligations hereunder, except to the extent said Indemnifying Party is prejudiced by such failure to give notice. The Indemnifying Party will have thirty (30) days from the delivery of such Third Party Action Notice (the "Response Period") to determine whether or not (i) the Indemnifying Party will, at its sole cost and expense, defend against such Third Party Action and/or (ii) the Indemnifying Party is disputing the claim for indemnity hereunder; provided that the Indemnifying Party will not have the right to assume the defense of such Third Party Action if the Damages relating to the claim could reasonably be expected to exceed the financial capacity of the Indemnifying Party to pay its indemnity obligations under the applicable provisions of this Article X.

(b) If the Indemnifying Party (i) does not respond to the Third Party Action Notice by 5:00 p.m., Baltimore, Maryland time on the last day of the Response Period, (ii) responds to the Third Party Action Notice, but disputes the claim for indemnity hereunder and elects not to assume the defense, (iii) responds to the Third Party Action Notice and does not dispute the claim for indemnity but elects not to assume the defense, in each case within the period allowed after delivery of the Third Party Action Notice, or (iv) is not entitled to assume the defense pursuant to Section 10.4(a), the Indemnified Party shall have the right to defend against any such Third Party Action by appropriate proceedings or to settle or pay any such Third Party Action for such an amount as the Indemnified Party shall deem appropriate and the Indemnifying Party shall promptly pay all Damages resulting from such Third Party Action in accordance with subparagraph (e) below; provided that in the case of clause (ii), any right of the Indemnified Party to recover from the Indemnifying Party shall depend on the resolution of the dispute as to the right of indemnity in accordance with Section 11.6.

(c) If the Indemnifying Party affirmatively disputes the right to indemnity, but nevertheless elects to defend against any such Third Party Action or settle or pay any such Third Party Action, any right of the Indemnified Party to recover from the Indemnifying Party shall depend on the resolution of the dispute as to the right of indemnity in accordance with Section 11.6.

(d) Notwithstanding anything herein to the contrary, if the Indemnifying Party notifies the Indemnified Party that it will defend against or settle any Third Party Action:

- (i) such defense or settlement or Damages payable shall be at the sole cost and expense of the Indemnifying Party, except for costs and expenses of the Indemnified Party's counsel, if any, pursuant to clause (vi) below;
- (ii) the Indemnifying Party and its counsel shall conduct such defense or settlement at all times in good faith;
- (iii) the Indemnifying Party and its counsel shall, at the reasonable request of the Indemnified Party, provide periodic updates to the Indemnified Party in order to keep the Indemnified Party reasonably informed as to its conduct of such defense or settlement, and shall not compromise or settle such Third Party Action without the prior written consent of the Indemnified Party (not to be unreasonably withheld or delayed) unless such settlement or compromise (A) does not subject the Indemnified Party to any monetary liability, and includes a complete, unconditional release of the Indemnified Party from all Liability with respect to such Third Party Action, (B) contains no finding or admission of any violation of law or any violation of the rights of any Person by the Indemnified Party or any of its Affiliates, (C) does not impose any consent order, decree, injunction or other equitable relief that would restrict the future activity of the Indemnified Party or its Affiliates, and (D) the sole relief provided is monetary damages that are concurrently paid in full by the Indemnifying Party;
- (iv) the Indemnified Party shall reasonably cooperate with the Indemnifying Party, including making available to the Indemnifying Party, all relevant witnesses and pertinent documents and information and appropriate personnel;
- (v) the Indemnified Party may employ its own counsel and participate in such defense or settlement at the Indemnified Party's sole cost and expense, but the control of such defense and the settlement shall rest with the Indemnifying Party;
- (vi) notwithstanding the Indemnifying Party's election to defend against or settle the Third Party Action, the Indemnified Party may, upon written notice to the Indemnifying Party, elect to employ its own counsel (who shall be reasonably acceptable to the Indemnifying Party) at the Indemnifying Party's expense (except that the Indemnifying Party shall not be obligated to pay the fees of more than one separate counsel for all Indemnified Parties, taken together) if (A) the Indemnifying Party is also a Person against whom the Third Party Action is made and the Indemnified Party has been advised by counsel that (x) representation of both parties by the same counsel would be inappropriate under applicable standards of professional conduct or (y) the Indemnified Party has available to it one or more defenses or counterclaims that are inconsistent with, different from, or in addition to one or more of those that may be available to the Indemnifying Party with respect to such Third Party Action; or (B) the Indemnifying Party shall not in fact have employed counsel reasonably satisfactory to the Indemnified Party for the defense or settlement of such Third Party Action; *provided, however*, that the

assumption of control of the defense or settlement of a Third Party Action by the Indemnified Party pursuant to this item (vi) shall not relieve the Indemnifying Party of its obligation to indemnify and hold the Indemnified Party harmless; and

- (vii) in no event shall the Indemnified Party consent to the entry of any judgment or enter into any settlement with respect to such Third Party Action without the prior written consent of the Indemnifying Party (which consent shall not be unreasonably withheld or delayed).

(e) The Damages resulting from the settlement or the final, non-appealable adjudication of such Third Party Action, or that portion thereof as to which the defense is unsuccessful (such Damages, together with Undisputed Indemnity Amounts and Resolved Indemnity Amounts, are interchangeably and collectively referred to herein as “Final Losses”), shall be conclusively deemed a Liability of the Indemnifying Party to the Indemnified Party if the Indemnifying Party: (i) does not respond to a Third Party Action Notice by 5:00 p.m., Baltimore, Maryland time on the last day of the Response Period; (ii) does not elect to defend against any Third Party Action for which it does not dispute the Indemnified Party’s right to indemnity; (iii) does not elect to defend against any Third Party Action for which it disputes the Indemnified Party’s right to indemnity, and such dispute is resolved, in accordance with Section 11.6, in a manner affirming the Indemnified Party’s right to indemnity; (iv) elects to defend against any Third Party Action for which it does not dispute the Indemnified Party’s right to indemnity hereunder; or (v) elects to defend against any Third Party Action for which it does dispute the right to indemnity, to the extent the dispute is resolved in a manner affirming the Indemnified Party’s right to indemnity.

**10.5 Intentionally Reserved.**

**10.6 Threshold Amount; Right to Set Off.** Notwithstanding anything herein to the contrary:

(a) the Erickson Parties shall have no obligation to indemnify Redwood Indemnitees pursuant to this Article X, and the Redwood Indemnitees shall not exercise any rights pursuant to Section 10.6, until the aggregate amount of Redwood Losses exceeds Two Hundred Fifty Thousand Dollars (\$250,000) (the “Threshold Amount”), whereupon the Erickson Parties shall be liable to the Redwood Indemnitees for all Redwood Losses including the Threshold Amount;

(b) the Redwood Parties shall have no obligation to indemnify Erickson Indemnitees pursuant to this Article X until the aggregate amount of Erickson Losses exceeds the Threshold Amount, whereupon the Redwood Parties shall be liable to the Erickson Indemnitees for all Erickson Losses including the Threshold Amount;

(c) the Erickson Parties shall have the right to set off any amounts payable to the Erickson Parties by the Redwood Parties pursuant to this Article X against any amounts payable by the Erickson Parties to the Redwood Parties under this Agreement; and

(d) the Redwood Parties shall have the right to set off any amounts payable to the Redwood Parties by the Erickson Parties pursuant to this Article X against any amounts payable by the Redwood Parties to the Erickson Parties under this Agreement.

**10.7 Survival Period.** (a) The period during which a claim for indemnification may be asserted hereunder (the “Claims Period”) with respect to:

- (i) a breach or inaccuracy of any of Sections 5.2 (Authority), 5.10 (Tax Matters), 5.17 (Environmental Matters) or 5.20 (Employee Plans) shall continue until thirty (30) days after the end of the applicable statute of limitations;
- (ii) a breach or inaccuracy of Section 5.5(a) (Title to Assets) shall continue indefinitely; and
- (iii) all other matters shall continue until the date that is two (2) years after the Closing Date.

(b) Notwithstanding Section 10.6(a), if, prior to the close of business on the last day of the Claims Period, an Indemnifying Party shall have been properly notified of a claim for indemnity hereunder and such claim shall not have been finally resolved or disposed of at such date, such claim shall continue to survive and shall remain a basis for indemnity hereunder until such claim is finally resolved or disposed of in accordance with the terms hereof. All representations and warranties herein shall survive the Closing until the last day of the Claims Period applicable thereto or until all unresolved claims relating thereto have been finally resolved or disposed of.

**10.8 Exclusive Remedy.** Except in the case of fraud, willful misconduct and intentional misrepresentation, the indemnification provisions in this Article X constitute the sole and exclusive remedy or recourse of any Indemnified Party against any Indemnifying Party for any Damages arising under or related to this Agreement.

#### **Article XI MISCELLANEOUS.**

**11.1 Entire Agreement.** This Agreement embodies the entire agreement and understanding of the Parties with respect to the Transactions, and supersedes all other prior commitments, arrangements or understandings, both oral and written, among the Parties with respect to the subject matter hereof.

**11.2 Construction; Headings.** The Parties have participated jointly in the negotiation and drafting of this Agreement. In the event an ambiguity or question of intent or interpretation arises, this Agreement shall be construed as if drafted jointly by the Parties and no presumption or burden of proof shall arise favoring or disfavoring any Party by virtue of the authorship of any of the provisions of this Agreement. The headings herein are for convenience only, do not constitute a part of this Agreement, and shall not be deemed to limit or affect any of the provisions hereof. Any representations and warranties in any certificate referenced herein shall be deemed representations and warranties under this Agreement.

**11.3 Severability.** The provisions of this Agreement are intended to be interpreted and construed in a manner so as to make such provisions valid, binding and enforceable. In the event that any provision of this Agreement is determined to be partially or wholly invalid, illegal or unenforceable, then such provision shall be deemed to be modified or restricted to the extent necessary to make such provision valid, binding and enforceable, or, if such provision cannot be modified or restricted in a manner so as to make such provision valid, binding and enforceable, then such provision shall be deemed to be excised from this Agreement and the validity, binding effect and enforceability of the remaining provisions of this Agreement shall not be affected or impaired in any manner.

**11.4 Waiver and Amendment.** No waiver, amendment, modification or change of any provision of this Agreement shall be effective unless and until made in writing and signed by the Redwood and ERC. No waiver, forbearance or failure by any Party of its rights to enforce any provision of this Agreement shall constitute a waiver or estoppel of such Party's right to enforce any other provision of this Agreement or a continuing waiver by such Party of compliance with any provision hereof.

**11.5 Governing Law.** This Agreement shall be governed by and construed and enforced in accordance with the laws of the State of Maryland without regard to principles of conflicts of laws.

**11.6 Dispute Resolution.** The Parties shall attempt in good faith to resolve by negotiation all controversies or claims arising out of or relating to this Agreement or the breach hereof. In the event that such a controversy or claim cannot be resolved within thirty (30) days of written notice from one Party to the other Party (which notice shall specifically describe the controversies or claims being submitted to arbitration), such controversy or claim shall be settled by arbitration administered by the American Arbitration Association under its Commercial Arbitration Rules before a single arbitrator in Baltimore, Maryland. The expenses of the arbitration shall be borne equally by the parties to the arbitration, *provided, however*, that each such party shall pay for and bear the cost of its own experts, evidence and legal counsel, unless the arbitrator rules otherwise in the arbitration. Judgment on the award rendered by the arbitrator may be entered in any court having jurisdiction thereof. The award rendered by the arbitrator shall be final and non-appealable, except as permitted under the United States Federal Arbitration Act.

**11.7 Notices.**

(a) Each Redwood Party (other than Redwood) hereby appoints Redwood as its agent to receive all notices and other communications given or to be given to, and to give all notices and other communications given or to be given by, each of them pursuant hereto. Each Erickson Party (other than ERC) hereby appoints ERC as his/its agent to receive all notices and other communications given or to be given to, and to give all notices and other communications given or to be given by, each of them pursuant hereto.

(b) Any notices or other communications required or permitted hereunder shall be in writing and sent to the appropriate addresses designated below (or to such other address or addresses as may hereafter be furnished by one Party to the other Parties in compliance with the terms hereof), by hand delivery, by facsimile transmission to the respective facsimile numbers designated below (with electronic confirmation of delivery), by UPS, FedEx or DHL next-day service, or by registered or certified mail, return receipt requested, postage prepaid:

*If to any Erickson Party:*

Erickson Retirement Communities, LLC  
701 Maiden Choice Lane  
Baltimore, Maryland 21228  
Fax: (410) 402-2348  
Attn: Gerald F. Doherty, Esq.

*with copies (which shall not constitute notice) to:*

DLA Piper LLP (US)  
203 North LaSalle Street  
Chicago, Illinois 60601  
Fax: (312) 236-7516  
Attn: John T. Cusack, Esq.  
Ross Green, Esq.

*If to any Redwood Party:*

Redwood-ERC Senior Living  
Holdings, LLC  
c/o Allegis Group, Inc.  
7301 Parkway Drive  
Hanover, Maryland 21076  
Fax: (410) 579-3505  
Attn: R. Alan Butler

*with copies (which shall not constitute notice) to:*

Allegis Group, Inc.  
7301 Parkway Drive  
Hanover, Maryland 21076  
Fax: (410) 579-3136  
Attn: Randall D. Sones, Esq.

*- and -*

Venable LLP  
750 East Pratt Street, Suite 900  
Baltimore, Maryland 21202  
Fax: (410) 244-7742  
Attn: Michael J. Baader, Esq.

**11.8 Assignment.** This Agreement may not be assigned (whether by operation of law or otherwise) by any Party without the prior written consent of the other Party; *provided, however*, that Redwood may assign its rights and obligations hereunder (including Redwood's right to purchase the Purchased Assets and the Transferred Landowners and its rights to indemnification), in whole or in part, without the consent of any of the other Parties hereto, to (a) any of its Affiliates, (b) in connection with any disposition or transfer of all or any portion of the Business following the Closing, and (c) to any of its lenders as collateral security. This Agreement will be binding upon, inure to the benefit of, and be enforceable by, the Parties' respective successors and permitted assigns; provided, that no assignment prior to Closing shall relieve Redwood of its obligations hereunder.

**11.9 No Third Party Beneficiaries.** Unless otherwise expressly stated herein, this Agreement shall not benefit or create any right of action in or on behalf of any Person other than the Parties.

**11.10 Counterparts.** This Agreement may be executed in counterparts (including by facsimile or optically-scanned electronic mail attachment), each of which shall be deemed to be original, but all of which together shall constitute one and the same instrument.

\* \* \*

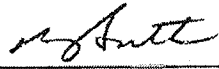
*The remainder of this page is left blank intentionally. Signatures follow on next page.*



**IN WITNESS WHEREOF**, the Parties have each executed and delivered this Second Amended and Restated Master Purchase and Sale Agreement as of the date first set forth above.


**Redwood:**

REDWOOD-ERC SENIOR LIVING HOLDINGS, LLC

By:   
Name: R. Alan Butler  
Title: Manager

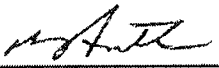
**ManagementCo:**

REDWOOD-ERC MANAGEMENT, LLC

By:   
Name: R. Alan Butler  
Title: Manager

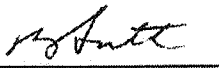
**DevCo:**

REDWOOD-ERC DEVELOPMENT, LLC

By:   
Name: R. Alan Butler  
Title: Manager

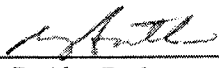
**Redwood Properties:**

REDWOOD-ERC PROPERTIES, LLC

By:   
Name: R. Alan Butler  
Title: Manager


**Redwood Kansas:**

REDWOOD-ERC KANSAS, LLC

By:   
Name: R. Alan Butler  
Title: Manager


**Redwood Tinton Falls II:**

REDWOOD-ERC TINTON FALLS II, LLC

By:   
Name: R. Alan Butler  
Title: Manager

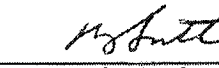
**Redwood Novi:**

REDWOOD-ERC NOVI, LLC

By:   
Name: R. Alan Butler  
Title: Manager

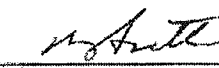
**Redwood Littleton:**

REDWOOD-ERC LITTLETON, LLC

By:   
Name: R. Alan Butler  
Title: Manager


**Redwood Senior Care:**

REDWOOD-ERC SENIOR CARE, LLC

By:   
Name: R. Alan Butler  
Title: Manager

**Redwood Ashburn:**


REDWOOD-ERC ASHBURN, LLC

By:   
Name: R. Alan Butler  
Title: Manager

**Redwood Concord:**


REDWOOD-ERC CONCORD, L.P.

By: REDWOOD-ERC CONCORD GP,  
LLC, its General Partner

By:   
Name: R. Alan Butler  
Title: Manager

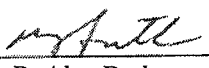
**Redwood Dallas:**

REDWOOD-ERC DALLAS, LLC

By:   
Name: R. Alan Butler  
Title: Manager

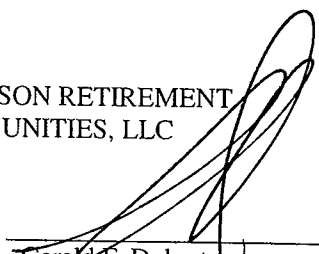
**Redwood Houston:**

REDWOOD-ERC HOUSTON, LLC

By:   
Name: R. Alan Butler  
Title: Manager

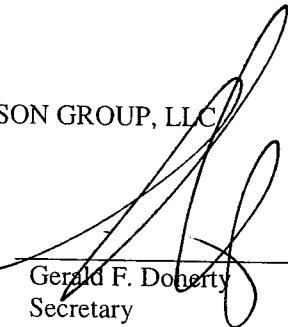
**ERC:**

ERICKSON RETIREMENT  
COMMUNITIES, LLC

By:   
Name: Gerald F. Doherty  
Title: Executive Vice President

**Parent:**

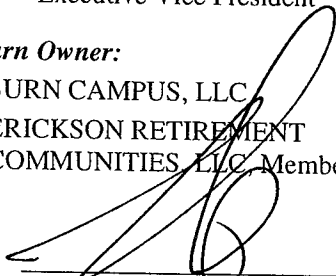
ERICKSON GROUP, LLC

By:   
Name: Gerald F. Doherty  
Title: Secretary

**Ashburn Owner:**

ASHBURN CAMPUS, LLC

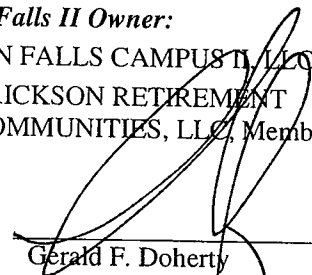
By: ERICKSON RETIREMENT  
COMMUNITIES, LLC, Member

By:   
Name: Gerald F. Doherty  
Title: Executive Vice President

**Tinton Falls II Owner:**

TINTON FALLS CAMPUS II, LLC

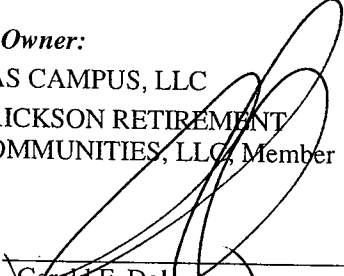
By: ERICKSON RETIREMENT  
COMMUNITIES, LLC, Member

By:   
Name: Gerald F. Doherty  
Title: Executive Vice President

**Kansas Owner:**

KANSAS CAMPUS, LLC

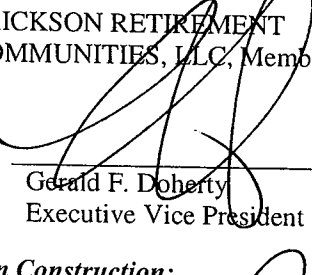
By: ERICKSON RETIREMENT  
COMMUNITIES, LLC, Member

By:   
Name: Gerald F. Doherty  
Title: Executive Vice President

**SCC:**

SENIOR CAMPUS CARE, LLC

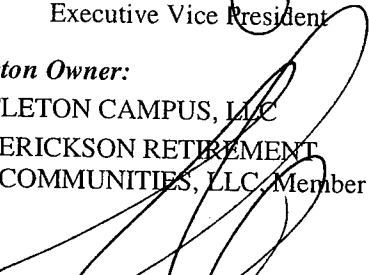
By: ERICKSON RETIREMENT  
COMMUNITIES, LLC, Member

By:   
Name: Gerald F. Doherty  
Title: Executive Vice President

**Littleton Owner:**

LITTLETON CAMPUS, LLC

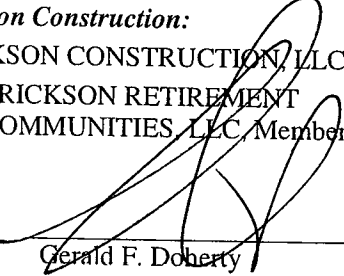
By: ERICKSON RETIREMENT  
COMMUNITIES, LLC, Member

By:   
Name: Gerald F. Doherty  
Title: Executive Vice President

**Erickson Construction:**

ERICKSON CONSTRUCTION, LLC

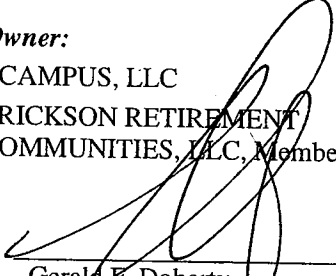
By: ERICKSON RETIREMENT  
COMMUNITIES, LLC, Member

By:   
Name: Gerald F. Doherty  
Title: Executive Vice President

**Novi Owner:**

NOVI CAMPUS, LLC

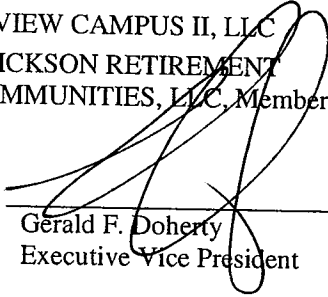
By: ERICKSON RETIREMENT  
COMMUNITIES, LLC, Member

By:   
Name: Gerald F. Doherty  
Title: Executive Vice President

**PV Owner:**

POINT VIEW CAMPUS II, LLC

By: ERICKSON RETIREMENT  
COMMUNITIES, LLC, Member

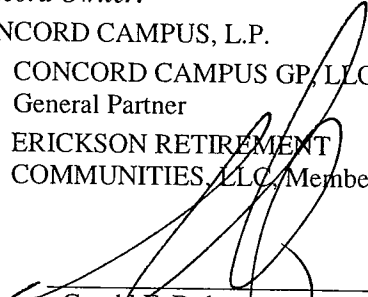
By:   
Name: Gerald F. Doherty  
Title: Executive Vice President

**Concord Owner:**

CONCORD CAMPUS, L.P.

By: CONCORD CAMPUS GP, LLC, its  
General Partner

By: ERICKSON RETIREMENT  
COMMUNITIES, LLC, Member

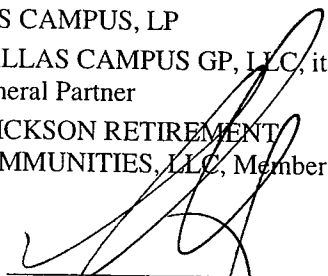
By:   
Name: Gerald F. Doherty  
Title: Executive Vice President

**Dallas Owner:**

DALLAS CAMPUS, LP

By: DALLAS CAMPUS GP, LLC, its  
General Partner

By: ERICKSON RETIREMENT  
COMMUNITIES, LLC, Member

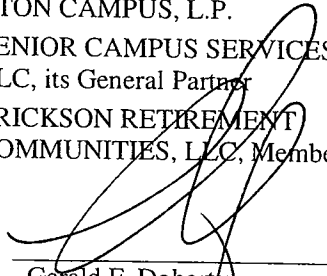
By:   
Name: Gerald F. Doherty  
Title: Executive Vice President

**Houston Owner:**

HOUSTON CAMPUS, L.P.

By: SENIOR CAMPUS SERVICES,  
LLC, its General Partner

By: ERICKSON RETIREMENT  
COMMUNITIES, LLC, Member

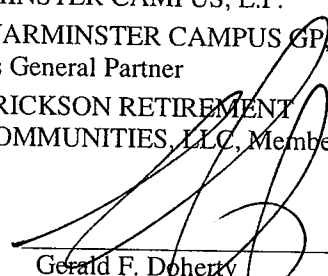
By:   
Name: Gerald F. Doherty  
Title: Executive Vice President

**Warminster Owner:**

WARMINSTER CAMPUS, L.P.

By: WARMINSTER CAMPUS GP, LLC,  
its General Partner

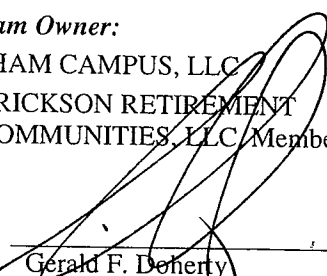
By: ERICKSON RETIREMENT  
COMMUNITIES, LLC, Member

By:   
Name: Gerald F. Doherty  
Title: Executive Vice President

**Hingham Owner:**

HINGHAM CAMPUS, LLC

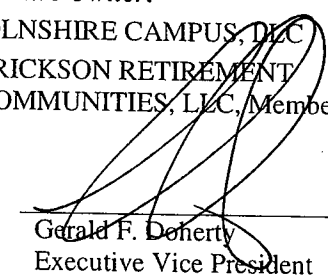
By: ERICKSON RETIREMENT  
COMMUNITIES, LLC, Member

By:   
Name: Gerald F. Doherty  
Title: Executive Vice President

**Lincolnshire Owner:**

LINCOLNSHIRE CAMPUS, LLC

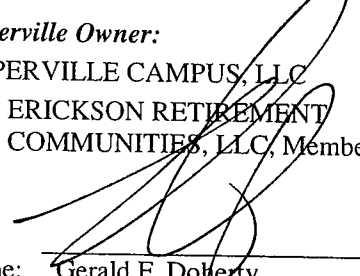
By: ERICKSON RETIREMENT  
COMMUNITIES, LLC, Member

By:   
Name: Gerald F. Doherty  
Title: Executive Vice President

**Naperville Owner:**

NAPERVILLE CAMPUS, LLC

By: ERICKSON RETIREMENT  
COMMUNITIES, LLC, Member

By:   
Name: Gerald F. Doherty  
Title: Executive Vice President