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COUNSEL TO THE DEBTORS AND
DEBTORS IN POSSESSION

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

In re:

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

Chapter 11

Case No. 22-30659 (MVL)

(Jointly Administered)

**DECLARATION OF NICK HARSHFIELD, VICE CHAIR AND TREASURER OF THE
DEBTORS, IN SUPPORT OF CONFIRMATION OF THE THIRD AMENDED PLAN OF
REORGANIZATION OF PLAN SPONSORS DATED DECEMBER 19, 2022**

I, Nick Harshfield, declare under penalty of pursuant to 28 U.S.C. § 1746:

BACKGROUND

1. I am a Director, Vice Chair and Treasurer of Northwest Senior Housing Corporation d/b/a Edgemere (“**Edgemere**”) and its affiliate Senior Quality Lifestyles Corporation (“**SQLC**”), who are the debtors and debtors in possession (the “**Debtors**”) in the above-captioned chapter 11 cases (the “**Chapter 11 Cases**”).

2. In my capacity as Vice Chair and Treasurer the Debtors, I have personal

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



knowledge of, and am familiar with, the business affairs, day-to-day operations, books and records, and financial condition of the Debtors.

3. I submit this declaration (this “**Declaration**”) on behalf of the Debtors in support of confirmation of the *Third Amended Chapter 11 Plan of Reorganization of Plan Sponsors Dated December 19, 2022* [Docket No. 933] (as may be amended, modified and/or supplemented, the “**Plan**”).²

4. I am authorized by the Debtors to submit this Declaration. Except as otherwise indicated herein, all facts set forth in this Declaration are based upon my personal knowledge, my consultation with the Debtors’ employees, agents, attorneys, and advisors, my review of relevant documents, including, without limitation, the terms and provisions of the Plan, the Plan Supplement, and the Disclosure Statement, or my opinion based upon my expertise, experience, and knowledge of the Debtors’ business and financial condition. References to the Bankruptcy Code, the chapter 11 process, and related legal matters are based upon my understanding of such matters in reliance on explanations provided by and the advice of counsel. If called upon to testify, I would competently testify to the facts set forth in this Declaration.

5. This Declaration is provided in support of Confirmation of the Plan. I have reviewed and am generally familiar with the terms and provisions of the Plan and the requirements for Confirmation under Bankruptcy Code section 1129.

BACKGROUND

I. General Background

6. On April 14, 2022 (the “**Petition Date**”), the Debtors filed voluntary petitions commencing cases for relief under chapter 11 of the Bankruptcy Code (the “**Chapter 11 Cases**”).

² Capitalized terms used but not otherwise defined shall have the meanings ascribed to them in the Plan.

On the same day, the Debtors filed, among other things, the *Declaration of Nick Harshfield in Support of Chapter 11 Petition and First Day Pleadings* [Docket No. 7] (the “**First Day Declaration**”). The First Day Declaration, along with Articles II and III of the Disclosure Statement, provide a detailed description of the Debtors’ business operations, capital and debt structures, the events leading to the filing of the Chapter 11 Cases, historical business operations, and the Debtors’ conduct and prior legal proceedings in these Chapter 11 Cases.

7. On April 20, 2022, the Court entered an order granting the *Debtors’ Application for Entry of an Order (A) Authorizing the Retention and Employment of Kurtzman Carson Consultants LLC as Claims, Noticing and Solicitation Agent, Nunc Pro Tunc to the Petition Date and (B) Granting Related Relief* [Docket No. 21]. See Docket No. 110.

II. Background of the Plan

8. The Debtors, UMB Bank, N.A., in its capacity as successor bond trustee and master trustee for the Original Bonds (together, the “**Trustee**”), and its capacity as lender under the DIP Credit Agreement (the “**DIP Lender**” and together with the Trustee and the Debtors, the “**Plan Sponsors**”), Lifespace Communities, Inc. (“**Lifespace**”), and the official committee of unsecured creditors (the “**Committee**”) engaged in extensive negotiations that resulted in the filing of the *First Amended Plan of Reorganization of the Plan Sponsors Dated December 6, 2022* [Docket No. 869] (the “**First Amended Plan**”) and the *First Amended Disclosure Statement for The Plan of Reorganization of the Plan Sponsors Dated December 6, 2022* [Docket No. 870] (the “**First Amended Disclosure Statement**”), whereby the Plan Sponsors proposed, among other things, the Sale Transaction, the Lifespace Settlement and Contribution Agreement (the “**Lifespace Settlement**”), and the establishment of the Litigation Trust and the Residents Trust.

9. I believe the Lifespace Settlement is reasonable and in the best interests of the creditors. The Lifespace Settlement provides necessary funding for the Resident Trusts and permits meaningful distributions under the Plan for Class 5 Participating Former Resident Refund Claims, and Class 6 Participating Current Resident Refund Claims. The Lifespace Settlement will allow Participating Former Residents and Participating Current Residents to be paid in full on account of their refund claims, which is a significantly better outcome for residents than they would have received under certain of the prior plans proposed in these Chapter 11 Cases.

10. On December 12, 2022, the Plan Sponsors filed the *Second Amended Plan of Reorganization of the Plan Sponsors Dated December 12, 2022* [Docket No. 898] and the *Second Amended Disclosure Statement for The Plan of Reorganization of the Plan Sponsors Dated December 12, 2022* [Docket No. 899], whereby the Plan Sponsors made non material changes, primarily to address informal comments in advance of the hearing to consider the approval of the Plan Sponsors' disclosure statement for purposes of solicitation.

11. Following the disclosure statement hearing, on December 19, 2022, the Plan Sponsors filed the *Third Amended Plan of Reorganization of the Plan Sponsors Dated December 19, 2022* [Docket No. 933] (the "**Third Amended Plan**") and the *Third Amended Disclosure Statement for the Plan of Reorganization of the Plan Sponsors Dated December 19, 2022* (the "**Disclosure Statement**").

12. On December 19, 2022, the Court entered the *Order Approving Disclosure Statement and Granting Related Relief* [Docket No. 936] (the "**Disclosure Statement Order**"), which approved the Disclosure Statement as containing "adequate information" as defined by Bankruptcy Code section 1125.

13. The Plan contemplates treatment of Claims as follows:

Class	Claim	Estimated Allowed Claims	Status	Voting Rights
1	Other Priority Claims	\$19,182.99	Unimpaired	Deemed to Accept
2	Bond Claims	\$111,728,919.22	Impaired	Entitled to Vote
3	Other Secured Claims	\$0	Unimpaired	Deemed to Accept
4	General Unsecured Claims	\$206,313,419	Impaired	Entitled to Vote
5	Participating Former Resident Refund Claims	\$37,101,059.29	Impaired	Entitled to Vote
6	Participating Current Resident Refund Claims	\$106,809,920.49	Impaired	Entitled to Vote
7	Intercompany Claims	\$5,221,798.74	Impaired	Deemed to Reject
8	Interests in Debtors	N/A	Impaired	Deemed to Reject

14. The Debtors have disclosed all material facts and are not aware of any untrue statement of material fact in the Disclosure Statement, the Plan, the Plan Supplement, or any related documents or communications. Moreover, the Debtors have no intention of making any untrue statement or omitting any material fact.

15. I have reviewed the *Certification of Andres A. Estrada with respect to the Tabulation of Votes on the Third Amended Plan of Reorganization of the Plan Sponsors Dated December 19, 2022* [Docket No. 1101] (the “**Balloting Declaration**”) and the *Amended Certification of Andres A. Estrada with respect to the Tabulation of Votes on the Third Amended Plan of Reorganization of the Plan Sponsors Dated December 19, 2022* [Docket No. 1218] (the “**Amended Balloting Declaration**”), which shows that Holders of Claims in Class 2 (Bond Claims), Class 4 (General Unsecured Claim), Class 5 (Participating Former Resident Refund Claims), and Class 6 (Participating Current Resident Refund Claims) voted to accept the Plan.

**THE PLAN FULFILLS THE STATUTORY
REQUIREMENTS FOR CONFIRMATION UNDER
BANKRUPTCY CODE AND SHOULD BE CONFIRMED.**

16. Compliance with the Bankruptcy Code (11 U.S.C. § 1129(a)(1)). I believe that the Plan complies with the following requirements of the Bankruptcy Code:

17. Proper Classification (11 U.S.C. § 1122, 1123(a)(1)). I am familiar with the classification of Claims and Interests in the Plan and believe such classifications are based upon the legal nature and relative rights of such Claims and Interests and are not proposed for any improper purpose. Each Class contains only Claims and Interests which are substantially similar to other Claims and Interests. In addition to the Classes, Section 2 of the Plan also designates, but does not classify Claims of other types including Administrative Claims, Priority Tax Claims, Professional Claims, DIP Facility Claims, the Dallas County Claim, Diminution Claim and the U.S. Trustee Fees.

18. Specified Treatment of Unimpaired and Impaired Claims (11 U.S.C. § 1123(a)(2); (a)(3)). The Plan specifies whether Classes of Claims are Impaired or Unimpaired and specifies the treatment of all Classes of Claims that are Impaired.

19. No Discrimination (11 U.S.C. § 1123(a)(4)). The Plan provides for equal treatment within each Class.

20. Adequate Means of Implementation (11 U.S.C. § 1123(a)(5)). I believe that the Plan, in conjunction with the Plan Supplement documents, provides adequate means for implementation, including, (i) the establishment of a Litigation Trust to prosecute and liquidate the Litigation Trust Assets for the benefit of holders of Litigation Trust Interests, (ii) the establishment of the Residents Trust to receive and distribute the Lifespace Resident Contributions pursuant to the terms of the Lifespace Settlement, the Plan, and the Residents Trust Agreement for the benefit of holders of Residents Trust Interests; (iii) the Sale Transaction; and

(iv) providing for the return of funds deposited into the Entrance Fee Escrow, which are not property of the Debtors' Estates, to satisfy Escrow Resident Claims.

21. Equity Securities (11 U.S.C. § 1123(a)(6)). It is my understanding that Bankruptcy Code section 1123(a)(6) is not applicable because the Plan does not provide for the issuance of non-voting equity securities.

22. Selection of Litigation Trustee and Residents Trust Trustee (11 U.S.C. § 1123(a)(7)). The provides for the appointment of the Litigation Trustee, who shall, among other things, be responsible for the administration of the Litigation Trust Assets, and a Residents Trust Trustee, who shall, among other things, be responsible for the administration of the Residents Trust Assets. I understand these individuals will not be insiders of the Debtors and will be consistent with the interests of creditors, holders of equity interests, and public policy.

23. 11 U.S.C. § 1123(a)(8). It is my understanding that Bankruptcy Code section 1123(a)(6) is not applicable because neither of the Debtors is an individual.

24. Impairment of Classes (11 U.S.C. § 1123(b)(1)). Section 3 of the Plan classifies and describes the treatment of Unimpaired and Impaired Classes.

25. Executory Contracts (11 U.S.C. § 1123(b)(2)). Section 5 of the Plan contains provisions governing the treatment of Executory Contracts and Unexpired Leases.

26. Preservation of Claims and Causes of Action (11 U.S.C. § 1123(b)(3)). I understand that Section 4.7 of the Plan provides that the Litigation Trustee shall be vested with the authority to enforce all rights to commence and pursue any and all causes of action of the Debtors that are otherwise expressly released in the Plan.

27. Other Permissible Provisions (11 U.S.C. § 1123(b)(6)). The Plan contains release, injunction, and exculpation provisions. These are integral components of the Plan and I believe

such provisions are fair and equitable, are given for valuable consideration, and are in the best interests of the Debtors and the Estates in these Chapter 11 Cases.

28. Cure of Defaults (11 U.S.C. § 1123(d)). I understand that Section 5 of the Plan provides for the satisfaction of Cure obligations with respect to Executory Contracts and Unexpired Leases to be assumed by the Debtors.

29. Compliance With the Bankruptcy Code (11 U.S.C. § 1129(a)(2)). To the best of my knowledge, the Debtors and other Plan Sponsors have complied with the Bankruptcy Code and the Solicitation Procedures Order in proposing the Plan and in transmitting the solicitation materials and related notices and in soliciting and tabulating votes on the Plan.

30. Good Faith Solicitation (11 U.S.C. § 1129(a)(3)). To the best of my knowledge, the Plan has been proposed in good faith and not by any means forbidden by law.

31. Payment for Services or Costs and Expenses (11 U.S.C. § 1129(a)(4)). All payments made or promised by the Debtors for services rendered in connection with these Chapter 11 Cases will be subject to review by the Court and other parties in interest.

32. Proper Disclosures (11 U.S.C. § 1129(a)(5)). It is my understanding that Bankruptcy Code section 1129(a)(5) is not applicable because the Debtors are selling substantially all of their assets. However, the Plan still complies with this section because it provides for the Litigation Trustee and the Residents Trust Trustee to be appointed prior to the Effective Date and to serve as of and after the Effective Date.

33. No Rate Changes (11 U.S.C. § 1129(a)(6)). The Plan does not provide for any rate changes over which a governmental regulatory commission has jurisdiction, therefore I understand Bankruptcy Code section 1129(a)(6) is inapplicable.

34. Best Interests of Creditors (11 U.S.C. § 1129(a)(7)). As a Plan Sponsor, the

Trustee's professionals developed the liquidation analysis attached to the Disclosure Statement as Exhibit 2 (the "**Liquidation Analysis**"). It is my understanding that the Liquidation Analysis compared potential creditor recoveries under the Plan with recoveries under a hypothetical liquidation of the Debtors under chapter 7 of the Bankruptcy Code, based on asset values and liabilities. The Liquidation Analysis demonstrates that the Holder of a Claim or Interest in an Impaired Class will receive as much if not more under the Plan than under a liquidation pursuant to chapter 7 of the Bankruptcy Code.

35. Acceptance by Impaired Voting Classes (11 U.S.C. § 1129(a)(8)). As detailed in the Balloting Declaration and the Amended Balloting Declaration: (a) Holders of Claims and Interests in Class 1 and Class 3 are Unimpaired and deemed to have accepted the Plan; (b) Holders of Claims in Class 2, Class 4, Class 5, and Class 6 have voted to accept the Plan; and (d) Holders of Claims and Interests in Class 7 and Class 8 are deemed to have rejected the Plan. I understand that the Debtors have requested that the Court confirm the Plan pursuant to Bankruptcy Code section 1129(b).

36. I understand based on the Balloting Declaration that after the voting deadline expired, certain creditors submitted ballots to cast their vote for the first time and others submitted amended or new ballots to change their votes with respect to the Plan and/or change their election with respect to the option to opt out of the Lifespace Settlement and the third party releases provided in Section 8 of the Plan. Although the Debtors received overwhelming support for the Plan and had sufficient votes, both in number and amount, to satisfy the voting requirements for Confirmation of the Plan, the Debtors accepted late and revised ballots from all creditors.

37. Treatment of Administrative and Tax Claims (11 U.S.C. § 1129(a)(9)). It is my understanding that the Plan provides for the payment of Allowed Administrative Claims,

Professional Claims, and Priority Tax Claims from the Net Sale Proceeds as allowed by the Bankruptcy Court.

38. Acceptance by Impaired Classes (11 U.S.C. § 1129(a)(10)). As set forth in the Balloting Declaration, the Plan was accepted by Class 2, Class, 4, Class 5, and Class 6, each of which is an Impaired Class under the Plan that is not composed of insiders.

39. Feasibility (11 U.S.C. § 1129(a)(11)). I understand that to satisfy the feasibility requirement, the Debtors must demonstrate that the Confirmation of the Plan will not be followed by a liquidation. Based upon my understanding of feasibility and the Plan, I believe that the Plan is feasible. The Plan expressly provides for the sale of substantially all of the Debtors' assets, and the Net Sale Proceeds will be distributed in accordance with the Plan.

40. Statutory Fees (11 U.S.C. § 1129(a)(12)). The Plan provides that all statutory fees will be paid by the Debtors on or before the Effective Date.

41. Inapplicable Provisions (11 U.S.C. § 1129(a)(13)-(15)). With respect to these provisions of the Bankruptcy Code, (a) the Debtors do not provide retiree benefits, (b) are not subject to any domestic support obligations, and (c) are not individuals.

42. Compliance with Bankruptcy Code section 1129(a)(16). It is my understanding that any and all transfers of property contemplated under the Plan shall be made in accordance with any applicable provisions of non-bankruptcy law.

43. Cram Down (11 U.S.C. § 1129(b)). Holders of Claims and Interests in Class 7 (Intercompany Claims) and Class 8 (Interests in the Debtors) are not receiving Distributions under the Plan and are deemed to have rejected the Plan pursuant to Bankruptcy Code section 1126(g). Holders of Claims in each of Class 1 (Other Priority Claims) and Class 3 (Other Secured Claims) are Unimpaired, and thus, deemed to have accepted the Plan. The following classes are

Impaired under the Plan: Class 2 (Bond Claims), Class 4 (General Unsecured Claims), Class 5 (Participating Former Resident Refund Claims) and Class 6 (Participating Current Resident Refund Claims).

44. I believe that the Plan does not discriminate unfairly and is fair and equitable. With respect to Class 7 Intercompany Claims, Lifespace, as the holder, has agreed to waive the right to enforce and assert such Claims against the Debtors. With respect to Class 8 Interests in Debtors, Lifespace as the sole member of the Debtors, has agreed that such interests shall be terminated. Thus, the proposed treatment of these Classes is appropriate since there are no similarly situated class of Claims or Interests.

45. Similarly, to the extent it applies, the absolute priority rule is not violated because no junior Holder of a Claim or Interest will receive any Distribution unless the Holders of higher priority Claims either receive the full value of their Claims or consent to such treatment. Accordingly, I believe that the Plan meets the requirements of Bankruptcy Code section 1123(b) if it applies in these Chapter 11 Cases.

46. Other Requirements (11 U.S.C. § 1129(c)-(e)). With regard to these provisions: (a) no other plan has been submitted in these Chapter 11 Cases, (b) the principal purpose of the Plan is not the avoidance of taxes or application of section 5 of the Security Act of 1933, and (c) these Chapter 11 Cases are not “small business cases.”

47. I believe that confirmation of the Plan is appropriate, in the best interests of all parties-in-interest and should, therefore, be approved.

Date: February 17, 2023

**Northwest Senior Housing Corporation
d/b/a Edgemere and Senior Quality
Lifestyles Corporation**

Debtors and Debtors in Possession

/s/ Nick Harshfield

Nick Harshfield

Director, Vice Chair and Treasurer