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**COUNSEL TO THE EDMERE
 RESIDENTS' TRUST**

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

In re:

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

Liquidating Debtors.

§
§
§
§
§
§
§

Chapter 11

Case No. 22-30659 (MVL)

(Jointly Administered)

**THE EDMERE RESIDENTS' TRUST'S WITNESS AND EXHIBIT LIST FOR
HEARING ON SEPTEMBER 19, 2023, AT 2:00 P.M. (CT)**

The Edmere Residents' Trust (the "**Trust**") hereby files its *Witness and Exhibit List* for the hearing(s) on **September 19, 2023, at 2:00 p.m.**

1. The Trust may call any of the following as a witness at the hearing:
 - A. John Falldine, Executive Director (former);
 - B. Anwar Hussain, Former Resident;
 - C. Myrtle Lemmon, Former Resident;
 - D. Betty Sherrill, Former Resident; and

¹ The Liquidating Debtors in these chapter 11 cases (the "**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.



- E. Stephen A. McCartin, Trustee of the Edgemere Residents Trust
- F. Any witness necessary to authenticate a document;
- G. Any rebuttal and/or impeachment witnesses; and
- H. Any witness called or designated by any other party in interest.

2. The Trust may offer any one or more of the following exhibits at the hearing:

EX.	DESCRIPTION	M A R K E D	O F F E R E D	O B J E C T	A D M I T
1	Second Amended [Proposed] <i>Order to Resolve Conflicting Demands, for Interpretation of the Residency Agreements, and to Ensure Trust Distributions are Accomplished Pursuant to the Plan</i> [Docket No. 1697-1]				
2	Chart: Holders of Trust Interests				
3	Residency Agreement (Form)				
4	Addendum (Form)				
5	<i>Declaration of John Falldine, Executive Director of Debtor in Support of the First Amended Application of the Edgemere Residents Trust</i> [Docket No. 1698]				
6	<i>Declaration of Anwar Hussain, Former Resident of Edgemere</i> [Docket No. 1699]				
7	<i>Declaration of Myrtle Lemmon, Former Resident of Edgemere in Support of the First Amended Application of the Edgemere Residents Trust</i> [Docket No. 1700]				
8	<i>Declaration of Betty Sherrill, Former Resident of Edgemere in Support of the First Amended Application of the Edgemere Residents Trust</i> [Docket No. 1701]				
9	Examples of Edgemere Addendums specifying a Right of Survivorship				
	OTHER DOCUMENTS				
	Any document or pleading filed in the above-captioned case(s).				
	Any exhibit necessary for impeachment and/or rebuttal purposes.				

EX.	DESCRIPTION	M A R K E D	O F F E R E D	O B J E C T	A D M I T
	Any exhibit identified or offered by any other party.				

The Trust reserves the right to supplement or amend this *Witness and Exhibit List* at any time prior to the hearing.

DATED: September 12, 2023

Respectfully submitted by:

/s/ Stephen A. McCartin

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**COUNSEL TO THE EDMERE
RESIDENTS' TRUST**

CERTIFICATE OF SERVICE

I hereby certify that, on September 12, 2023 a true and correct copy of the foregoing document was served electronically by the Court's PACER system.

/s/ Stephen A. McCartin

Stephen A. McCartin

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

In re:	§	
	§	Chapter 11
Northwest Senior Housing Corporation, <i>et</i>	§	Case No. 22-30659 (MVL)
<i>al.</i> , ¹	§	
Liquidating Debtors.	§	(Jointly Administered)
	§	

**ORDER TO RESOLVE CONFLICTING DEMANDS, FOR INTERPRETATION OF
THE RESIDENCY AGREEMENTS, AND TO ENSURE TRUST DISTRIBUTIONS ARE
ACCOMPLISHED PURSUANT TO THE PLAN**

On the 19th day of September, 2023 (the “**Hearing**”) came on for consideration the First Amended Application of the Edgemere Residents Trust to Resolve Conflicting Demands, for Interpretation of the Residency Agreements, and to Ensure Distributions are Accomplished Pursuant to the Plan [Docket No. 1674] (the “**Application**”)², and the Court having found that

¹ The Liquidating Debtors in these chapter 11 cases (the “**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) (together, the “**Debtors**”). The Debtors’ mailing address is 8523 Thackery Street, Dallas, Texas 75225.

² Capitalized terms not defined herein shall have the meaning ascribed in the Plan.

notice of the Hearing, and an opportunity for all parties in interest to object, have been provided to all parties-in-interest and, upon consideration of the legal and factual bases set forth in the documents filed in support of the Application, the statements of counsel, all testimony and other evidence proffered, adduced and presented at the Hearing, this Court has determined that just cause exist for the relief granted herein. After due deliberation thereon and good cause appearing thereof, the Court hereby issues the following findings of fact and conclusions of law and order:

FINDINGS OF FACT AND CONCLUSIONS OF LAW

IT IS HEREBY DETERMINED, FOUND, ADJUDGED, DECREED, AND ORDERED THAT:

A. **Findings and Conclusions.** The findings and conclusions set forth herein and on the record during the Hearing constitute this Court's findings of fact and conclusions of law pursuant to Rule 52 of the Federal Rules of Civil Procedure, as made applicable herein by Bankruptcy Rules 7052 and 9014. To the extent any of the findings of fact constitute conclusions of law, they are adopted as such. To the extent any of the conclusions of law constitute findings of fact, they are adopted as such.

B. **Exclusive Jurisdiction; Venue; Core Proceeding (28 U.S.C. §§157 and 1334).** This Court has jurisdiction over the Application pursuant to 28 U.S.C. §§ 157 and 1334. Venue in this judicial district is proper pursuant to 28 U.S.C. §§ 1408 and 1409. The Application is a core proceeding under 28 U.S.C. § 157(b)(2)(L), and this Court has exclusive jurisdiction to consider the Application and enter a final order with respect thereto.

C. **Commencement and Joint Administration of the Chapter 11 Cases.** On April 14, 2022 (the "Petition Date"), the Debtors commenced these Chapter 11 cases by filing

voluntary petitions for relief under chapter 11 of the Bankruptcy Code. On April 19, 2022, the Court entered that certain *Order Pursuant to Bankruptcy Rule 1015(b) and Local Rule 10015-1 (I) Directing Joint Administration of Chapter 11 Cases and (II) Granting Related Relief* [Docket No. 88].

D. **The Plan.**

(i) On April 7, 2023 this Court entered its Findings of Fact, Conclusions of Law, and Order Confirming Chapter 11 Plan of Plan Sponsors [Docket No. 1393] (the “**Confirmation Order**” and “**Plan**”). The Plan Effective Date was June 13, 2023. The Plan provides, in part:

- for the sale of substantially all of the Debtors’ assets and the liquidation of the Debtors,
- for the rejection of the Residency Agreements on the Effective Date of the Plan, creating Refund Claims against the Debtors under the rejected Residency Agreements,
- satisfaction of the Allowed Refund Claims by providing the holders of the Allowed Refund Claims with beneficial interests in the Edgemere Residents Trust (created under the Plan) (the “**Trust Interests**”) in full and final satisfaction of the Allowed Refund Claims, and
- for the settlement of all claims against Lifespace in exchange for Lifespace’s agreement to pay approximately \$145 million to the Edgemere Residents Trust for the benefit of the holders of Trust Interests, the former owners and the holders of Allowed Refund Claims arising under the rejected Residency Agreements.

(ii) The Plan defines Refund Claims as follows:

1.130 “Refund Claims” means Rejected Claims of both Former Residents and Current Residents against Edgemere in the amount of the contractual refund obligations of Edgemere under the rejected Residency Agreements.

(iii) The Plan places Participating Former Resident Refund Claims and Participating Current Resident Refund Claims in Classes 5 and 6, and provides:

3.2.5 Class 5 – Participating Former Resident Refund Claims. Class 5 is Impaired and entitled to vote on this Plan. This Class consists of the Refund Claims of Participating Former Residents, who, for the avoidance of doubt, no longer reside at Edgemere as of the Voting Record Date. The Residency Agreements of Former Residents shall be rejected, and the holders of Allowed Class 5 Claims who OPT OUT of the Lifespace Settlement and the releases under Section 8 of this Plan shall receive a Class 4 General Unsecured Claim in an amount equal to their Refund Claim. Former Residents who do not OPT OUT of the Lifespace Settlement and the releases under Section 8 of this Plan (i.e., Participating Former Residents) shall receive payment in an amount equal to their Refund Claim no later than sixty (60) days after the Refund Trigger Date.

3.2.6 Class 6 – Participating Current Resident Refund Claims. Class 6 is Impaired and entitled to vote on this Plan. This Class consists of the Refund Claim of Participating Current Residents, who, for the avoidance of doubt, reside at Edgemere, as of the Voting Record Date. The Residency Agreements of Current Residents shall be rejected, and the holders of Allowed Class 6 Claims who OPT OUT of the Lifespace Settlement and the releases under Section 8 of this Plan shall receive a Class 4 General Unsecured Claim in an amount equal to their Refund Claim. Current Residents who do not OPT OUT of the Lifespace Settlement and the releases under Section 8 of this Plan (i.e., Participating Current Residents) shall receive Cash from the Residents Trust with sixty (60) days of the Refund Trigger Date in an amount equal to the Refund Claim.”

E. **The Residents Trust Agreement.**

(i) The Residents Trust Agreement provides:

The Residents Trust is being created on behalf of, and for the benefit of, the Residents Trust Beneficiaries, who are Participating Former Residents and Participating Current Residents of Edgemere that hold Allowed Class 5 and Class 6 Refund Claims under the Plan, and who shall hold beneficial interests in the Residents Trust ("Residents Trust Interests"). See Agreement, §D, p. 1.

(ii) The Trust Agreement provides that the Bankruptcy Court shall have exclusive jurisdiction to determine conflicting claims or demands to distributions from the Trust:

Conflicting Claims. If any conflicting claims or demands are made or asserted with respect to a Class 5 or Class 6 Claim, or to a Residents Trust Interest or a distribution to a Residents Trust Beneficiary, the Trustee shall be entitled, at the direction and with the approval of the Residents Trust Advisory Board, to refuse to comply with any such conflicting claims or demands. In so refusing, the Trustee, at the direction and with the approval of the Residents Trust Advisory Board, may elect to make no payment or distribution with respect to the Residents Trust Interest subject to the claims or demands involved, or any part thereof, and the Trustee shall refer such conflicting claims or demands to the Bankruptcy Court, which shall have exclusive jurisdiction over resolution of such conflicting claims or demands. In so doing, the Trustee shall not be or become liable to any party for its refusal to comply with any of such conflicting claims or demands. The Trustee shall be entitled to refuse to act until either (i) the rights of the adverse claimants have been adjudicated by a Final Order of the Bankruptcy Court (or such other court of proper jurisdiction) or (ii) all differences have been resolved by a written agreement among all of such parties and the Trustee, which agreement shall (x) include a complete release of the Residents Trust and the Trustee, and (y) be subject to the approval of the Residents Trust Advisory Board if the proposed agreement results in a Class 5 or Class 6 Claim Allowed Claim equal to or in excess of \$100,000 (the occurrence of either (i) or (ii) of this Section 2.1 being referred to as a "Dispute Resolution"). Promptly after a Dispute Resolution is reached, the Trustee shall transfer the payments and distributions, in

accordance with the terms of such Dispute Resolution, the Plan and this Trust Agreement. (Emphasis added). *See* Trust Agreement, §2.1.

(iii) The Trust Agreement also provides that the Trust Interests are not transferable or assignable except by will, intestate succession, or operation of law. *See* Section 2.4(a) of the Trust Agreement.

(iv) The Trust Agreement provides the Trust Agreement may be amended by the Trustee, with the consent of all members of the Advisory Board, provided the amendment does not adversely affect distributions to the Trust beneficiaries. *See* Trust Agreement, §9.9.

F. **The Residency Agreements.**

(i) The Residency Agreements used by the Debtors and the Residents (the “Residency Agreements”) provide, in part:

- Resident(s) are defined “individually and/or collectively as “you” or “Resident” (See Residency Agreement, p.1),
- the Residents are required to make “non-transferable” Deposits (*See Residency Agreement, §5.7*),
- the Residency Agreement constitutes the entire agreement among the parties unless additional terms are in writing and signed by both parties (*See Residency Agreement §8.10*), and
- there are no-third party rights created under the Residency Agreement (*See Residency Agreement, §8.20*).

(ii) The Residency Agreements also provide (for 90% refundable contracts) as follows:

7.4 Refund of Resident Deposit. After termination of this Agreement in accordance with Section 7.2, or in the event of your death, or in the case of double occupancy, both occupants’ deaths, we will refund ninety percent (90%) of the Resident Deposit (without interest) that you paid for your Residence at Edgemere. (Emphasis Added).

(iii) Some, but not all, of the Residency Agreements included Addendums, which are in writing and signed by both parties. The Addendums provide, in part, as follows:

I (we) direct the refundable portion of the resident deposit to be refunded to:

The Estate of _____ ()
or

Contact person and mailing address for refund:

See Exhibit B to the Application.

G. Double Occupancy Residency Agreements.

(i) Residency Agreements executed by two (2) residents, either married or unmarried, to occupy the same unit are referred to herein as “**Double Occupancy Agreements**”.

The Residency Agreements provide in relevant part as follows:

Effect of Double Occupancy. If your Residency is occupied by two (2) Residents and one (1) Resident dies, this Agreement will continue in full legal force and effect as to the surviving Resident, except the Monthly Service Fee will be adjusted to reflect the then applicable single occupancy rate payable for the type of Residence occupied. No refund of the Resident Deposit will occur until the surviving Resident leaves and all conditions of Section 7.4 are met. (Emphasis added). See Residency Agreement, §7.3.

Refund of Resident Deposit. After termination of the Agreement in accordance with Section 7.2 or in the event of your death, or in the case of double occupancy, both occupants' deaths, we will refund ninety percent (90%) of the Resident Deposit (without interest) that you paid for your Residence at Edgemere. Except as provided in the next paragraph, the refund will be paid on the later of: (i) ten (10) days after a new resident deposit has been received from a new resident and the new resident has taken occupancy of your former Residence, or (ii) termination of this Agreement. (Emphasis added). *See* Residency Agreement, §7.4. (Emphasis Added).

H. **Declarations.**

(i) John Falldine was the Executive Director in charge of operations for the Debtors. According to the Falldine Declaration, the Debtors and the Residents intended and in fact implemented the contracts treating the Residents under Double Occupancy Residency Agreements as possessing a right of survivorship, with the last surviving resident becoming the sole owner of 100% of the right to receive the refund. The Falldine Declaration states that it was the normal custom for the Debtors to pay 100% of the refunds due under Double Occupancy Residency Agreements to the last surviving resident, or to his or her Addendum Payee if one was executed, or to his or her estate if the last surviving resident was deceased and there was no Addendum executed.

(ii) The Falldine Declaration also states it was the intent of the parties and the normal custom for the Debtors and the Residents to treat the Addendums as “pay on death” (“POD”) provisions to the contract, and not a lifetime transfer of the refund by the Resident to the Addendum Payee. The Falldine Declaration states that the Debtors would pay the refunds when due to the Residents, and not the Addendum Payees, if the refund became payable during the life

of the Resident (or during the life of the last surviving resident under Double Occupancy Agreements). The Falldine Declaration states that the Debtors would allow the Residents to modify the Addendums, and to revoke or change the Addendum Payee, at any time prior to their deaths without the consent of the Addendum Payees.

(iii) Anwar Hussain, Myrtle Lemmon, and Betty Sherrill, living former residents of Edgemere, executed Addendums directing their refunds to be paid to third parties. The Hussain, Lemmon and Sherrill Declarations confirm that it was their intent for the Addendums to only become effective upon their deaths (a P.O.D. provision), and they are now asserting that the Trust Interest exchanged for their Refund Claims are owned by them, and that any Trust distributions must would be made to them, and not to the Addendum Payees.

I. **Industry Custom.**

(i) The Ventana, a competing CCRC in the community, expressly provides in its residency contracts that the last surviving resident has a right of survivorship under double occupancy Residency Agreements, and any designation of a beneficiary to receive the refund will be payable only upon the death of the residents. The Ventana contract provides:

- a. If the Residency is initially occupied by two (2) Residents, the Entrance Deposit shall be paid jointly to each of you, if both are alive. If only one of you is alive, the amount due will be retained for the surviving Resident. If neither of you is alive, the refund will be paid in accordance with a Designation of Beneficiary of Entrance Deposit Refund executed by the Resident who last occupied the Residence, or if no Designation of Beneficiary has been executed, to the personal representative of your estate. (Emphasis added).
- b. If the Residence is initially occupied by one (1) Resident, the amount due will be paid to you, if alive. If you are not alive, the refund will be paid in accordance with the Designation of Beneficiary of Entrance Deposit Refund executed by you, or if not, to the personal representative of your estate. (Emphasis added).

- c. No refund of your Entrance Deposit will occur until the surviving Resident ceases to reside at Ventana, and all conditions of the Agreement are met.

See Ventana Agreement, §8.4(a), (b), and (c).

J. **Judicial Notice.** The Court takes judicial notice of the docket of the Chapter 11 Cases maintained by the Clerk of the Court and considers all evidence and arguments made, proffered, or adduced at the various hearing held before this Court during the pendency of the Chapter 11 Cases.

Order

**Now, THEREFORE, in view of the foregoing FINDINGS, it is hereby ORDERED,
ADJUDGED and DECREED as follows:**

1. **Findings of Fact and Conclusions of Law.** The above-referenced findings of fact and conclusions of law are hereby incorporated by reference as though more fully set forth herein and shall constitute findings of fact and conclusions of law pursuant to Bankruptcy Rule 7052, made applicable herein by Bankruptcy Rule 9014. To the extent that any finding of fact shall be determined to be a conclusion of law, it shall be deemed so, and vice versa.

2. **Notice of Hearing.** Notice of the Hearing was appropriate and satisfactory based upon the circumstances of the Chapter 11 Cases and was in compliance with the provisions of the Bankruptcy Code, the Bankruptcy Rules, the Local Rules, and applicable non-bankruptcy law.

3. **Right of Survivorship.** In construing the Residency Agreements, the Court's primary goal is to ascertain the intent of the parties. Based on (i) a reading of all applicable provisions of the Residency Agreement, (ii) the Falldine Declaration, (iii) the Debtors' previous course of conduct, and (iv) industry custom, the Court finds that the parties to the Residency Agreements intended for the last surviving resident under Double Occupancy Residency Agreements to possess a right of survivorship to 100% of the refund claim, and the last surviving resident therefore became the owner of 100% of the refund. Accordingly, the last surviving resident in Double Occupancy Residency Agreements is hereby determined to have possessed a right of survivorship under the Residency Agreements. In addition, the Court approves the proposed amendment to the Residents Trust Agreement clarifying and specifically providing that

any Trust Interest acquired jointly by two (2) living double occupancy residents on the Effective Date of the Plan shall own their Trust Interest jointly with a right of survivorship.

4. **Pay on Death Provision.** In construing the Residency Agreements, the Court's primary goal is to ascertain the intent of the parties. The Court must harmonize and give effect to each provision so that no provision is rendered meaningless. Based on (i) a reading of all applicable provisions of the Residency Agreements, and to give meaning and effect to all provisions of the Residency Agreements, (ii) the Falldine, Hussain, Lemmon and Sherrill Declarations, (iii) the previous course of conduct of Edgemere and its Residents, and (iv) industry custom, the Court finds that the Addendums directing payment of the refunds due under the Residency Agreements to a third party or parties were effective as "pay on death" provisions, and only became effective upon the death of the resident, or both residents in a Double Occupancy Residency Agreement, prior to the Plan Effective Date. This finding that the parties intended the Addendums to be effective as "pay on death" provision gives effect to both the "non-transferable Deposit" provision of section 5.7 of the Residency Agreements, as well as the "no third-party rights" provision of section 8.20 of the Residency Agreements. If the Court were to find that the Addendums created an immediate transfer of rights to the refunds to the Addendum Payees when executed, the Addendums would be in direct conflict with the "non-transferable Deposit" and "no third-party rights" provisions of the contracts and render these provisions meaningless. Accordingly,

- (i) if the Resident (or both Residents under a Double Occupancy Agreement) died on or prior to the Effective Date of the Plan, their "pay on death" Addendum (if any) became effective on or before the Effective Date of the Plan, and their Addendum Payee(s) became the owner(s) of the Refund Claim and the Trust Interest exchanged

for the Refund Claim on the Effective Date of the Plan. If the Addendum contains numerous Addendum Payees, this Court finds that it was the intent of the parties that they would own the Refund Claim, and therefore now the Trust Interest exchanged for the Refund Claim as set forth in the applicable Addendum, and it is so ordered.

(ii) If the Resident (or both Residents under Double Occupancy Agreements) were not deceased on or prior to the Effective Date of the Plan, the “pay on death” Addendum did not become effective prior to the Debtors’ rejection of the Residency Agreementsand, accordingly, the living Resident owned the Refund Claim on the Plan Effective Date, and therefore now owns the Trust Interest exchanged for the Refund Claim pursuant to the terms of the Plan.

5. **Ownership of Trust Interests.** The Trust Interests are owned by the previous owners and holders of the Refund Claims under the Residency Agreements on the Effective Date of the Plan. Accordingly, the Trust Interests are owned by either the Resident(s) or the Addendum Payee(s) as outlined below under the following facts:

I. Residents Entering Community in Single Occupancy

As of Plan Effective Date	Addendum Executed Before Effective Date of Plan	Holder(s) of Trust Interest
Resident Alive	No	Resident
Resident Deceased	No	Estate of Deceased
Resident Alive	Yes	Resident
Resident Deceased	Yes	Addendum Payee(s)

II. Residents Entering Community in Double Occupancy

As of Effective Date of Plan	Addendum Executed Before Effective Date of Plan	Holder(s) of Trust Interests
Both Residents Alive	No	Both Residents jointly (with right of survivorship)
Both Residents Alive	Yes	Both Residents jointly (with right of survivorship)
Both Residents Deceased	Yes	Addendum Payee(s)
Both Residents Deceased	No	Estate of Last Surviving Resident
One Resident Deceased, One Alive	No	Last Surviving Resident
One Resident Deceased, One Alive	Yes	Last Surviving Resident

6. **Approval of Proposed Amendment to Trust Agreement.** This Court approves the proposed amendment to the Trust Agreement, to allow the holders of Trust Interest the right to designate the beneficiaries of their Trust Distributions upon their death (P.O.D. beneficiary designations) by executing and delivering a Designation of Beneficiary form to the Trustee of the Edgemere Residents Trust.

END OF ORDER###

Submitted by:

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I. **Residents Entering Community in Single Occupancy**

As of Plan Effective Date	Addendum Executed Before Effective Date of Plan	Holder(s) of Trust Interest
Resident Alive	No	Resident
Resident Deceased	No	Estate of Deceased
Resident Alive	Yes	Resident
Resident Deceased	Yes	Addendum Payee(s)

II. **Residents Entering Community in Double Occupancy**

As of Effective Date of Plan	Addendum Executed Before Effective Date of Plan	Holder(s) of Trust Interests
Both Residents Alive	No	Both Residents jointly (with right of survivorship)
Both Residents Alive	Yes	Both Residents jointly (with right of survivorship)
Both Residents Deceased	Yes	Addendum Payee(s)
Both Residents Deceased	No	Estate of Last Surviving Resident
One Resident Deceased, One Alive	No	Last Surviving Resident
One Resident Deceased, One Alive	Yes	Last Surviving Resident

EDGEMERE
LIFE CARE AGREEMENT

EDGEMERE

LIFE CARE AGREEMENT

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ADDENDUM A – CONFIDENTIAL DATA PROFILE

EDGEMERE

LIFE CARE AGREEMENT

NOTICES

- A. You may cancel this contract at any time prior to midnight of the seventh day after the date on which you sign this contract (Rescission Period) or you receive the Edgemere Disclosure Statement, whichever occurs later. If you elect to cancel the contract, you must do so by written notice, and you will be entitled to receive a refund of all assets transferred (without interest), subject to the terms and conditions contained in this contract, other than the periodic charges applicable to your occupancy of a living unit.
- B. This document, if executed, constitutes a legal and binding contract between you and Northwest Senior Housing Corporation. You may wish to consult a legal or financial advisor before signing, although it is not required that you do so to make this contract binding. This Agreement provides certain rights of occupancy of a senior living community, hereinafter referred to as "Edgemere" located in Dallas, Texas.
- C. You shall not be required to move into Edgemere before the expiration of the seven (7) calendar day period (Rescission Period).

TERMS OF OCCUPANCY

This Life Care Agreement ("Agreement") is entered into by _____

(individually and/or collectively "you" or "Resident"), and Northwest Senior Housing Corporation d/b/a Edgemere, which owns and operates Edgemere located in Dallas, Texas. The term "Edgemere" is used throughout this Agreement to denote Northwest Senior Housing Corporation, or the senior living community. The terms "we", "our", or "NSHC" are also used in lieu of Northwest Senior Housing Corporation.

Edgemere seeks to provide quality residential housing for retirement age men and women along with an array of personal services and amenities outlined in this Agreement, including certain assisted living and nursing services. Subject to the conditions contained in this Agreement, we agree to make available to you, an unfurnished independent living unit ("Residence") in Edgemere and provide you with general services and amenities described in this Agreement. The Residence is described as follows:

RESIDENCE NUMBER: _____

RESIDENCE STYLE: _____

1. **RESERVATION OF RESIDENCE**

In connection with this Agreement, Resident made a deposit equal to ten percent (10%) of the Resident Deposit (hereinafter defined) or \$ 65,455 (the "Reservation Deposit") to reserve the Residence identified above located within Edgemere.

- 1.1 **Conditions of Occupancy.** Conditions of occupancy of the Residence are that Resident shall: (i) meet the health and financial conditions of acceptance into Edgemere; (ii) execute this Agreement; (iii) pay in full the remaining balance of the Resident Deposit ("Resident Deposit Balance") and (iv) pay the applicable ongoing Monthly Service Fee(s).
- 1.2 **Escrow of Reservation Deposit.** The Reservation Deposit shall be placed and maintained in an escrow account to the extent required by Texas law. The escrow agent is Regions Bank, 1717 St. James Place, Suite 500, Houston, TX 77056.
- 1.3 **Refund of Reservation Deposit for Involuntary Termination.** The Reservation Deposit shall be refunded in full to Resident within thirty (30) days of termination of this Agreement under the following circumstances: (i) Edgemere's failure to meet its obligations under this Agreement prior to occupancy of the Residence by Resident; or (ii) death, incapacity or serious illness of Resident prior to occupancy. If Resident's health status changes after Resident is accepted for Residency by Edgemere so that at the time of occupancy Resident is precluded from independent living for health reasons and certified by a licensed physician, the entire Reservation Deposit shall be refunded to Resident; provided, however, Resident may elect not to terminate this Agreement and may elect direct admission into Assisted Living (hereinafter defined) or the Health Center (hereinafter defined) at the appropriate level of care, as determined by Edgemere.
- 1.4 **Refund of Reservation Deposit for Voluntary Termination.** If Resident terminates this Agreement after seven (7) days from the date it is executed other than for reasons in Section 1.3, above, Edgemere shall refund the entire Reservation Deposit within thirty (30) days, less a processing fee of five hundred dollars (\$500.00).
- 1.5 **Disclosures.** Resident acknowledges that Resident has received a copy of the Disclosure Statement and other information which may be material to Resident's decision whether to occupy the Residence. Resident understands that Resident may not occupy the Residence and is not entitled to any services or benefits of the Life Care Agreement until the Resident Deposit has been paid in full.

2. **GENERAL SERVICES AND FACILITIES**

- 2.1 **Basic Agreement.** In consideration of payment of a Resident Deposit in the amount stated in Section 5.2 and payment of the applicable Monthly Service Fee, initially in the amount stated in Section 5.3, you will be entitled to occupy the Residence indicated above and to receive the services and use of the facilities described in this Agreement according to the provisions of this Agreement.

Your right to occupy the Residence or such other care accommodations to which you may be transferred in accordance with this Agreement shall continue for your lifetime unless sooner terminated as provided herein.

The right to occupy the Residence and receive services under this Agreement shall apply exclusively to the named Resident hereunder, and to no other individual(s). No person other than the Resident entering into this Agreement shall be permitted to occupy the Residence without the express written permission of Edgemere as hereinafter provided.

- 2.2 Residence Furnishings.** The Residence will be furnished at our expense with floor coverings, , self-defrosting refrigerator and freezer with ice maker, range and oven, dishwasher, microwave oven, garbage disposal, washer, dryer, an emergency alert system, fire sprinkler system and a telephone/data communications port and cable TV hookup.
- 2.3 Parking.** Surface parking areas will be provided for you and for guests of Edgemere as defined in the Resident Handbook. One secured underground parking space will be provided for each Residence at the request of the Resident and in conformance with our parking policy.
- 2.4 Community Common Areas.** You will have use of Edgemere community common areas in accordance with the policies and procedures of Edgemere, as modified and amended from time to time. Community common areas are non-smoking and may include:
- a. Formal & Casual Dining Rooms
 - b. Private Dining Room
 - c. Performing Arts Center
 - d. Outdoor Dining Terrace
 - e. Library
 - f. Conference Room
 - g. Game & Card Room
 - h. Creative Arts Center
 - i. Beauty & Barber Shop
 - j. Business Center
 - k. Wellness and Fitness Center
 - l. Convenience Store
 - m. Swimming Pool
 - n. Living Rooms
 - o. Guest Suites
- 2.5 Included General Services.** So long as you are in compliance with your obligations hereunder, we will provide you with the following services covered by the Monthly Service Fee and Resident Deposit:
- a. **Food Service.** Meals will be served on a daily basis in the main dining room. You are entitled to one meal credit per person for each day of the month (for example, 30 meal credits for June and 31 meal credits for July). You may purchase guest meals or use accumulated meal credits at any time during the month for meals for you and/or your guests. Any unused meal credits for any month will be forfeited and may not be applied as a credit against meal charges for any other period. If you are absent from Edgemere for more than fourteen (14) consecutive days, you will receive a meal credit allowance in conformance with our meal credit policy, provided you give Edgemere written notice of your intended absence at least two (2)

weeks in advance. For health-related absences, no prior notice is required. Additional meals are available upon request for an additional fee.

- b. **Housekeeping.** Housekeeping of the Residence, including vacuuming, mopping, sweeping and changing of bed linens occurs on a weekly scheduled basis.
- c. **Utilities.** The costs of sewer, water, waste disposal, electricity, heat, air-conditioning, and basic cable television service are included in the Monthly Service Fee. The Residence will be centrally wired for cable television and telephone service, as well as a data communications port. You will be responsible for all telephone, premium cable television and internet service provider charges.
- d. **Security and Emergency Alert System.** Each Residence will be equipped with smoke detectors, a sprinkler system and an emergency alert system. Edgemere will monitor the emergency alert systems on a twenty-four hour basis and coordinate emergency responses as appropriate. Security personnel will be employed and exterior entrances will have secured access.
- e. **Laundry.** We will provide scheduled weekly laundry service of your personal bed linens.
- f. **Maintenance.** We will maintain all community common areas and grounds. Edgemere will be responsible for providing repair, maintenance and replacement of equipment and furnishings provided by Edgemere, provided that such repairs are not required as a result of your negligence. You are responsible for maintenance of your personal property and are encouraged to purchase a renter's insurance policy covering your personal property and personal liability.
- g. **Mail.** A U.S. mailbox will be provided to you in a central location.
- h. **Transportation.** We will provide local transportation to designated shopping, medical facilities, and other local destinations on a regularly scheduled basis.
- i. **Social and Recreational Programs.** A full-time Lifestyle Director will coordinate a variety of social, recreational, educational and cultural programs for those residents wishing to participate. Specific programs will be based on residents' interest.
- j. **Property Taxes and Insurance.** We will pay for real property taxes for the community, with the exception of those assessed on your personal property. We will also obtain property and casualty insurance coverage on the buildings and grounds. Such coverage will not insure against loss or damage to your personal property or damage or injury to others caused by you. Edgemere recommends that you purchase appropriate comprehensive insurance.
- k. **Storage Area.** An individual storage area located in Edgemere will be assigned and available for your use.

- l. **Wellness Programming.** We will coordinate educational and screening programs promoting wellness and preventive health maintenance. Participation in these activities is voluntary.
- m. **Medical Director.** We will retain the services of a qualified physician ("Medical Director") to be responsible for the appropriateness and quality of medical services and medically related activities provided by Edgemere. The Medical Director is not expected to provide medical services to Residents and will be retained as a consultant to Edgemere.
- n. **Life Care Benefit.** If it is determined that you require assisted living or nursing care in the future, we will provide you with assisted living services available in our assisted living center ("Assisted Living") or nursing services available in our nursing center ("Health Center"), as described below and subject to changes in law.
 - (i) **Admission.** When a determination is made by your physician and approved by the Medical Director that you need assisted living services or nursing care, then you will be transferred to Assisted Living or the Health Center as provided for in Section 4 of this Agreement. Transfers to Assisted Living or the Health Center will only occur after consultation with the Resident, the Resident's family, and a licensed physician.

In the event that space for you, for any reason, is not available in Assisted Living or the Health Center upon determination that a permanent transfer is required, Edgemere will arrange and pay for your care in your Residence by a certified home health care agency of Edgemere's choice, if reasonably possible, until space becomes available in Assisted Living or the Health Center. If home health care is not medically possible, Edgemere will arrange and pay for your care in another facility of Edgemere's choice that can provide the same care that would otherwise have been provided by Edgemere until space becomes available. Edgemere will pay for care in another facility to the same extent as if it were provided by Edgemere.

- (ii) **Assisted Living.** We will provide to you, in a Traditional Assisted Living Apartment, support services that are designed to assist you with activities of daily living in accordance with Texas law. Services may include assistance with dressing, bathing, grooming, medication administration, and ambulation. Additional services and ancillary products may also be provided for a specified charge identified in the resident handbook.
- (iii) **Nursing Care.** We will provide to you, in a Traditional Private Room, licensed nursing care services approved by our Medical Director ("Nursing Care"). The care provided will cover services included in the basic private nursing room published daily rate then in effect. Such care may include those services required by applicable law to be supervised or administered by a professional licensed nursing staff, e.g., medication administration, condition and behavior observation and assessment, creation and administration of a care plan, assistance with activities of daily living and communication with physicians and other care providers. You will be

responsible for charges for supplies and services above those included in the basic published daily rate.

- (iv) **Fees and Charges.** We will provide without charge basic Assisted Living or Nursing Care as defined in Section 2.5.n.(ii) and (iii), to the extent that it is not covered by your insurance, Medicare or any other governmental programs or entitlements which you are required to maintain under this Agreement, subject to:

Effect on Monthly Service Fee.

a. Temporary Transfers.

Should you have a temporary need for Assisted Living or Health Center services while you are still occupying your Residence, you will continue to pay both the then current Monthly Service Fee for your Residence and the then current applicable pro-rated monthly rate at Assisted Living or the then current daily rate at the Health Center. By "temporary" we mean a Temporary Transfer as defined in Section 4.3.

b. Permanent Transfers.

1. Single Occupancy. Should you have a permanent need for Assisted Living or Health Center services, you will be required to release your Residence as provided under Section 4.3. Your Monthly Service Fee will be adjusted to the then current Monthly Service Fee for a Two Bedroom Classic independent living residence. By "permanent" we mean a Permanent Transfer as defined in Section 4.3.
2. Double Occupancy. Should one Resident have a permanent need for Assisted Living or Health Center services, you will continue to pay the then current Monthly Service Fee for your residence, and the relocated Resident will pay the then current Monthly Service Fee for the Two Bedroom Classic independent living residence. Should both Residents have a permanent need for Assisted Living or Health Center services, the Residents will be required to release the Residence as provided under Section 4.3. The first Resident will be required to pay the then current Monthly Service Fee for the Two Bedroom Classic independent living residence. The second Resident will also be required to pay the then current Monthly Service Fee for the Two Bedroom Classic independent living residence. By "permanent" we mean a Permanent Transfer as defined in Section 4.3.

- o. Additional Charges.** Residents will be responsible for all costs and charges associated with Assisted Living or the Health Center which are not covered by the basic published market daily rates for such care then in effect as described in Section 2.5.n. (ii) and (iii). Additional charges apply in circumstances which include, but are not limited to, the following:

1. If you require Memory Support Deluxe Assisted Living you will be responsible for the difference between the then current Monthly Service Fee for a Traditional Assisted Living Apartment and the Memory Support Alcove Room.
2. If you require specialized memory support services at the Health Center, you will be responsible for the then current difference in daily rates between a Traditional Private Room in Nursing Care and a Memory Support Nursing Care Private Room.
3. In the event of a Temporary Transfer or Permanent Transfer, you will be responsible for all costs of relocation.

2.6 Additional Services. The following Additional Services may be available to Residents on a fee-for-service basis:

- a. Guest meals
- b. Catering for special occasions
- c. Barber and beauty services
- d. Tray service
- e. Additional resident meals
- f. Additional parking, subject to availability
- g. Additional housekeeping services
- h. Laundry services for personal items
- i. Usage of the guest suites

Charges for these Additional Services and others that may be offered will be made in accordance with the Resident Handbook then in effect and will be billed to you monthly.

2.7 Alteration to Residence. You may make alterations to your Residence at your cost, subject to Edgemere's policies and with Edgemere's prior written approval. Any approved alteration will be performed by our maintenance staff or by a contractor we approve. Any alterations of a permanent nature become the property of Edgemere. For your safety, you agree not to replace the existing locking device or add any locking devices to your Residence. Edgemere reserves the right to restore the apartment home to the pre-altered state upon vacancy of the apartment by Resident. The cost of the restoration is the responsibility of Resident and may be withheld from any refund due.

2.8 Advance Notice for Changes in Scope of Services. We will provide at least sixty (60) days advance notice before any change in the scope of care or services becomes effective unless an immediate transfer to Assisted Living or Health Center is deemed necessary as provided in Section 4 of this Agreement. This includes notification of any changes in charges for Additional Services.

3. **RESIDENT'S OBLIGATIONS**

- 3.1 **Health Insurance.** Edgemere will provide you with the services described in this Agreement, as appropriate. During the term of this Agreement, you shall obtain and maintain in force Medicare Parts A and B and any future program that may be offered by Medicare. You shall also maintain in effect supplemental Medicare insurance coverage acceptable to us, and furnish evidence of such insurance coverage upon our request. If you are not qualified for Medicare coverage, you will be required to maintain comprehensive health coverage satisfactory to us. You agree to provide evidence of such insurance to us upon request. You also agree to execute all necessary forms to obtain payment of benefits which are or may be payable in the future for health care services provided hereunder to you.

You will be responsible for paying separately for all health care services that are not covered by Edgemere, Medicare (or an equivalent substitute policy approved by Edgemere), or Medicare supplemental insurance, as set forth in this Agreement. If you have any questions about such coverage, Edgemere will assist you in obtaining answers.

- 3.2 **Power of Attorney, Guardianship.** You acknowledge that at some future time you may be unable by reason of mental or physical disability to properly handle your own affairs and that it may be in your best interest to have an attorney in fact or a guardian appointed to handle your affairs. Therefore, you agree to designate in writing, prior to or at the time of entrance, person(s) who will have authority to act on your behalf in the event you should at any time become unable to properly handle your own affairs. If you should thereafter become either physically or mentally unable to properly administer your own affairs, this designated person shall either commence handling your affairs pursuant to the terms of a durable power of attorney or file a petition in a court of competent jurisdiction to have a guardian or conservator appointed to handle your affairs. If the designated person(s) are unable or unwilling to file such a petition, we are empowered to do so at your expense.

- 3.3 **Home Health Care Services.** It is the intent of Edgemere to enable you to maintain the highest level of independence possible. As such, home health care services may be provided to you in your Residence at your expense by a certified home health care agency of your choosing. Such services are typically intermittent and short-term in nature, often rendered following an acute care illness. Any assistance by Edgemere in choosing an appropriate agency shall in no way be deemed an endorsement of a particular agency, and Edgemere shall in no way be deemed responsible for the acts or failure to act of any such agency. You are to notify Edgemere if you are receiving or intend to receive home health care services. If you choose to receive home health care services, you are obligated to retain an aide who is employed by a licensed home health agency in Texas and to report the home health agency's periods of visitation to Edgemere. You must also comply with the provisions outlined in the Residents Handbook for retaining Private Duty Aides. Residents who need assistance with the activities of daily living or nursing service on a continuing basis will transfer to Assisted Living or Health Center to receive such services, in accordance with the provisions in Section 2.5.n.

- 3.4 **Cost of Physicians, Medicines, Etc.** You acknowledge and agree that any and all expenses or charges which may be incurred by or on behalf of you for costs not covered by this

Agreement, including, but not limited to, physicians, therapists, podiatrists, diagnostic services, mental health, medicines, prescription drugs, medical supplies, vitamins, crutches, braces, walkers, wheelchairs, special duty nursing, hospitalization, care and treatment of eyes, ears and teeth, and any and all other personal medical expenses shall be your sole and exclusive responsibility. You shall be entitled to treatment by the physician of your choice at your expense.

- 3.5 **Resident Handbook.** We will establish and adopt policies and procedures (collectively "Policies") for the occupancy and orderly operation and management of Edgemere. These Policies will be drafted to provide for the safety, welfare, peace and comfort of all Residents consistent with the provisions of the Life Care Agreement. These Policies will be published in writing in the Resident Handbook, which will be provided to you on or before the date you move in and may be amended from time to time. You agree to abide by and observe such Policies and all amendments and additions thereto. These Policies, as amended from time to time, are hereby incorporated by reference. In the event that the terms of this Agreement conflict with the Policies, the terms of this Agreement shall control.
- 3.6 **Non-Impairment of Financial Responsibility.** After execution of this Agreement, you agree not to impair your ability to meet your financial obligations under this Agreement and cause any act such that you would no longer meet the financial qualifications as set by Edgemere for your Residence.

4. TRANSFERS AND READMISSION

There may come a time when you must move to Assisted Living or Health Center or to another facility which provides services not available at Edgemere. Edgemere is aware that this is a critical transition and will follow the following procedures during any transfer or reassignment.

- 4.1 **Consultations.** Except in case of emergency, Edgemere agrees not to transfer you from your Residence to Assisted Living or Health Center, or to a care facility or hospital which is not on the campus of Edgemere, for health-related or other reasons unless it has consulted with you, your physician, your family and/or your designated representative, if applicable. Such a decision shall be made in the best interests of the Resident, and the decision of Edgemere shall be final and binding. In the case of an emergency transfer, Edgemere will schedule the consultations described above within seven (7) days after transfer.

Circumstances in which it is in the best interest of the Resident to be transferred include, but are not limited to, the following:

- a. A determination that the Resident can no longer function in an independent manner in a Residence, and the Resident requires additional assistance with activities of daily living or nursing care;
- b. A determination that the Resident is unable to remain ambulatory (for purposes of this document, the term "ambulatory" is used to describe a person who is capable of demonstrating the mental competence and physical ability to leave a building without human assistance or supervision in case of emergency); or,

- c. A determination that the continued residency of the Resident at Edgemere would be harmful to either the Resident, other Residents or staff of Edgemere.

If we determine, after consultation, that your health requires that you be transferred (a) from the Residence covered by this Agreement to Assisted Living or Health Center or (b) to a care facility or hospital which provides services which Edgemere does not provide or is not licensed to provide, you agree to be relocated in accordance with that decision.

- 4.2 Consents.** When Edgemere determines, after consultations as described above, to transfer you to Assisted Living, Health Center, or to a suitable care facility or hospital for health care or other health-related services, Edgemere shall be authorized to transfer you without having to obtain your further consent.

Edgemere shall not be responsible for the cost of any services rendered to a Resident who is transferred from Edgemere to another facility, except as specifically provided otherwise hereunder.

- 4.3 Transfers.** Pursuant to Section 4.1 and 4.2, transfers are defined below as temporary and permanent.

- a. **Temporary Transfer.** A transfer is considered temporary when pursuant to Section 4.1 and 4.2 the determination is made that the condition that requires your transfer has the potential to be resolved in a manner which may allow you to return to your Residence within ninety (90) days. Your residence will be held for your return.
- b. **Permanent Transfer.** A transfer is considered permanent when pursuant to Section 4.1 and 4.2 the determination is made that the condition that requires your transfer will not allow you to return to your Residence within ninety (90) days.

In the event of a Permanent Transfer of one Resident in the case of single occupancy or of both Residents in the case of double occupancy, you shall release your Residence in order for Edgemere to make your Residence available to a new Resident. In such event, Edgemere may enter into a new Life Care Agreement for occupancy of the Residence with a new Resident. You grant Edgemere the right to remove your personal property from the Residence fifteen (15) days after a Permanent Transfer and to store it at your expense. If your Residence is reassigned and should you subsequently recover sufficiently to maintain yourself independently in a Residence, you shall receive the next available Residence similar to the one relinquished, at the then current Monthly Service Fee. While you are in Assisted Living or the Health Center, the Monthly Service Fee will continue to be due and payable as described in Section 2.5.n.

If the Residence is occupied by two (2) Residents, the Permanent Transfer of one (1) Resident does not affect the rights and privileges under this Agreement of the remaining Resident.

5. **RESIDENT DEPOSIT AND FEES**

- 5.1 **Occupancy Date.** The day you receive keys to your Residence is the occupancy date. You shall not be required to move into Edgemere before seven (7) days following the date you executed this Agreement and made the Reservation Deposit.

In the event you decide not to move into your Residence on the Occupancy Date, the obligation of Edgemere to provide care and services as provided hereunder shall not be effective until your Resident Deposit has been paid in full.

- 5.2 **Resident Deposit.** You agree to make a non-transferable, non-interest bearing Resident Deposit in the total amount of \$ 654,550. The Reservation Deposit of \$ 105,455 is due at the time you execute this Agreement. The remaining balance of your Resident Deposit, being \$ 589,095, is due on or before the Occupancy Date, unless otherwise previously agreed in writing. In the event the remaining balance of the Resident Deposit is not paid by the Occupancy Date, Edgemere in its sole discretion may terminate this Agreement and re-market your Residence to a new resident. Once paid, this Resident Deposit will not be increased or changed during the duration of this Agreement. The Resident Deposit shall in no way be considered or interpreted to be a security deposit.

The Resident Deposit shall be the property of Edgemere for use in accordance with the terms of this Agreement, and shall not be subject to the claims of creditors of the Resident. The Resident Deposit shall be refundable in accordance with Section 7.

- 5.3 **Monthly Service Fees and Changes in Fees.** Your Monthly Service Fee will be initially \$ 1250 per month for one person and an additional \$ 5690 per month for the second person. The Monthly Service Fee shall be due beginning on the Occupancy Date and will be prorated, if necessary, on a daily basis for the first and last months of occupancy. We may increase the Monthly Service Fee, upon sixty (60) days' written notice to you. It is our intention to make any adjustments to the Monthly Service Fee only once per year. The Monthly Service Fee, in addition to charges for additional services, shall be billed in advance to the Resident on or before the fifth business day of each month, and shall be paid on or before the fifteenth (15th) day of the month.

Fees for additional services will be charged in accordance with the Additional Services Fee Schedule we establish and will be on file in the management office.

- 5.4 **Late Fee.** We will reserve the right to assess you a late fee of five percent (5%) per month (or the maximum amount allowed by applicable law, if less) of the amount due if the Monthly Service Fee or Additional Services Fees are not paid in full on or before the twentieth day (20th) of the calendar month in which they are due.

- 5.5 **Changes in Occupancy.** If your Residence is occupied by two (2) Residents and one (1) Resident surrenders possession of the Residence to the other, other than by death or by a transfer covered by Section 4, the obligations of the Resident remaining in the Residence under this Agreement remain in legal force and effect, except that the Monthly Service Fee will be adjusted to reflect the single occupancy rate then in effect for the Residence. The Resident not remaining in the Residence will receive no services or benefits under this Agreement but will continue to be jointly and severally liable for the obligations of the

Resident remaining in the Residence. The remaining Resident may elect to relocate to a different Residence, if desired. The refund of the Resident Deposit will be made in accordance with Section 7.7 and once all conditions of Section 7.4 are met.

In the event the joint occupants of a Residence desire separate living accommodations at Edgemere, and one (1) Resident remains in the Residence designated hereunder, no refund of the Resident Deposit shall be made until the conditions of Section 7.4 are met and the Monthly Service Fee shall be adjusted to reflect the single occupancy rate then in effect for the Residence. Upon occupancy of the second Residence by the departing joint occupant, a new Life Care Agreement must be executed and submitted for approval by Edgemere, accompanied by the then current Resident Deposit, for the second living accommodations.

In the event of the marriage of a Resident to another Resident, they may: (a) continue to maintain two Residences and pay the applicable Monthly Service Fee for single occupancy then in effect; or (b) release either Residence occupied by them, and pay the applicable Monthly Service Fee for first and second person occupancy then in effect for the Residence retained. All benefits provided in each Life Care Agreement shall remain and continue in effect. There shall be no refund of the Resident Deposit to either Resident until both Residents leave and the conditions of Section 7.4 have been met.

If you and a non-Resident (including a new spouse) desire to share the Residence, the non-Resident may become a Resident and live in the Residence only if he/she meets the qualifications for entrance set forth in Section 6 and both persons execute a new Life Care Agreement. In such event, the Monthly Service Fee shall be adjusted to reflect the additional charge per month for a second person, and the non-Resident may be required to make a Resident Deposit in accordance with the then current policies established by Edgemere.

In the event you marry an individual while at Edgemere who does not meet the residency requirements for Edgemere, NSHC, at its sole discretion, may allow such person to reside at Edgemere. However, this person would not have any rights, privileges or protection under this Agreement.

- 5.6 Liability for Charges.** Each person who is designated as Resident in this Agreement is jointly and severally liable for the payment of the Monthly Service Fee, Additional Service Fees and all other amounts required to be paid to Edgemere, pursuant to the provisions of this Agreement. In the event it is necessary for us to institute legal action or other proceedings to recover amounts payable to Edgemere under this Agreement, we also will be entitled to recover reasonable legal fees and costs incurred in connection with all such proceedings. This provision will survive any termination of this Agreement.
- 5.7 Residents Who Become Unable to Pay.** It is Edgemere's policy that this Agreement will not be terminated solely because of your financial inability to continue to pay the Monthly Service Fee or other charges payable under the terms of this Agreement by reason of circumstances beyond your control; provided, however, this policy shall not be construed to qualify or limit Edgemere's right to terminate this Agreement in accordance with its terms. If you present facts which, in the opinion of Edgemere, justify special financial consideration, Edgemere will give careful consideration to subsidizing in part or in whole the Monthly Service Fee and other charges payable by you under the terms of this

Agreement so long as such subsidy can be made without impairing the ability of Edgemere to attain its objectives while operating on a sound financial basis. Any determination by Edgemere with regard to the granting of financial assistance shall be within the sole discretion of Edgemere, and any decision to provide such financial assistance shall continue in effect only so long as Edgemere, in its sole discretion, determines that it can continue to operate for the benefit of all residents on a sound basis.

In the event Edgemere determines to provide you with any financial assistance or subsidy, you agree we may charge such amounts, plus interest, against the refund of your Resident Deposit. Furthermore, we may require you to move to a smaller or less expensive Residence.

The cost of any such financial assistance provided shall be accrued and remain an obligation of the Resident and his or her estate.

6. **APPLICATION AND ACCEPTANCE FOR RESIDENCY.**

The obligations of Edgemere to provide services and facilities hereunder are conditioned upon acceptance of the Resident for residency at Edgemere in accordance with this paragraph. The decision to accept a Resident for residency at Edgemere shall be within the sole discretion of NSHC.

6.1 **Requirements for Acceptance for Residency.** We require that you be capable of independent living and have assets and income which are sufficient (under foreseeable circumstances and after provision for payment of your obligations hereunder) to meet ordinary and customary living expenses, after assuming occupancy. You hereby represent and warrant that you are capable of independent living and have assets and income which are sufficient to meet ordinary and customary living expenses after assuming occupancy.

6.1.1 **Confidential Data Profile.** You shall complete and submit a Confidential Data Profile provided by Edgemere prior to or concurrent with the execution of this Agreement. You hereby certify to Edgemere that all information reflected on such Confidential Data Profile, which is hereby incorporated by reference and made a part of this Agreement, including all personal financial data, is complete and accurate.

6.1.2 **Confidential Medical Profile Report.** In addition to the Confidential Data Profile you will be required to submit a Confidential Medical Profile completed by your physician within fifteen (15) days after the execution of this Agreement.

6.1.3 **Age.** To be accepted for admission at Edgemere, you must be at least sixty-two (62) years of age at or before the Occupancy Date.

6.2 **Notification of Decision.** Within thirty (30) days of satisfaction by you of all of the requirements set forth in Section 6.1, Edgemere shall notify you in writing of its decision concerning your acceptance to Edgemere. In the event you are not accepted for residency at Edgemere, your Reservation Deposit specified in Section 5 and tendered upon execution of this Agreement shall be refunded within ten (10) days of the date of the written notification

to you of non-acceptance for residency, and the parties shall have no further obligations to one another under this Agreement.

- 6.3 Acceptance for Residency Conditional Upon No Material Changes Prior to Occupancy.** Acceptance for residency to Edgemere shall be conditioned upon no material change in the matters covered by the Confidential Data Profile and Confidential Medical Profile prior to your Occupancy Date. In the event of any such material change prior to the Occupancy Date, Edgemere may request that additional information be provided. In the event of the existence of a material change in condition, Edgemere may revoke its acceptance of you for residency to Edgemere at any time prior to the Occupancy Date by written notification to you, and your Reservation Deposit as specified in Section 5 shall be refunded within ten (10) days of the date of such notification.
- 6.4 Duty of Resident to Notify Edgemere.** You acknowledge and agree that Edgemere has relied upon all of the information contained in your Confidential Data Profile and Confidential Medical Profile to make its decision regarding your acceptance for residency at Edgemere. Any misrepresentation or omission by you shall render this Agreement null and void at the option of Edgemere. You agree to notify Edgemere prior to the Occupancy Date of any material change in any of the matters covered by, or reflected on, the Confidential Data Profile or the Confidential Medical Profile.

7. TERMINATION AND REFUNDS

7.1 Termination Prior to Occupancy.

- a. You will be entitled to full reimbursement of any monies paid to us within thirty (30) days of our receiving your written termination of this Agreement and will be released from liability to pay to us any other amount under this Agreement under any one of the following conditions:
- (i) If you terminate this Agreement within seven (7) days from the date on which you signed this Agreement and paid the Reservation Deposit.
 - (ii) If you die before occupying your Residence at Edgemere, or if, because of illness, injury, or incapacity, you would be precluded from occupying your Residence consistent with the representations made by you in the Confidential Data Profile or the Confidential Medical Profile, this Agreement will be automatically canceled.

Interest on the Resident Deposit will NOT be due or payable.

- b. If you terminate this Agreement prior to the date you occupy your Residence for reasons or conditions other than those described above, you will be entitled to a reimbursement of any monies paid, less a processing fee of five hundred dollars (\$500.00). Interest on the Resident Deposit will NOT be due or payable. Thereupon, you shall be relieved of further liability to pay a Resident Deposit or Monthly Service Fees under this Agreement. In this circumstance, we will pay the refund due to you within thirty (30) days after the date we have received your written notice of termination of this Agreement.

7.2 Termination of Residency After Occupancy. After you have assumed occupancy of your Residence, this Agreement is subject to termination as follows:

- a. By you at any time upon thirty (30) days prior written notice to Edgemere.
- b. Edgemere may terminate this Agreement after the Occupancy Date for the following nonmedical reasons:
 - (i) A material misrepresentation or omission by you in the Confidential Data Profile, Confidential Medical Profile, or related materials, which, if such information had been accurately provided, would have been material to the decision whether or not to accept the Resident for residency;
 - (ii) If you fail to comply with the policies and procedures of Edgemere or create a situation detrimental to the health, safety or quiet enjoyment of the community by other Residents or the staff;
 - (iii) If you fail to pay the Monthly Service Fee or other amounts due us when due unless other mutually satisfactory arrangements have been made, provided however, it is our policy that this Agreement shall not be terminated solely because of your financial inability to pay the fees to the extent that: (1) your inability to pay is not the result of your willful action; and (2) in the judgment of NSHC, the ability of Edgemere to operate on a sound financial basis will not be impaired.
 - (iv) Material breach by you of the terms and conditions of this Agreement; and,
 - (v) The Residence is no longer fit for occupancy and Edgemere elects not to restore the Residence to habitable condition.
- c. Edgemere may terminate this Agreement subsequent to Occupancy Date for medical reasons. If it is determined by the Medical Director (after consultation "to the extent feasible" with you, your personal physician, and your family and/or designated representative) that:
 - (i) You have developed a dangerous or contagious disease or mental illness;
 - (ii) You are in need of drug or alcoholic rehabilitation or any other condition for which we are not licensed or for which care cannot be provided by us without a significant and unique expenditure; or,
 - (iii) You are or have become mentally or emotionally disturbed to a degree that your continued presence at Edgemere is determined to be detrimental to the health, safety and welfare of other Residents or staff.

Therefore, should any of these situations occur, we are expressly authorized (after consultation with the Medical Director, your personal physician and your family

and/or your designated representative to the extent feasible) to transfer you, at your expense, to an appropriate hospital facility or alternative care facility.

If Edgemere seeks to terminate this Agreement and your occupancy, Edgemere shall give you sixty (60) days' prior written notice of termination which shall reasonably describe the conduct alleged to warrant the termination of this Agreement and shall set the time, place and date for a meeting between you and Edgemere's representative(s), which shall not be earlier than thirty (30) days nor later than forty-five (45) days after the notice of termination. At this meeting you may avoid termination upon your showing to Edgemere's reasonable satisfaction that you have cured the conduct alleged to warrant the termination.

- 7.3 Effect of Double Occupancy.** If your Residence is occupied by two (2) Residents and one (1) Resident dies, this Agreement will continue in full legal force and effect as to the surviving Resident, except the Monthly Service Fee will be adjusted to reflect the then applicable single occupancy rate payable for the type of Residence occupied. No refund of the Resident Deposit will occur until the surviving Resident leaves and all conditions of Section 7.4 are met.
- 7.4 Refund of Resident Deposit.** After termination of this Agreement in accordance with Section 7.2 or in the event of your death, or in the case of double occupancy, both occupants' deaths, we will refund ninety percent (90%) of the Resident Deposit (without interest) that you paid for your Residence at Edgemere. Except as provided in the next paragraph, the refund will be paid on the later of: (i) ten (10) days after a new resident deposit has been received from a new resident and the new resident has taken occupancy of your former Residence, or (ii) termination of this Agreement.
- 7.5 Use of Resident Deposit.** The purpose of the Resident Deposit is to generate investment income to contribute to the operating income of Edgemere and to help fund operating and capital costs. As such, interest income generated from the investment of the Resident Deposit will be paid to Edgemere. In addition, at the sole discretion of NSHC, Resident Deposits may also be used to pay for project development costs, start-up deficits, debt service, retirement of debt, costs of future capital expenditures, resident refunds and other purposes deemed appropriate by NSHC. No reserve funding will be established pertaining to the refund of the Resident Deposit. In order to obtain permanent financing and to secure the lender or other party or parties who provide financing, NSHC pledged the gross receipts and revenues of Edgmere including Resident Deposits to the extent allowable by Texas law.
- 7.6 Right of Off-Set; Other Rights.** We reserve the right to off-set against the refund of the Resident Deposit any fees or amounts payable to us under this Agreement including any charges deferred or unpaid. Termination of this Agreement for any reason will not affect or impair the exercise of any right or remedy granted to us or you under this Agreement for any claim or cause of action occurring prior to the date of such termination.
- 7.7 Relocation.** You may elect to move to another Residence, subject to availability. An administrative fee of \$500 will be applied to your account in the event of a relocation to a different residence. In such event, this Agreement will be amended to reflect the change in Residence status.

- a. **Relocation to a less expensive Residence.** You will receive a refund of the refundable portion of the Resident Deposit in excess of the refundable portion of the Resident Deposit then in effect for the new Residence in accordance with Section 7.4. No additional ten percent (10%) non refundable portion will be required. You will pay the then current Monthly Service Fee for the new Residence. All moving costs will be at your expense.
- b. **Relocation to a more expensive Residence.** You will be required to pay the difference between the initial Resident Deposit and the Resident Deposit then in effect for the new Residence selected. A portion of the additional Resident Deposit will be nonrefundable. You will pay the then current Monthly Service Fee for the new Residence. All moving costs will be at your expense.

8. **MISCELLANEOUS**

- 8.1 **Resident's Interest.** You do not have any proprietary interest in Edgemere, its assets or properties by virtue of this Agreement. While Edgemere is interested in Resident's input and comments, this Agreement does not give you the right to participate in management or policy making decisions of Edgemere or related properties.
- 8.2 **Responsibility for Protection of Resident's Property.** We shall not be responsible for damage or loss to any personal property belonging to you caused by fire, flooding or other casualty, or by leaking of water, bursting of pipes, theft or any other cause. You shall be solely responsible, at your own expense, for insuring against property damage or loss and personal liability to others. In the event of your death or transfer from Edgemere, we will exercise ordinary care in temporarily safekeeping your personal property. If such property is not removed from Edgemere premises within sixty (60) days after termination of this Agreement, we reserve the right to have such property placed in a commercial bonded warehouse at the expense and risk of you or your estate.
- 8.3 **Injury or Accident While Away from Edgemere.** If the Resident is injured in an accident or becomes ill while away from Edgemere, the Resident shall make every reasonable effort to notify Edgemere as soon as possible, and the Resident shall arrange to return to Edgemere as soon as reasonably possible if continued medical care is required. Edgemere shall not be responsible for or assume the cost of medical care for illness or injury incurred by the Resident while away from Edgemere. At such time as the Resident returns to Edgemere, Edgemere shall assume the responsibility for Assisted Living or Health Center services thereafter rendered as provided in this Agreement.
- 8.4 **Injury Caused by Third Party.** In the event of an accident or injury to you caused by a third party, for which such third party may be liable for the cost of any medical, surgical, nursing or additional care for you resulting therefrom, you or your designated representative shall notify Edgemere promptly and you or your designated representative shall pursue diligently any claim for damages which may be due from such third party for the injury. Edgemere is not required to bear the cost of care to you for which a third party is liable. You agree to indemnify NSHC for any expenses incurred by Edgemere in providing care to you for which a third party is liable.

NSHC may limit its actions as provided above to claims for recovery of the costs and expenses incurred by it, and in such event, NSHC shall not be obliged to assert any claim on behalf of you arising out of such accident or injury beyond the costs and expenses incurred by Edgemere.

- 8.5 **INDEMNIFICATION FOR NEGLIGENCE.** YOU HEREBY AGREE TO INDEMNIFY, PROTECT AND HOLD US HARMLESS FROM ANY LOSS, DAMAGE, INJURY OR EXPENSE INCURRED BY EDMERERE AS A RESULT OF YOUR NEGLIGENT OR WILLFUL ACTS OR THE ACTS OF YOUR INVITEES OR GUESTS.
- 8.6 **Right of Entry.** You hereby authorize our employees and agents to enter your Residence to provide services, repairs, maintenance, alterations, pest control and inspection, and to respond to perceived medical or other emergency. Non-emergency or non-medical services will be scheduled in advance with Resident.
- 8.7 **Guests.** Occupancy of the Residence and use of Edgemere common areas and grounds is limited to you and your guests. Guests may not occupy your Residence for more than fourteen (14) days without the prior written approval of Edgemere. You will be responsible for the conduct of your guests and for payment of any charges incurred by your guests.
- 8.8 **Absence from Edgemere.** You agree to notify Edgemere in advance of any contemplated absence that is anticipated to exceed twenty-four (24) hours.
- 8.9 **Damage to Residence.** Resident is responsible for excessive wear or damage to the Residence caused by Resident action or neglect. The cost of repair due to damage or neglect is the responsibility of the Resident and may be withheld from any refund due.
- If your Residence is damaged by fire, flood, storm or other casualty or cause and we elect not to terminate this Agreement, we will, at our expense, proceed diligently to repair and restore your Residence. If your Residence is uninhabitable during the repair, we will relocate you to a comparable type Residence at Edgemere, if available, or, if not, we will try to relocate you temporarily to any other available Residence at Edgemere and the Monthly Service Fee will be adjusted for the type of Residence you temporarily occupy, but in no event shall be more than your Residence.
- 8.10 **Entire Agreement.** This Agreement constitutes the entire Agreement between you and NSHC with regard to your residence and care. We will not be liable for, or bound by, any statements, representations or promises made to you by any person representing or purporting to represent Edgemere unless such statements, representations or promises are expressly set forth and endorsed by both parties in writing, and attached to this Agreement.
- 8.11 **Binding Effect.** This Agreement is binding upon our successors and assigns and your heirs and personal representatives. The provisions of this Agreement are not assignable or transferable in whole or in part by you, and you will have no right to sublet the Residence.
- 8.12 **Severability.** Each provision of this Agreement will be deemed separate from each other provision and the invalidity or unenforceability of any provision will not affect the validity or enforceability of the balance of the Agreement.

- 8.13 **Subordination.** Your rights under this Agreement will be subordinate to any mortgage, security interest, pledge, or other lien that now encumbers all or any part of Edgemere's assets and shall be further subordinate to any mortgage, security interest, pledge, or other lien hereafter placed on all or any part of Edgemere's assets, and you agree to execute, acknowledge and deliver such subordination agreements as any lender or future lender shall reasonably require in order to establish the priority of any such lien.
- 8.14 **Nondiscrimination.** Edgemere will be operated on a non-discriminatory basis, and will provide the facilities and services described in this Agreement to individuals regardless of race, color, sex, marital status, religion, creed, handicap or national origin.
- 8.15 **Notices.** Any notice to Edgemere by you will be given in writing and mailed or delivered to Edgemere at the administrative office or at such other address as we may designate in writing. Any notice to you by us will be given in writing and mailed or delivered to your Residence or at such other address as you may designate to Edgemere in writing.
- 8.16 **Potential Tax Benefit.** You may be eligible for a one-time medical expense tax deduction for a portion of the Resident Deposit (in the first year of occupancy) and annually for a portion of the Monthly Service Fee paid to Edgemere in that tax year. Edgemere will provide a statement prepared by its auditors each year for your use in tax preparation. Edgemere makes no representations regarding the availability of any tax deduction relating to your residency and care at Edgemere. You are advised to seek tax advice on this issue from your tax advisor.
- 8.17 **Choice of Law.** This Agreement will be interpreted according to the laws of the State of Texas without regard to conflict of law principles.
- 8.18 **Change of Condition.** You agree to notify us of any material change in any of your physical, financial or mental conditions prior to residency.
- 8.19 **Authorized Agent Signature.** This Agreement has been executed on behalf of Edgemere by its duly authorized agent and no officer, director, agent or employee of Edgemere shall have any personal liability hereunder to you under any circumstances.
- 8.20 **No Third Party Rights.** No other persons or entities other than Edgemere and the Resident have any rights or obligations under this Agreement.
- 8.21 **Failure to Act.** Failure or delay of any party to exercise any right, power, or privilege under this Agreement will not operate as a waiver of such right, power, or privilege.
- 8.22 **Right of Subrogation.** If you are injured by a third party and such injury requires Edgemere to provide health care services under this Agreement, Edgemere shall be subrogated, to the extent allowed by Texas law, to your rights against such third party to the extent necessary to reimburse Edgemere for the costs incurred in providing services under this Agreement. To the extent allowed under Texas law, this right of subrogation authorizes Edgemere to institute legal action in your name; provided, however, that such action shall not cause or result in a compromise, waiver or release of any causes of action that you may have against such third party for such injuries.

[SIGNATURE PAGE FOLLOWS]

Addendum to the Lifecare Agreement between
[Residents]
and Northwest Senior Housing Corporation

I (we) direct the refundable portion of the resident deposit to be refunded to:

The Estate of _____ ()
or

Contact person and mailing address for refund:

IN WITNESS WHEREOF, THE NORTHWEST SENIOR HOUSING CORPORATION and
the Resident have signed this Agreement on this _____ day of _____, 20____.

RESIDENT(S):

Signature: _____

Print Name: _____

Signature: _____

Print Name: _____

Northwest Senior Housing Corporation,
a Texas Not-For-Profit Corporation

Edgemere Representative

Title

Stephen A. McCartin (TX 13344700)
Thomas C. Scannell (TX 24070559)
FOLEY & LARDNER LLP
2021 McKinney Avenue, Ste. 1600
Dallas, Texas 75201
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smccartin@foley.com
tscannell@foley.com

**COUNSEL TO THE EDMERE
RESIDENTS TRUST**

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

In re:	§	
	§	Chapter 11
Northwest Senior Housing Corporation, <i>et al.</i> , ¹	§	
	§	Case No. 22-30659 (MLV)
Debtors.	§	
	§	(Jointly Administered)

**DECLARATION OF JOHN FALLDINE, EXECUTIVE DIRECTOR OF DEBTOR IN
SUPPORT OF THE FIRST AMENDED APPLICATION OF
THE EDMERE RESIDENTS TRUST**

I, John Falldine, former Executive Director of Northwest Senior Housing Corporation d/b/a Edgemere (“**Edgemere**” and “**Debtor**”), declare under penalty of perjury pursuant to 28 U.S.C § 1746:

1. I was the Executive Director of Edgemere, a debtor in possession in the above-captioned chapter 11 cases (the “**Chapter 11 Cases**”) from July 2021 to June 13, 2023.

¹ The Debtors in these chapter 11 cases (the “**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) (together, the “**Debtors**”). The Debtors’ mailing address is 8523 Thackery Street, Dallas, Texas 75225.

2. I have over 25 years of experience in elder healthcare, including with continuing care retirement communities (“CCRCs”).

3. In my capacity as former Executive Director, I have personal knowledge of, and am familiar with, the business affairs and day-to-day operations of Edgemere. I submit this Declaration in support of the First Amended Application of the Edgemere Residents Trust to Resolve Conflicting Demands, For Interpretation of the Residency Agreements and to Ensure Distributions are Accomplished Pursuant to the Plan (the “**Application**”).

I. COMPANY HISTORY AND OPERATIONS

A. Company Structure and History

4. Northwest Senior Housing Corporation was formed for the purpose of developing, owning and operating a senior living community known as Edgemere.

5. Edgemere has been operating since December 2001 on an expansive 16.25-acre site located in Dallas, Texas.

6. The community consists of 304 independent living (“**IL**”) units. Residents who in occupied an IL unit in Edgemere were required to enter into a Life Care Agreement (a “**Residency Agreement**”) with Edgemere. The Residency Agreement attached hereto as Exhibit A is a true and correct copy of the form agreement used by Edgemere and its residents. The Addendum attached hereto as Exhibit B is a true and correct copy of the form Addendum used by Edgemere and its residents. Under a Residency Agreement, a resident paid a one-time entrance fee and fixed monthly fees (subject to periodic rate increases). Edgemere offered 90% refundable contracts, 70% refundable contracts, 50% refundable contracts, and 0% refundable contracts. Most were 90% refundable contracts.

7. As of January 1, 2022, the Entrance Fees ranges from \$345,000 for the smallest one-bedroom apartment to \$1,454,000 for the largest three-bedroom apartment.

B. Double Occupancy Residency Agreements/Right of Survivorship

8. Edgemere and the Residents intended, and in fact implemented the Residency Agreements treating the Residents under “Double Occupancy” Residency Agreements. as possessing a right of survivorship, with the last surviving resident becoming the sole owner of 100% of the right to receive the entrance fee refund. It was the normal course of conduct for Edgemere to pay 100% of the refunds due under Double Occupancy Residency Agreements to the last surviving resident, or his or her estate if the last surviving resident was deceased and if there was no addendum executed with instructions to pay the refund to a third party (an “Addendum Payee”).

C. Addendums/P.O.D.

9. It was the intent of Edgemere and the residents, and the normal course of conduct for Edgemere and the residents, to treat the Addendums as “pay on death” (“P.O.D.”) provisions to the contracts. Edgemere paid refunds when due to the residents, and not the Addendum Payees, if the refund became payable during the life of the Resident (or last surviving resident). Edgemere would allow the Residents to modify the Addendums, and to revoke or change the Addendum Payees, at any time prior to their deaths without the consent of the Addendum Payees.

D. The Ventana Residency and Services Agreement

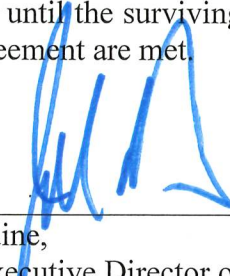
(i) The Ventana is a continuing care retirement community located within one (1) mile of Edgemere. I have reviewed the Ventana Residency and Services Agreement attached hereto as Exhibit C. The Ventana agreement expressly provides that the last surviving resident has a right of survivorship under its double occupancy agreements, and any designation of a beneficiary to

receive a refund will be payable only upon the death of the last surviving resident. The Ventana contract provides:

- a. If the Residency is initially occupied by two (2) Residents, the Entrance Deposit shall be paid jointly to each of you, if both are alive. If only one of you is alive, the amount due will be retained for the surviving Resident. If neither of you is alive, the refund will be paid in accordance with a Designation of Beneficiary of Entrance Deposit Refund executed by the Resident who last occupied the Residence, or if no Designation of Beneficiary has been executed, to the personal representative of your estate. (Emphasis added).
- b. If the Residence is initially occupied by one (1) Resident, the amount due will be paid to you, if alive. If you are not alive, the refund will be paid in accordance with the Designation of Beneficiary of Entrance Deposit Refund executed by you, or if not, to the personal representative of your estate. (Emphasis added).
- c. No refund of your Entrance Deposit will occur until the surviving Resident ceases to reside at Ventana, and all conditions of the Agreement are met.

See Ventana Agreement, §8.4 (a), (b), and (c).

Dated: September 11, 2023

By: 
John Falldine,
Former Executive Director of Edgemere

Stephen A. McCartin (TX 13344700)
Thomas C. Scannell (TX 24070559)
Foley & Lardner LLP
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Dallas, TX 75201-3340
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tscannell@foley.com

COUNSEL TO THE EDGEMERE
RESIDENTS TRUST

Exhibit A

EDGEMERE
LIFE CARE AGREEMENT

EDGEMERE

LIFE CARE AGREEMENT

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ADDENDUM A – CONFIDENTIAL DATA PROFILE

EDGEMERE

LIFE CARE AGREEMENT

NOTICES

- A. You may cancel this contract at any time prior to midnight of the seventh day after the date on which you sign this contract (Rescission Period) or you receive the Edgemere Disclosure Statement, whichever occurs later. If you elect to cancel the contract, you must do so by written notice, and you will be entitled to receive a refund of all assets transferred (without interest), subject to the terms and conditions contained in this contract, other than the periodic charges applicable to your occupancy of a living unit.
- B. This document, if executed, constitutes a legal and binding contract between you and Northwest Senior Housing Corporation. You may wish to consult a legal or financial advisor before signing, although it is not required that you do so to make this contract binding. This Agreement provides certain rights of occupancy of a senior living community, hereinafter referred to as "Edgemere" located in Dallas, Texas.
- C. You shall not be required to move into Edgemere before the expiration of the seven (7) calendar day period (Rescission Period).

TERMS OF OCCUPANCY

This Life Care Agreement ("Agreement") is entered into by _____

(individually and/or collectively "you" or "Resident"), and Northwest Senior Housing Corporation d/b/a Edgemere, which owns and operates Edgemere located in Dallas, Texas. The term "Edgemere" is used throughout this Agreement to denote Northwest Senior Housing Corporation, or the senior living community. The terms "we", "our", or "NSHC" are also used in lieu of Northwest Senior Housing Corporation.

Edgemere seeks to provide quality residential housing for retirement age men and women along with an array of personal services and amenities outlined in this Agreement, including certain assisted living and nursing services. Subject to the conditions contained in this Agreement, we agree to make available to you, an unfurnished independent living unit ("Residence") in Edgemere and provide you with general services and amenities described in this Agreement. The Residence is described as follows:

RESIDENCE NUMBER: _____

RESIDENCE STYLE: _____

1. **RESERVATION OF RESIDENCE**

In connection with this Agreement, Resident made a deposit equal to ten percent (10%) of the Resident Deposit (hereinafter defined) or \$ 65,455 (the "Reservation Deposit") to reserve the Residence identified above located within Edgemere.

- 1.1 **Conditions of Occupancy.** Conditions of occupancy of the Residence are that Resident shall: (i) meet the health and financial conditions of acceptance into Edgemere; (ii) execute this Agreement; (iii) pay in full the remaining balance of the Resident Deposit ("Resident Deposit Balance") and (iv) pay the applicable ongoing Monthly Service Fee(s).
- 1.2 **Escrow of Reservation Deposit.** The Reservation Deposit shall be placed and maintained in an escrow account to the extent required by Texas law. The escrow agent is Regions Bank, 1717 St. James Place, Suite 500, Houston, TX 77056.
- 1.3 **Refund of Reservation Deposit for Involuntary Termination.** The Reservation Deposit shall be refunded in full to Resident within thirty (30) days of termination of this Agreement under the following circumstances: (i) Edgemere's failure to meet its obligations under this Agreement prior to occupancy of the Residence by Resident; or (ii) death, incapacity or serious illness of Resident prior to occupancy. If Resident's health status changes after Resident is accepted for Residency by Edgemere so that at the time of occupancy Resident is precluded from independent living for health reasons and certified by a licensed physician, the entire Reservation Deposit shall be refunded to Resident; provided, however, Resident may elect not to terminate this Agreement and may elect direct admission into Assisted Living (hereinafter defined) or the Health Center (hereinafter defined) at the appropriate level of care, as determined by Edgemere.
- 1.4 **Refund of Reservation Deposit for Voluntary Termination.** If Resident terminates this Agreement after seven (7) days from the date it is executed other than for reasons in Section 1.3, above, Edgemere shall refund the entire Reservation Deposit within thirty (30) days, less a processing fee of five hundred dollars (\$500.00).
- 1.5 **Disclosures.** Resident acknowledges that Resident has received a copy of the Disclosure Statement and other information which may be material to Resident's decision whether to occupy the Residence. Resident understands that Resident may not occupy the Residence and is not entitled to any services or benefits of the Life Care Agreement until the Resident Deposit has been paid in full.

2. **GENERAL SERVICES AND FACILITIES**

- 2.1 **Basic Agreement.** In consideration of payment of a Resident Deposit in the amount stated in Section 5.2 and payment of the applicable Monthly Service Fee, initially in the amount stated in Section 5.3, you will be entitled to occupy the Residence indicated above and to receive the services and use of the facilities described in this Agreement according to the provisions of this Agreement.

Your right to occupy the Residence or such other care accommodations to which you may be transferred in accordance with this Agreement shall continue for your lifetime unless sooner terminated as provided herein.

The right to occupy the Residence and receive services under this Agreement shall apply exclusively to the named Resident hereunder, and to no other individual(s). No person other than the Resident entering into this Agreement shall be permitted to occupy the Residence without the express written permission of Edgemere as hereinafter provided.

- 2.2 **Residence Furnishings.** The Residence will be furnished at our expense with floor coverings, , self-defrosting refrigerator and freezer with ice maker, range and oven, dishwasher, microwave oven, garbage disposal, washer, dryer, an emergency alert system, fire sprinkler system and a telephone/data communications port and cable TV hookup.
- 2.3 **Parking.** Surface parking areas will be provided for you and for guests of Edgemere as defined in the Resident Handbook. One secured underground parking space will be provided for each Residence at the request of the Resident and in conformance with our parking policy.
- 2.4 **Community Common Areas.** You will have use of Edgemere community common areas in accordance with the policies and procedures of Edgemere, as modified and amended from time to time. Community common areas are non-smoking and may include:
- a. Formal & Casual Dining Rooms
 - b. Private Dining Room
 - c. Performing Arts Center
 - d. Outdoor Dining Terrace
 - e. Library
 - f. Conference Room
 - g. Game & Card Room
 - h. Creative Arts Center
 - i. Beauty & Barber Shop
 - j. Business Center
 - k. Wellness and Fitness Center
 - l. Convenience Store
 - m. Swimming Pool
 - n. Living Rooms
 - o. Guest Suites
- 2.5 **Included General Services.** So long as you are in compliance with your obligations hereunder, we will provide you with the following services covered by the Monthly Service Fee and Resident Deposit:
- a. **Food Service.** Meals will be served on a daily basis in the main dining room. You are entitled to one meal credit per person for each day of the month (for example, 30 meal credits for June and 31 meal credits for July). You may purchase guest meals or use accumulated meal credits at any time during the month for meals for you and/or your guests. Any unused meal credits for any month will be forfeited and may not be applied as a credit against meal charges for any other period. If you are absent from Edgemere for more than fourteen (14) consecutive days, you will receive a meal credit allowance in conformance with our meal credit policy, provided you give Edgemere written notice of your intended absence at least two (2)

weeks in advance. For health-related absences, no prior notice is required. Additional meals are available upon request for an additional fee.

- b. **Housekeeping.** Housekeeping of the Residence, including vacuuming, mopping, sweeping and changing of bed linens occurs on a weekly scheduled basis.
- c. **Utilities.** The costs of sewer, water, waste disposal, electricity, heat, air-conditioning, and basic cable television service are included in the Monthly Service Fee. The Residence will be centrally wired for cable television and telephone service, as well as a data communications port. You will be responsible for all telephone, premium cable television and internet service provider charges.
- d. **Security and Emergency Alert System.** Each Residence will be equipped with smoke detectors, a sprinkler system and an emergency alert system. Edgemere will monitor the emergency alert systems on a twenty-four hour basis and coordinate emergency responses as appropriate. Security personnel will be employed and exterior entrances will have secured access.
- e. **Laundry.** We will provide scheduled weekly laundry service of your personal bed linens.
- f. **Maintenance.** We will maintain all community common areas and grounds. Edgemere will be responsible for providing repair, maintenance and replacement of equipment and furnishings provided by Edgemere, provided that such repairs are not required as a result of your negligence. You are responsible for maintenance of your personal property and are encouraged to purchase a renter's insurance policy covering your personal property and personal liability.
- g. **Mail.** A U.S. mailbox will be provided to you in a central location.
- h. **Transportation.** We will provide local transportation to designated shopping, medical facilities, and other local destinations on a regularly scheduled basis.
- i. **Social and Recreational Programs.** A full-time Lifestyle Director will coordinate a variety of social, recreational, educational and cultural programs for those residents wishing to participate. Specific programs will be based on residents' interest.
- j. **Property Taxes and Insurance.** We will pay for real property taxes for the community, with the exception of those assessed on your personal property. We will also obtain property and casualty insurance coverage on the buildings and grounds. Such coverage will not insure against loss or damage to your personal property or damage or injury to others caused by you. Edgemere recommends that you purchase appropriate comprehensive insurance.
- k. **Storage Area.** An individual storage area located in Edgemere will be assigned and available for your use.

- l. **Wellness Programming.** We will coordinate educational and screening programs promoting wellness and preventive health maintenance. Participation in these activities is voluntary.
- m. **Medical Director.** We will retain the services of a qualified physician ("Medical Director") to be responsible for the appropriateness and quality of medical services and medically related activities provided by Edgemere. The Medical Director is not expected to provide medical services to Residents and will be retained as a consultant to Edgemere.
- n. **Life Care Benefit.** If it is determined that you require assisted living or nursing care in the future, we will provide you with assisted living services available in our assisted living center ("Assisted Living") or nursing services available in our nursing center ("Health Center"), as described below and subject to changes in law.
 - (i) **Admission.** When a determination is made by your physician and approved by the Medical Director that you need assisted living services or nursing care, then you will be transferred to Assisted Living or the Health Center as provided for in Section 4 of this Agreement. Transfers to Assisted Living or the Health Center will only occur after consultation with the Resident, the Resident's family, and a licensed physician.

In the event that space for you, for any reason, is not available in Assisted Living or the Health Center upon determination that a permanent transfer is required, Edgemere will arrange and pay for your care in your Residence by a certified home health care agency of Edgemere's choice, if reasonably possible, until space becomes available in Assisted Living or the Health Center. If home health care is not medically possible, Edgemere will arrange and pay for your care in another facility of Edgemere's choice that can provide the same care that would otherwise have been provided by Edgemere until space becomes available. Edgemere will pay for care in another facility to the same extent as if it were provided by Edgemere.

- (ii) **Assisted Living.** We will provide to you, in a Traditional Assisted Living Apartment, support services that are designed to assist you with activities of daily living in accordance with Texas law. Services may include assistance with dressing, bathing, grooming, medication administration, and ambulation. Additional services and ancillary products may also be provided for a specified charge identified in the resident handbook.
- (iii) **Nursing Care.** We will provide to you, in a Traditional Private Room, licensed nursing care services approved by our Medical Director ("Nursing Care"). The care provided will cover services included in the basic private nursing room published daily rate then in effect. Such care may include those services required by applicable law to be supervised or administered by a professional licensed nursing staff, e.g., medication administration, condition and behavior observation and assessment, creation and administration of a care plan, assistance with activities of daily living and communication with physicians and other care providers. You will be

responsible for charges for supplies and services above those included in the basic published daily rate.

- (iv) **Fees and Charges.** We will provide without charge basic Assisted Living or Nursing Care as defined in Section 2.5.n.(ii) and (iii), to the extent that it is not covered by your insurance, Medicare or any other governmental programs or entitlements which you are required to maintain under this Agreement, subject to:

Effect on Monthly Service Fee.

a. Temporary Transfers.

Should you have a temporary need for Assisted Living or Health Center services while you are still occupying your Residence, you will continue to pay both the then current Monthly Service Fee for your Residence and the then current applicable pro-rated monthly rate at Assisted Living or the then current daily rate at the Health Center. By "temporary" we mean a Temporary Transfer as defined in Section 4.3.

b. Permanent Transfers.

1. Single Occupancy. Should you have a permanent need for Assisted Living or Health Center services, you will be required to release your Residence as provided under Section 4.3. Your Monthly Service Fee will be adjusted to the then current Monthly Service Fee for a Two Bedroom Classic independent living residence. By "permanent" we mean a Permanent Transfer as defined in Section 4.3.
2. Double Occupancy. Should one Resident have a permanent need for Assisted Living or Health Center services, you will continue to pay the then current Monthly Service Fee for your residence, and the relocated Resident will pay the then current Monthly Service Fee for the Two Bedroom Classic independent living residence. Should both Residents have a permanent need for Assisted Living or Health Center services, the Residents will be required to release the Residence as provided under Section 4.3. The first Resident will be required to pay the then current Monthly Service Fee for the Two Bedroom Classic independent living residence. The second Resident will also be required to pay the then current Monthly Service Fee for the Two Bedroom Classic independent living residence. By "permanent" we mean a Permanent Transfer as defined in Section 4.3.

- o. Additional Charges.** Residents will be responsible for all costs and charges associated with Assisted Living or the Health Center which are not covered by the basic published market daily rates for such care then in effect as described in Section 2.5.n. (ii) and (iii). Additional charges apply in circumstances which include, but are not limited to, the following:

1. If you require Memory Support Deluxe Assisted Living you will be responsible for the difference between the then current Monthly Service Fee for a Traditional Assisted Living Apartment and the Memory Support Alcove Room.
2. If you require specialized memory support services at the Health Center, you will be responsible for the then current difference in daily rates between a Traditional Private Room in Nursing Care and a Memory Support Nursing Care Private Room.
3. In the event of a Temporary Transfer or Permanent Transfer, you will be responsible for all costs of relocation.

2.6 Additional Services. The following Additional Services may be available to Residents on a fee-for-service basis:

- a. Guest meals
- b. Catering for special occasions
- c. Barber and beauty services
- d. Tray service
- e. Additional resident meals
- f. Additional parking, subject to availability
- g. Additional housekeeping services
- h. Laundry services for personal items
- i. Usage of the guest suites

Charges for these Additional Services and others that may be offered will be made in accordance with the Resident Handbook then in effect and will be billed to you monthly.

2.7 Alteration to Residence. You may make alterations to your Residence at your cost, subject to Edgemere's policies and with Edgemere's prior written approval. Any approved alteration will be performed by our maintenance staff or by a contractor we approve. Any alterations of a permanent nature become the property of Edgemere. For your safety, you agree not to replace the existing locking device or add any locking devices to your Residence. Edgemere reserves the right to restore the apartment home to the pre-altered state upon vacancy of the apartment by Resident. The cost of the restoration is the responsibility of Resident and may be withheld from any refund due.

2.8 Advance Notice for Changes in Scope of Services. We will provide at least sixty (60) days advance notice before any change in the scope of care or services becomes effective unless an immediate transfer to Assisted Living or Health Center is deemed necessary as provided in Section 4 of this Agreement. This includes notification of any changes in charges for Additional Services.

3. **RESIDENT'S OBLIGATIONS**

3.1 **Health Insurance.** Edgemere will provide you with the services described in this Agreement, as appropriate. During the term of this Agreement, you shall obtain and maintain in force Medicare Parts A and B and any future program that may be offered by Medicare. You shall also maintain in effect supplemental Medicare insurance coverage acceptable to us, and furnish evidence of such insurance coverage upon our request. If you are not qualified for Medicare coverage, you will be required to maintain comprehensive health coverage satisfactory to us. You agree to provide evidence of such insurance to us upon request. You also agree to execute all necessary forms to obtain payment of benefits which are or may be payable in the future for health care services provided hereunder to you.

You will be responsible for paying separately for all health care services that are not covered by Edgemere, Medicare (or an equivalent substitute policy approved by Edgemere), or Medicare supplemental insurance, as set forth in this Agreement. If you have any questions about such coverage, Edgemere will assist you in obtaining answers.

3.2 **Power of Attorney, Guardianship.** You acknowledge that at some future time you may be unable by reason of mental or physical disability to properly handle your own affairs and that it may be in your best interest to have an attorney in fact or a guardian appointed to handle your affairs. Therefore, you agree to designate in writing, prior to or at the time of entrance, person(s) who will have authority to act on your behalf in the event you should at any time become unable to properly handle your own affairs. If you should thereafter become either physically or mentally unable to properly administer your own affairs, this designated person shall either commence handling your affairs pursuant to the terms of a durable power of attorney or file a petition in a court of competent jurisdiction to have a guardian or conservator appointed to handle your affairs. If the designated person(s) are unable or unwilling to file such a petition, we are empowered to do so at your expense.

3.3 **Home Health Care Services.** It is the intent of Edgemere to enable you to maintain the highest level of independence possible. As such, home health care services may be provided to you in your Residence at your expense by a certified home health care agency of your choosing. Such services are typically intermittent and short-term in nature, often rendered following an acute care illness. Any assistance by Edgemere in choosing an appropriate agency shall in no way be deemed an endorsement of a particular agency, and Edgemere shall in no way be deemed responsible for the acts or failure to act of any such agency. You are to notify Edgemere if you are receiving or intend to receive home health care services. If you choose to receive home health care services, you are obligated to retain an aide who is employed by a licensed home health agency in Texas and to report the home health agency's periods of visitation to Edgemere. You must also comply with the provisions outlined in the Residents Handbook for retaining Private Duty Aides. Residents who need assistance with the activities of daily living or nursing service on a continuing basis will transfer to Assisted Living or Health Center to receive such services, in accordance with the provisions in Section 2.5.n.

3.4 **Cost of Physicians, Medicines, Etc.** You acknowledge and agree that any and all expenses or charges which may be incurred by or on behalf of you for costs not covered by this

Agreement, including, but not limited to, physicians, therapists, podiatrists, diagnostic services, mental health, medicines, prescription drugs, medical supplies, vitamins, crutches, braces, walkers, wheelchairs, special duty nursing, hospitalization, care and treatment of eyes, ears and teeth, and any and all other personal medical expenses shall be your sole and exclusive responsibility. You shall be entitled to treatment by the physician of your choice at your expense.

- 3.5 **Resident Handbook.** We will establish and adopt policies and procedures (collectively "Policies") for the occupancy and orderly operation and management of Edgemere. These Policies will be drafted to provide for the safety, welfare, peace and comfort of all Residents consistent with the provisions of the Life Care Agreement. These Policies will be published in writing in the Resident Handbook, which will be provided to you on or before the date you move in and may be amended from time to time. You agree to abide by and observe such Policies and all amendments and additions thereto. These Policies, as amended from time to time, are hereby incorporated by reference. In the event that the terms of this Agreement conflict with the Policies, the terms of this Agreement shall control.
- 3.6 **Non-Impairment of Financial Responsibility.** After execution of this Agreement, you agree not to impair your ability to meet your financial obligations under this Agreement and cause any act such that you would no longer meet the financial qualifications as set by Edgemere for your Residence.

4. TRANSFERS AND READMISSION

There may come a time when you must move to Assisted Living or Health Center or to another facility which provides services not available at Edgemere. Edgemere is aware that this is a critical transition and will follow the following procedures during any transfer or reassignment.

- 4.1 **Consultations.** Except in case of emergency, Edgemere agrees not to transfer you from your Residence to Assisted Living or Health Center, or to a care facility or hospital which is not on the campus of Edgemere, for health-related or other reasons unless it has consulted with you, your physician, your family and/or your designated representative, if applicable. Such a decision shall be made in the best interests of the Resident, and the decision of Edgemere shall be final and binding. In the case of an emergency transfer, Edgemere will schedule the consultations described above within seven (7) days after transfer.

Circumstances in which it is in the best interest of the Resident to be transferred include, but are not limited to, the following:

- a. A determination that the Resident can no longer function in an independent manner in a Residence, and the Resident requires additional assistance with activities of daily living or nursing care;
- b. A determination that the Resident is unable to remain ambulatory (for purposes of this document, the term "ambulatory" is used to describe a person who is capable of demonstrating the mental competence and physical ability to leave a building without human assistance or supervision in case of emergency); or,

- c. A determination that the continued residency of the Resident at Edgemere would be harmful to either the Resident, other Residents or staff of Edgemere.

If we determine, after consultation, that your health requires that you be transferred (a) from the Residence covered by this Agreement to Assisted Living or Health Center or (b) to a care facility or hospital which provides services which Edgemere does not provide or is not licensed to provide, you agree to be relocated in accordance with that decision.

- 4.2 Consents.** When Edgemere determines, after consultations as described above, to transfer you to Assisted Living, Health Center, or to a suitable care facility or hospital for health care or other health-related services, Edgemere shall be authorized to transfer you without having to obtain your further consent.

Edgemere shall not be responsible for the cost of any services rendered to a Resident who is transferred from Edgemere to another facility, except as specifically provided otherwise hereunder.

- 4.3 Transfers.** Pursuant to Section 4.1 and 4.2, transfers are defined below as temporary and permanent.

- a. **Temporary Transfer.** A transfer is considered temporary when pursuant to Section 4.1 and 4.2 the determination is made that the condition that requires your transfer has the potential to be resolved in a manner which may allow you to return to your Residence within ninety (90) days. Your residence will be held for your return.
- b. **Permanent Transfer.** A transfer is considered permanent when pursuant to Section 4.1 and 4.2 the determination is made that the condition that requires your transfer will not allow you to return to your Residence within ninety (90) days.

In the event of a Permanent Transfer of one Resident in the case of single occupancy or of both Residents in the case of double occupancy, you shall release your Residence in order for Edgemere to make your Residence available to a new Resident. In such event, Edgemere may enter into a new Life Care Agreement for occupancy of the Residence with a new Resident. You grant Edgemere the right to remove your personal property from the Residence fifteen (15) days after a Permanent Transfer and to store it at your expense. If your Residence is reassigned and should you subsequently recover sufficiently to maintain yourself independently in a Residence, you shall receive the next available Residence similar to the one relinquished, at the then current Monthly Service Fee. While you are in Assisted Living or the Health Center, the Monthly Service Fee will continue to be due and payable as described in Section 2.5.n.

If the Residence is occupied by two (2) Residents, the Permanent Transfer of one (1) Resident does not affect the rights and privileges under this Agreement of the remaining Resident.

5. RESIDENT DEPOSIT AND FEES

- 5.1 **Occupancy Date.** The day you receive keys to your Residence is the occupancy date. You shall not be required to move into Edgemere before seven (7) days following the date you executed this Agreement and made the Reservation Deposit.

In the event you decide not to move into your Residence on the Occupancy Date, the obligation of Edgemere to provide care and services as provided hereunder shall not be effective until your Resident Deposit has been paid in full.

- 5.2 **Resident Deposit.** You agree to make a non-transferable, non-interest bearing Resident Deposit in the total amount of \$ 654,550. The Reservation Deposit of \$ 165,455 is due at the time you execute this Agreement. The remaining balance of your Resident Deposit, being \$ 589,095, is due on or before the Occupancy Date, unless otherwise previously agreed in writing. In the event the remaining balance of the Resident Deposit is not paid by the Occupancy Date, Edgemere in its sole discretion may terminate this Agreement and re-market your Residence to a new resident. Once paid, this Resident Deposit will not be increased or changed during the duration of this Agreement. The Resident Deposit shall in no way be considered or interpreted to be a security deposit.

The Resident Deposit shall be the property of Edgemere for use in accordance with the terms of this Agreement, and shall not be subject to the claims of creditors of the Resident. The Resident Deposit shall be refundable in accordance with Section 7.

- 5.3 **Monthly Service Fees and Changes in Fees.** Your Monthly Service Fee will be initially \$ 1250 per month for one person and an additional \$ 5690 per month for the second person. The Monthly Service Fee shall be due beginning on the Occupancy Date and will be prorated, if necessary, on a daily basis for the first and last months of occupancy. We may increase the Monthly Service Fee, upon sixty (60) days' written notice to you. It is our intention to make any adjustments to the Monthly Service Fee only once per year. The Monthly Service Fee, in addition to charges for additional services, shall be billed in advance to the Resident on or before the fifth business day of each month, and shall be paid on or before the fifteenth (15th) day of the month.

Fees for additional services will be charged in accordance with the Additional Services Fee Schedule we establish and will be on file in the management office.

- 5.4 **Late Fee.** We will reserve the right to assess you a late fee of five percent (5%) per month (or the maximum amount allowed by applicable law, if less) of the amount due if the Monthly Service Fee or Additional Services Fees are not paid in full on or before the twentieth day (20th) of the calendar month in which they are due.

- 5.5 **Changes in Occupancy.** If your Residence is occupied by two (2) Residents and one (1) Resident surrenders possession of the Residence to the other, other than by death or by a transfer covered by Section 4, the obligations of the Resident remaining in the Residence under this Agreement remain in legal force and effect, except that the Monthly Service Fee will be adjusted to reflect the single occupancy rate then in effect for the Residence. The Resident not remaining in the Residence will receive no services or benefits under this Agreement but will continue to be jointly and severally liable for the obligations of the

Resident remaining in the Residence. The remaining Resident may elect to relocate to a different Residence, if desired. The refund of the Resident Deposit will be made in accordance with Section 7.7 and once all conditions of Section 7.4 are met.

In the event the joint occupants of a Residence desire separate living accommodations at Edgemere, and one (1) Resident remains in the Residence designated hereunder, no refund of the Resident Deposit shall be made until the conditions of Section 7.4 are met and the Monthly Service Fee shall be adjusted to reflect the single occupancy rate then in effect for the Residence. Upon occupancy of the second Residence by the departing joint occupant, a new Life Care Agreement must be executed and submitted for approval by Edgemere, accompanied by the then current Resident Deposit, for the second living accommodations.

In the event of the marriage of a Resident to another Resident, they may: (a) continue to maintain two Residences and pay the applicable Monthly Service Fee for single occupancy then in effect; or (b) release either Residence occupied by them, and pay the applicable Monthly Service Fee for first and second person occupancy then in effect for the Residence retained. All benefits provided in each Life Care Agreement shall remain and continue in effect. There shall be no refund of the Resident Deposit to either Resident until both Residents leave and the conditions of Section 7.4 have been met.

If you and a non-Resident (including a new spouse) desire to share the Residence, the non-Resident may become a Resident and live in the Residence only if he/she meets the qualifications for entrance set forth in Section 6 and both persons execute a new Life Care Agreement. In such event, the Monthly Service Fee shall be adjusted to reflect the additional charge per month for a second person, and the non-Resident may be required to make a Resident Deposit in accordance with the then current policies established by Edgemere.

In the event you marry an individual while at Edgemere who does not meet the residency requirements for Edgemere, NSHC, at its sole discretion, may allow such person to reside at Edgemere. However, this person would not have any rights, privileges or protection under this Agreement.

5.6 Liability for Charges. Each person who is designated as Resident in this Agreement is jointly and severally liable for the payment of the Monthly Service Fee, Additional Service Fees and all other amounts required to be paid to Edgemere, pursuant to the provisions of this Agreement. In the event it is necessary for us to institute legal action or other proceedings to recover amounts payable to Edgemere under this Agreement, we also will be entitled to recover reasonable legal fees and costs incurred in connection with all such proceedings. This provision will survive any termination of this Agreement.

5.7 Residents Who Become Unable to Pay. It is Edgemere's policy that this Agreement will not be terminated solely because of your financial inability to continue to pay the Monthly Service Fee or other charges payable under the terms of this Agreement by reason of circumstances beyond your control; provided, however, this policy shall not be construed to qualify or limit Edgemere's right to terminate this Agreement in accordance with its terms. If you present facts which, in the opinion of Edgemere, justify special financial consideration, Edgemere will give careful consideration to subsidizing in part or in whole the Monthly Service Fee and other charges payable by you under the terms of this

Agreement so long as such subsidy can be made without impairing the ability of Edgemere to attain its objectives while operating on a sound financial basis. Any determination by Edgemere with regard to the granting of financial assistance shall be within the sole discretion of Edgemere, and any decision to provide such financial assistance shall continue in effect only so long as Edgemere, in its sole discretion, determines that it can continue to operate for the benefit of all residents on a sound basis.

In the event Edgemere determines to provide you with any financial assistance or subsidy, you agree we may charge such amounts, plus interest, against the refund of your Resident Deposit. Furthermore, we may require you to move to a smaller or less expensive Residence.

The cost of any such financial assistance provided shall be accrued and remain an obligation of the Resident and his or her estate.

6. **APPLICATION AND ACCEPTANCE FOR RESIDENCY.**

The obligations of Edgemere to provide services and facilities hereunder are conditioned upon acceptance of the Resident for residency at Edgemere in accordance with this paragraph. The decision to accept a Resident for residency at Edgemere shall be within the sole discretion of NSHC.

6.1 **Requirements for Acceptance for Residency.** We require that you be capable of independent living and have assets and income which are sufficient (under foreseeable circumstances and after provision for payment of your obligations hereunder) to meet ordinary and customary living expenses, after assuming occupancy. You hereby represent and warrant that you are capable of independent living and have assets and income which are sufficient to meet ordinary and customary living expenses after assuming occupancy.

6.1.1 **Confidential Data Profile.** You shall complete and submit a Confidential Data Profile provided by Edgemere prior to or concurrent with the execution of this Agreement. You hereby certify to Edgemere that all information reflected on such Confidential Data Profile, which is hereby incorporated by reference and made a part of this Agreement, including all personal financial data, is complete and accurate.

6.1.2 **Confidential Medical Profile Report.** In addition to the Confidential Data Profile you will be required to submit a Confidential Medical Profile completed by your physician within fifteen (15) days after the execution of this Agreement.

6.1.3 **Age.** To be accepted for admission at Edgemere, you must be at least sixty-two (62) years of age at or before the Occupancy Date.

6.2 **Notification of Decision.** Within thirty (30) days of satisfaction by you of all of the requirements set forth in Section 6.1, Edgemere shall notify you in writing of its decision concerning your acceptance to Edgemere. In the event you are not accepted for residency at Edgemere, your Reservation Deposit specified in Section 5 and tendered upon execution of this Agreement shall be refunded within ten (10) days of the date of the written notification

to you of non-acceptance for residency, and the parties shall have no further obligations to one another under this Agreement.

- 6.3 **Acceptance for Residency Conditional Upon No Material Changes Prior to Occupancy.** Acceptance for residency to Edgemere shall be conditioned upon no material change in the matters covered by the Confidential Data Profile and Confidential Medical Profile prior to your Occupancy Date. In the event of any such material change prior to the Occupancy Date, Edgemere may request that additional information be provided. In the event of the existence of a material change in condition, Edgemere may revoke its acceptance of you for residency to Edgemere at any time prior to the Occupancy Date by written notification to you, and your Reservation Deposit as specified in Section 5 shall be refunded within ten (10) days of the date of such notification.
- 6.4 **Duty of Resident to Notify Edgemere.** You acknowledge and agree that Edgemere has relied upon all of the information contained in your Confidential Data Profile and Confidential Medical Profile to make its decision regarding your acceptance for residency at Edgemere. Any misrepresentation or omission by you shall render this Agreement null and void at the option of Edgemere. You agree to notify Edgemere prior to the Occupancy Date of any material change in any of the matters covered by, or reflected on, the Confidential Data Profile or the Confidential Medical Profile.

7. TERMINATION AND REFUNDS

7.1 **Termination Prior to Occupancy.**

- a. You will be entitled to full reimbursement of any monies paid to us within thirty (30) days of our receiving your written termination of this Agreement and will be released from liability to pay to us any other amount under this Agreement under any one of the following conditions:
- (i) If you terminate this Agreement within seven (7) days from the date on which you signed this Agreement and paid the Reservation Deposit.
 - (ii) If you die before occupying your Residence at Edgemere, or if, because of illness, injury, or incapacity, you would be precluded from occupying your Residence consistent with the representations made by you in the Confidential Data Profile or the Confidential Medical Profile, this Agreement will be automatically canceled.

Interest on the Resident Deposit will NOT be due or payable.

- b. If you terminate this Agreement prior to the date you occupy your Residence for reasons or conditions other than those described above, you will be entitled to a reimbursement of any monies paid, less a processing fee of five hundred dollars (\$500.00). Interest on the Resident Deposit will NOT be due or payable. Thereupon, you shall be relieved of further liability to pay a Resident Deposit or Monthly Service Fees under this Agreement. In this circumstance, we will pay the refund due to you within thirty (30) days after the date we have received your written notice of termination of this Agreement.

7.2 Termination of Residency After Occupancy. After you have assumed occupancy of your Residence, this Agreement is subject to termination as follows:

- a. By you at any time upon thirty (30) days prior written notice to Edgemere.
- b. Edgemere may terminate this Agreement after the Occupancy Date for the following nonmedical reasons:
 - (i) A material misrepresentation or omission by you in the Confidential Data Profile, Confidential Medical Profile, or related materials, which, if such information had been accurately provided, would have been material to the decision whether or not to accept the Resident for residency;
 - (ii) If you fail to comply with the policies and procedures of Edgemere or create a situation detrimental to the health, safety or quiet enjoyment of the community by other Residents or the staff;
 - (iii) If you fail to pay the Monthly Service Fee or other amounts due us when due unless other mutually satisfactory arrangements have been made, provided however, it is our policy that this Agreement shall not be terminated solely because of your financial inability to pay the fees to the extent that: (1) your inability to pay is not the result of your willful action; and (2) in the judgment of NSHC, the ability of Edgemere to operate on a sound financial basis will not be impaired.
 - (iv) Material breach by you of the terms and conditions of this Agreement; and,
 - (v) The Residence is no longer fit for occupancy and Edgemere elects not to restore the Residence to habitable condition.
- c. Edgemere may terminate this Agreement subsequent to Occupancy Date for medical reasons. If it is determined by the Medical Director (after consultation "to the extent feasible" with you, your personal physician, and your family and/or designated representative) that:
 - (i) You have developed a dangerous or contagious disease or mental illness;
 - (ii) You are in need of drug or alcoholic rehabilitation or any other condition for which we are not licensed or for which care cannot be provided by us without a significant and unique expenditure; or,
 - (iii) You are or have become mentally or emotionally disturbed to a degree that your continued presence at Edgemere is determined to be detrimental to the health, safety and welfare of other Residents or staff.

Therefore, should any of these situations occur, we are expressly authorized (after consultation with the Medical Director, your personal physician and your family

and/or your designated representative to the extent feasible) to transfer you, at your expense, to an appropriate hospital facility or alternative care facility.

If Edgemere seeks to terminate this Agreement and your occupancy, Edgemere shall give you sixty (60) days' prior written notice of termination which shall reasonably describe the conduct alleged to warrant the termination of this Agreement and shall set the time, place and date for a meeting between you and Edgemere's representative(s), which shall not be earlier than thirty (30) days nor later than forty-five (45) days after the notice of termination. At this meeting you may avoid termination upon your showing to Edgemere's reasonable satisfaction that you have cured the conduct alleged to warrant the termination.

- 7.3 Effect of Double Occupancy.** If your Residence is occupied by two (2) Residents and one (1) Resident dies, this Agreement will continue in full legal force and effect as to the surviving Resident, except the Monthly Service Fee will be adjusted to reflect the then applicable single occupancy rate payable for the type of Residence occupied. No refund of the Resident Deposit will occur until the surviving Resident leaves and all conditions of Section 7.4 are met.
- 7.4 Refund of Resident Deposit.** After termination of this Agreement in accordance with Section 7.2 or in the event of your death, or in the case of double occupancy, both occupants' deaths, we will refund ninety percent (90%) of the Resident Deposit (without interest) that you paid for your Residence at Edgemere. Except as provided in the next paragraph, the refund will be paid on the later of: (i) ten (10) days after a new resident deposit has been received from a new resident and the new resident has taken occupancy of your former Residence, or (ii) termination of this Agreement.
- 7.5 Use of Resident Deposit.** The purpose of the Resident Deposit is to generate investment income to contribute to the operating income of Edgemere and to help fund operating and capital costs. As such, interest income generated from the investment of the Resident Deposit will be paid to Edgemere. In addition, at the sole discretion of NSHC, Resident Deposits may also be used to pay for project development costs, start-up deficits, debt service, retirement of debt, costs of future capital expenditures, resident refunds and other purposes deemed appropriate by NSHC. No reserve funding will be established pertaining to the refund of the Resident Deposit. In order to obtain permanent financing and to secure the lender or other party or parties who provide financing, NSHC pledged the gross receipts and revenues of Edgemere including Resident Deposits to the extent allowable by Texas law.
- 7.6 Right of Off-Set; Other Rights.** We reserve the right to off-set against the refund of the Resident Deposit any fees or amounts payable to us under this Agreement including any charges deferred or unpaid. Termination of this Agreement for any reason will not affect or impair the exercise of any right or remedy granted to us or you under this Agreement for any claim or cause of action occurring prior to the date of such termination.
- 7.7 Relocation.** You may elect to move to another Residence, subject to availability. An administrative fee of \$500 will be applied to your account in the event of a relocation to a different residence. In such event, this Agreement will be amended to reflect the change in Residence status.

- a. **Relocation to a less expensive Residence.** You will receive a refund of the refundable portion of the Resident Deposit in excess of the refundable portion of the Resident Deposit then in effect for the new Residence in accordance with Section 7.4. No additional ten percent (10%) non refundable portion will be required. You will pay the then current Monthly Service Fee for the new Residence. All moving costs will be at your expense.
- b. **Relocation to a more expensive Residence.** You will be required to pay the difference between the initial Resident Deposit and the Resident Deposit then in effect for the new Residence selected. A portion of the additional Resident Deposit will be nonrefundable. You will pay the then current Monthly Service Fee for the new Residence. All moving costs will be at your expense.

8. MISCELLANEOUS

- 8.1 **Resident's Interest.** You do not have any proprietary interest in Edgemere, its assets or properties by virtue of this Agreement. While Edgemere is interested in Resident's input and comments, this Agreement does not give you the right to participate in management or policy making decisions of Edgemere or related properties.
- 8.2 **Responsibility for Protection of Resident's Property.** We shall not be responsible for damage or loss to any personal property belonging to you caused by fire, flooding or other casualty, or by leaking of water, bursting of pipes, theft or any other cause. You shall be solely responsible, at your own expense, for insuring against property damage or loss and personal liability to others. In the event of your death or transfer from Edgemere, we will exercise ordinary care in temporarily safekeeping your personal property. If such property is not removed from Edgemere premises within sixty (60) days after termination of this Agreement, we reserve the right to have such property placed in a commercial bonded warehouse at the expense and risk of you or your estate.
- 8.3 **Injury or Accident While Away from Edgemere.** If the Resident is injured in an accident or becomes ill while away from Edgemere, the Resident shall make every reasonable effort to notify Edgemere as soon as possible, and the Resident shall arrange to return to Edgemere as soon as reasonably possible if continued medical care is required. Edgemere shall not be responsible for or assume the cost of medical care for illness or injury incurred by the Resident while away from Edgemere. At such time as the Resident returns to Edgemere, Edgemere shall assume the responsibility for Assisted Living or Health Center services thereafter rendered as provided in this Agreement.
- 8.4 **Injury Caused by Third Party.** In the event of an accident or injury to you caused by a third party, for which such third party may be liable for the cost of any medical, surgical, nursing or additional care for you resulting therefrom, you or your designated representative shall notify Edgemere promptly and you or your designated representative shall pursue diligently any claim for damages which may be due from such third party for the injury. Edgemere is not required to bear the cost of care to you for which a third party is liable. You agree to indemnify NSHC for any expenses incurred by Edgemere in providing care to you for which a third party is liable.

NSHC may limit its actions as provided above to claims for recovery of the costs and expenses incurred by it, and in such event, NSHC shall not be obliged to assert any claim on behalf of you arising out of such accident or injury beyond the costs and expenses incurred by Edgemere.

- 8.5 **INDEMNIFICATION FOR NEGLIGENCE.** YOU HEREBY AGREE TO INDEMNIFY, PROTECT AND HOLD US HARMLESS FROM ANY LOSS, DAMAGE, INJURY OR EXPENSE INCURRED BY EDMERERE AS A RESULT OF YOUR NEGLIGENT OR WILLFUL ACTS OR THE ACTS OF YOUR INVITEES OR GUESTS.
- 8.6 **Right of Entry.** You hereby authorize our employees and agents to enter your Residence to provide services, repairs, maintenance, alterations, pest control and inspection, and to respond to perceived medical or other emergency. Non-emergency or non-medical services will be scheduled in advance with Resident.
- 8.7 **Guests.** Occupancy of the Residence and use of Edgemere common areas and grounds is limited to you and your guests. Guests may not occupy your Residence for more than fourteen (14) days without the prior written approval of Edgemere. You will be responsible for the conduct of your guests and for payment of any charges incurred by your guests.
- 8.8 **Absence from Edgemere.** You agree to notify Edgemere in advance of any contemplated absence that is anticipated to exceed twenty-four (24) hours.
- 8.9 **Damage to Residence.** Resident is responsible for excessive wear or damage to the Residence caused by Resident action or neglect. The cost of repair due to damage or neglect is the responsibility of the Resident and may be withheld from any refund due.
- If your Residence is damaged by fire, flood, storm or other casualty or cause and we elect not to terminate this Agreement, we will, at our expense, proceed diligently to repair and restore your Residence. If your Residence is uninhabitable during the repair, we will relocate you to a comparable type Residence at Edgemere, if available, or, if not, we will try to relocate you temporarily to any other available Residence at Edgemere and the Monthly Service Fee will be adjusted for the type of Residence you temporarily occupy, but in no event shall be more than your Residence.
- 8.10 **Entire Agreement.** This Agreement constitutes the entire Agreement between you and NSHC with regard to your residence and care. We will not be liable for, or bound by, any statements, representations or promises made to you by any person representing or purporting to represent Edgemere unless such statements, representations or promises are expressly set forth and endorsed by both parties in writing, and attached to this Agreement.
- 8.11 **Binding Effect.** This Agreement is binding upon our successors and assigns and your heirs and personal representatives. The provisions of this Agreement are not assignable or transferable in whole or in part by you, and you will have no right to sublet the Residence.
- 8.12 **Severability.** Each provision of this Agreement will be deemed separate from each other provision and the invalidity or unenforceability of any provision will not affect the validity or enforceability of the balance of the Agreement.

- 8.13 **Subordination.** Your rights under this Agreement will be subordinate to any mortgage, security interest, pledge, or other lien that now encumbers all or any part of Edgemere's assets and shall be further subordinate to any mortgage, security interest, pledge, or other lien hereafter placed on all or any part of Edgemere's assets, and you agree to execute, acknowledge and deliver such subordination agreements as any lender or future lender shall reasonably require in order to establish the priority of any such lien.
- 8.14 **Nondiscrimination.** Edgemere will be operated on a non-discriminatory basis, and will provide the facilities and services described in this Agreement to individuals regardless of race, color, sex, marital status, religion, creed, handicap or national origin.
- 8.15 **Notices.** Any notice to Edgemere by you will be given in writing and mailed or delivered to Edgemere at the administrative office or at such other address as we may designate in writing. Any notice to you by us will be given in writing and mailed or delivered to your Residence or at such other address as you may designate to Edgemere in writing.
- 8.16 **Potential Tax Benefit.** You may be eligible for a one-time medical expense tax deduction for a portion of the Resident Deposit (in the first year of occupancy) and annually for a portion of the Monthly Service Fee paid to Edgemere in that tax year. Edgemere will provide a statement prepared by its auditors each year for your use in tax preparation. Edgemere makes no representations regarding the availability of any tax deduction relating to your residency and care at Edgemere. You are advised to seek tax advice on this issue from your tax advisor.
- 8.17 **Choice of Law.** This Agreement will be interpreted according to the laws of the State of Texas without regard to conflict of law principles.
- 8.18 **Change of Condition.** You agree to notify us of any material change in any of your physical, financial or mental conditions prior to residency.
- 8.19 **Authorized Agent Signature.** This Agreement has been executed on behalf of Edgemere by its duly authorized agent and no officer, director, agent or employee of Edgemere shall have any personal liability hereunder to you under any circumstances.
- 8.20 **No Third Party Rights.** No other persons or entities other than Edgemere and the Resident have any rights or obligations under this Agreement.
- 8.21 **Failure to Act.** Failure or delay of any party to exercise any right, power, or privilege under this Agreement will not operate as a waiver of such right, power, or privilege.
- 8.22 **Right of Subrogation.** If you are injured by a third party and such injury requires Edgemere to provide health care services under this Agreement, Edgemere shall be subrogated, to the extent allowed by Texas law, to your rights against such third party to the extent necessary to reimburse Edgemere for the costs incurred in providing services under this Agreement. To the extent allowed under Texas law, this right of subrogation authorizes Edgemere to institute legal action in your name; provided, however, that such action shall not cause or result in a compromise, waiver or release of any causes of action that you may have against such third party for such injuries.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, NORTHWEST SENIOR HOUSING CORPORATION
and the Resident(s) have signed this Agreement on this 22 day of May, 2014.

RESIDENT(S):

Signature: _____

Print Name: _____

Signature: _____

Print Name: _____

NORTHWEST SENIOR HOUSING CORPORATION,
a Texas nonprofit corporation

By: _____

Its: _____

MARION DINEEN

Vanessa Cortez
Edgemere Marketing Representative

Exhibit B

Addendum to the Lifecare Agreement between
[Residents]
and Northwest Senior Housing Corporation

I (we) direct the refundable portion of the resident deposit to be refunded to:

The Estate of _____ ()
or

Contact person and mailing address for refund:

IN WITNESS WHEREOF, THE NORTHWEST SENIOR HOUSING CORPORATION and
the Resident have signed this Agreement on this _____ day of _____, 20_____.

RESIDENT(S):

Signature: _____

Print Name: _____

Signature: _____

Print Name: _____

Northwest Senior Housing Corporation,
a Texas Not-For-Profit Corporation

Edgemere Representative

Title

Stephen A. McCartin (TX 13344700)
Thomas C. Scannell (TX 24070559)
FOLEY & LARDNER LLP
2021 McKinney Avenue, Ste. 1600
Dallas, Texas 75201
Telephone: (214) 999.3000
Facsimile: (214) 999.4667
smccartin@foley.com
tscannell@foley.com

**COUNSEL TO THE EDMERE
RESIDENTS TRUST**

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

In re:	§	
	§	Chapter 11
	§	
Northwest Senior Housing Corporation, <i>et al.</i> , ¹	§	Case No. 22-30659 (MLV)
	§	
Debtors.	§	(Jointly Administered)

DECLARATION OF ANWAR HUSSAIN, FORMER RESIDENT OF EDMERE

I, Anwar Hussain, declare under penalty of perjury pursuant to 28 U.S.C § 1746:

1. I was a resident of Edgemere from early 2020 through 2022, at which time I moved out of Edgemere. Edgemere has re-leased my independent living unit and my refund became fully due and payable prior to the Effective Date of the Plan.

2. I executed the Edgemere Life Care Agreement attached hereto as **Exhibit A** on January 30, 2020.

¹ The Debtors in these chapter 11 cases (the "**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) (together, the "**Debtors**"). The Debtors' mailing address is 8523 Thackery Street, Dallas, Texas 75225.

3. I executed the Addendum attached hereto as Exhibit B on 2020 directing Edgemere to pay my refund equally to my five (5) children (the "Addendum Payees"). It was always my understanding and intent that the Addendum would only be effective if I died on or before the refund became payable. Prior to my death, it was my intent that the Addendum would be subject to amendment or revocation at my sole discretion.

4. Accordingly, I have made demand on the Edgemere Residents Trust to make all Trust Distributions attributable to my Refund Claim against Edgemere to me and not to the Addendum Payees.

Dated: September 4, 2023

By:

Anwar Hussain
Anwar Hussain, Former Edgemere Resident

Stephen A. McCartin (TX 13344700)
Thomas C. Scannell (TX 24070559)
FOLEY & LARDNER LLP
2021 McKinney Avenue, Ste. 1600
Dallas, Texas 75201
Telephone: (214) 999.3000
Facsimile: (214) 999.4667
smccartin@foley.com
tscannell@foley.com



Dustin Tackett
09-04-2023
KYNP 58325

COUNSEL TO THE EDMERERE
RESIDENTS TRUST

Exhibit A

EDGEMERE
LIFE CARE AGREEMENT

EDGEMERE

LIFE CARE AGREEMENT

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ADDENDUM A – CONFIDENTIAL DATA PROFILE

EDGEMERE

LIFE CARE AGREEMENT

NOTICES

- A. You may cancel this contract at any time prior to midnight of the seventh day after the date on which you sign this contract (Rescission Period) or you receive the Edgemere Disclosure Statement, whichever occurs later. If you elect to cancel the contract, you must do so by written notice, and you will be entitled to receive a refund of all assets transferred (without interest), subject to the terms and conditions contained in this contract, other than the periodic charges applicable to your occupancy of a living unit.
- B. This document, if executed, constitutes a legal and binding contract between you and Northwest Senior Housing Corporation. You may wish to consult a legal or financial advisor before signing, although it is not required that you do so to make this contract binding. This Agreement provides certain rights of occupancy of a senior living community, hereinafter referred to as "Edgemere" located in Dallas, Texas.
- C. You shall not be required to move into Edgemere before the expiration of the seven (7) calendar day period (Rescission Period).

TERMS OF OCCUPANCY

This Life Care Agreement ("Agreement") is entered into by Anwar A. Hussain

(individually and/or collectively "you" or "Resident"), and Northwest Senior Housing Corporation d/b/a Edgemere, which owns and operates Edgemere located in Dallas, Texas. The term "Edgemere" is used throughout this Agreement to denote Northwest Senior Housing Corporation, or the senior living community. The terms "we", "our", or "NSHC" are also used in lieu of Northwest Senior Housing Corporation.

Edgemere seeks to provide quality residential housing for retirement age men and women along with an array of personal services and amenities outlined in this Agreement, including certain assisted living and nursing services. Subject to the conditions contained in this Agreement, we agree to make available to you, an unfurnished independent living unit ("Residence") in Edgemere and provide you with general services and amenities described in this Agreement. The Residence is described as follows:

RESIDENCE NUMBER: 1111

RESIDENCE STYLE: 1 BEDROOM TRADITIONAL

1. **RESERVATION OF RESIDENCE**

In connection with this Agreement, Resident made a deposit equal to ten percent (10%) of the Resident Deposit (hereinafter defined) or \$ 20,966 (the "Reservation Deposit") to reserve the Residence identified above located within Edgemere.

- 1.1 **Conditions of Occupancy.** Conditions of occupancy of the Residence are that Resident shall: (i) meet the health and financial conditions of acceptance into Edgemere; (ii) execute this Agreement; (iii) pay in full the remaining balance of the Resident Deposit ("Resident Deposit Balance") and (iv) pay the applicable ongoing Monthly Service Fee(s).
- 1.2 **Escrow of Reservation Deposit.** The Reservation Deposit shall be placed and maintained in an escrow account to the extent required by Texas law. The escrow agent is Regions Bank, 1717 St. James Place, Suite 500, Houston, TX 77056.
- 1.3 **Refund of Reservation Deposit for Involuntary Termination.** The Reservation Deposit shall be refunded in full to Resident within thirty (30) days of termination of this Agreement under the following circumstances: (i) Edgemere's failure to meet its obligations under this Agreement prior to occupancy of the Residence by Resident; or (ii) death, incapacity or serious illness of Resident prior to occupancy. If Resident's health status changes after Resident is accepted for Residency by Edgemere so that at the time of occupancy Resident is precluded from independent living for health reasons and certified by a licensed physician, the entire Reservation Deposit shall be refunded to Resident; provided, however, Resident may elect not to terminate this Agreement and may elect direct admission into Assisted Living (hereinafter defined) or the Health Center (hereinafter defined) at the appropriate level of care, as determined by Edgemere.
- 1.4 **Refund of Reservation Deposit for Voluntary Termination.** If Resident terminates this Agreement after seven (7) days from the date it is executed other than for reasons in Section 1.3, above, Edgemere shall refund the entire Reservation Deposit within thirty (30) days, less a processing fee of five hundred dollars (\$500.00).
- 1.5 **Disclosures.** Resident acknowledges that Resident has received a copy of the Disclosure Statement and other information which may be material to Resident's decision whether to occupy the Residence. Resident understands that Resident may not occupy the Residence and is not entitled to any services or benefits of the Life Care Agreement until the Resident Deposit has been paid in full.

2. **GENERAL SERVICES AND FACILITIES**

- 2.1 **Basic Agreement.** In consideration of payment of a Resident Deposit in the amount stated in Section 5.2 and payment of the applicable Monthly Service Fee, initially in the amount stated in Section 5.3, you will be entitled to occupy the Residence indicated above and to receive the services and use of the facilities described in this Agreement according to the provisions of this Agreement.

Your right to occupy the Residence or such other care accommodations to which you may be transferred in accordance with this Agreement shall continue for your lifetime unless sooner terminated as provided herein.

The right to occupy the Residence and receive services under this Agreement shall apply exclusively to the named Resident hereunder, and to no other individual(s). No person other than the Resident entering into this Agreement shall be permitted to occupy the Residence without the express written permission of Edgemere as hereinafter provided.

- 2.2 Residence Furnishings.** The Residence will be furnished at our expense with floor coverings, , self-defrosting refrigerator and freezer with ice maker, range and oven, dishwasher, microwave oven, garbage disposal, washer, dryer, an emergency alert system, fire sprinkler system and a telephone/data communications port and cable TV hookup.
- 2.3 Parking.** Surface parking areas will be provided for you and for guests of Edgemere as defined in the Resident Handbook. One secured underground parking space will be provided for each Residence at the request of the Resident and in conformance with our parking policy.
- 2.4 Community Common Areas.** You will have use of Edgemere community common areas in accordance with the policies and procedures of Edgemere, as modified and amended from time to time. Community common areas are non-smoking and may include:
- a. Formal & Casual Dining Rooms
 - b. Private Dining Room
 - c. Performing Arts Center
 - d. Outdoor Dining Terrace
 - e. Library
 - f. Conference Room
 - g. Game & Card Room
 - h. Creative Arts Center
 - i. Beauty & Barber Shop
 - j. Business Center
 - k. Wellness and Fitness Center
 - l. Convenience Store
 - m. Swimming Pool
 - n. Living Rooms
 - o. Guest Suites
- 2.5 Included General Services.** So long as you are in compliance with your obligations hereunder, we will provide you with the following services covered by the Monthly Service Fee and Resident Deposit:
- a. **Food Service.** Meals will be served on a daily basis in the main dining room. You are entitled to one meal credit per person for each day of the month (for example, 30 meal credits for June and 31 meal credits for July). You may purchase guest meals or use accumulated meal credits at any time during the month for meals for you and/or your guests. Any unused meal credits for any month will be forfeited and may not be applied as a credit against meal charges for any other period. If you are absent from Edgemere for more than fourteen (14) consecutive days, you will receive a meal credit allowance in conformance with our meal credit policy, provided you give Edgemere written notice of your intended absence at least two (2)

weeks in advance. For health-related absences, no prior notice is required. Additional meals are available upon request for an additional fee.

- b. **Housekeeping.** Housekeeping of the Residence, including vacuuming, mopping, sweeping and changing of bed linens occurs on a weekly scheduled basis.
- c. **Utilities.** The costs of sewer, water, waste disposal, electricity, heat, air-conditioning, and basic cable television service are included in the Monthly Service Fee. The Residence will be centrally wired for cable television and telephone service, as well as a data communications port. You will be responsible for all telephone, premium cable television and internet service provider charges.
- d. **Security and Emergency Alert System.** Each Residence will be equipped with smoke detectors, a sprinkler system and an emergency alert system. Edgemere will monitor the emergency alert systems on a twenty-four hour basis and coordinate emergency responses as appropriate. Security personnel will be employed and exterior entrances will have secured access.
- e. **Laundry.** We will provide scheduled weekly laundry service of your personal bed linens.
- f. **Maintenance.** We will maintain all community common areas and grounds. Edgemere will be responsible for providing repair, maintenance and replacement of equipment and furnishings provided by Edgemere, provided that such repairs are not required as a result of your negligence. You are responsible for maintenance of your personal property and are encouraged to purchase a renter's insurance policy covering your personal property and personal liability.
- g. **Mail.** A U.S. mailbox will be provided to you in a central location.
- h. **Transportation.** We will provide local transportation to designated shopping, medical facilities, and other local destinations on a regularly scheduled basis.
- i. **Social and Recreational Programs.** A full-time Lifestyle Director will coordinate a variety of social, recreational, educational and cultural programs for those residents wishing to participate. Specific programs will be based on residents' interest.
- j. **Property Taxes and Insurance.** We will pay for real property taxes for the community, with the exception of those assessed on your personal property. We will also obtain property and casualty insurance coverage on the buildings and grounds. Such coverage will not insure against loss or damage to your personal property or damage or injury to others caused by you. Edgemere recommends that you purchase appropriate comprehensive insurance.
- k. **Storage Area.** An individual storage area located in Edgemere will be assigned and available for your use.

- l. Wellness Programming.** We will coordinate educational and screening programs promoting wellness and preventive health maintenance. Participation in these activities is voluntary.
- m. Medical Director.** We will retain the services of a qualified physician (“Medical Director”) to be responsible for the appropriateness and quality of medical services and medically related activities provided by Edgemere. The Medical Director is not expected to provide medical services to Residents and will be retained as a consultant to Edgemere.
- n. Life Care Benefit.** If it is determined that you require assisted living or nursing care in the future, we will provide you with assisted living services available in our assisted living center (“Assisted Living”) or nursing services available in our nursing center (“Health Center”), as described below and subject to changes in law.

 - (i) Admission.** When a determination is made by your physician and approved by the Medical Director that you need assisted living services or nursing care, then you will be transferred to Assisted Living or the Health Center as provided for in Section 4 of this Agreement. Transfers to Assisted Living or the Health Center will only occur after consultation with the Resident, the Resident’s family, and a licensed physician.

In the event that space for you, for any reason, is not available in Assisted Living or the Health Center upon determination that a permanent transfer is required, Edgemere will arrange and pay for your care in your Residence by a certified home health care agency of Edgemere’s choice, if reasonably possible, until space becomes available in Assisted Living or the Health Center. If home health care is not medically possible, Edgemere will arrange and pay for your care in another facility of Edgemere’s choice that can provide the same care that would otherwise have been provided by Edgemere until space becomes available. Edgemere will pay for care in another facility to the same extent as if it were provided by Edgemere.

- (ii) Assisted Living.** We will provide to you, in a Traditional Assisted Living Apartment, support services that are designed to assist you with activities of daily living in accordance with Texas law. Services may include assistance with dressing, bathing, grooming, medication administration, and ambulation. Additional services and ancillary products may also be provided for a specified charge identified in the resident handbook.
 - (iii) Nursing Care.** We will provide to you, in a Traditional Private Room, licensed nursing care services approved by our Medical Director (“Nursing Care”). The care provided will cover services included in the basic private nursing room published daily rate then in effect. Such care may include those services required by applicable law to be supervised or administered by a professional licensed nursing staff, e.g., medication administration, condition and behavior observation and assessment, creation and administration of a care plan, assistance with activities of daily living and communication with physicians and other care providers. You will be

responsible for charges for supplies and services above those included in the basic published daily rate.

- (iv) **Fees and Charges.** We will provide without charge basic Assisted Living or Nursing Care as defined in Section 2.5.n.(ii) and (iii), to the extent that it is not covered by your insurance, Medicare or any other governmental programs or entitlements which you are required to maintain under this Agreement, subject to:

Effect on Monthly Service Fee.

a. Temporary Transfers.

Should you have a temporary need for Assisted Living or Health Center services while you are still occupying your Residence, you will continue to pay both the then current Monthly Service Fee for your Residence and the then current applicable pro-rated monthly rate at Assisted Living or the then current daily rate at the Health Center. By “temporary” we mean a Temporary Transfer as defined in Section 4.3.

b. Permanent Transfers.

1. Single Occupancy. Should you have a permanent need for Assisted Living or Health Center services, you will be required to release your Residence as provided under Section 4.3. Your Monthly Service Fee will be adjusted to the then current Monthly Service Fee for a Two Bedroom Classic independent living residence. By “permanent” we mean a Permanent Transfer as defined in Section 4.3.
2. Double Occupancy. Should one Resident have a permanent need for Assisted Living or Health Center services, you will continue to pay the then current Monthly Service Fee for your residence, and the relocated Resident will pay the then current Monthly Service Fee for the Two Bedroom Classic independent living residence. Should both Residents have a permanent need for Assisted Living or Health Center services, the Residents will be required to release the Residence as provided under Section 4.3. The first Resident will be required to pay the then current Monthly Service Fee for the Two Bedroom Classic independent living residence. The second Resident will also be required to pay the then current Monthly Service Fee for the Two Bedroom Classic independent living residence. By “permanent” we mean a Permanent Transfer as defined in Section 4.3.

- o. Additional Charges.** Residents will be responsible for all costs and charges associated with Assisted Living or the Health Center which are not covered by the basic published market daily rates for such care then in effect as described in Section 2.5n. (ii) and (iii). Additional charges apply in circumstances which include, but are not limited to, the following:

1. If you require Memory Support Deluxe Assisted Living you will be responsible for the difference between the then current Monthly Service Fee for a Traditional Assisted Living Apartment and the Memory Support Alcove Room.
2. If you require specialized memory support services at the Health Center, you will be responsible for the then current difference in daily rates between a Traditional Private Room in Nursing Care and a Memory Support Nursing Care Private Room.
3. In the event of a Temporary Transfer or Permanent Transfer, you will be responsible for all costs of relocation.

2.6 Additional Services. The following Additional Services may be available to Residents on a fee-for-service basis:

- a. Guest meals
- b. Catering for special occasions
- c. Barber and beauty services
- d. Tray service
- e. Additional resident meals
- f. Additional parking, subject to availability
- g. Additional housekeeping services
- h. Laundry services for personal items
- i. Usage of the guest suites

Charges for these Additional Services and others that may be offered will be made in accordance with the Resident Handbook then in effect and will be billed to you monthly.

2.7 Alteration to Residence. You may make alterations to your Residence at your cost, subject to Edgemere's policies and with Edgemere's prior written approval. Any approved alteration will be performed by our maintenance staff or by a contractor we approve. Any alterations of a permanent nature become the property of Edgemere. For your safety, you agree not to replace the existing locking device or add any locking devices to your Residence. Edgemere reserves the right to restore the apartment home to the pre-altered state upon vacancy of the apartment by Resident. The cost of the restoration is the responsibility of Resident and may be withheld from any refund due.

2.8 Advance Notice for Changes in Scope of Services. We will provide at least sixty (60) days advance notice before any change in the scope of care or services becomes effective unless an immediate transfer to Assisted Living or Health Center is deemed necessary as provided in Section 4 of this Agreement. This includes notification of any changes in charges for Additional Services.

3. **RESIDENT'S OBLIGATIONS**

3.1 Health Insurance. Edgemere will provide you with the services described in this Agreement, as appropriate. During the term of this Agreement, you shall obtain and maintain in force Medicare Parts A and B and any future program that may be offered by Medicare. You shall also maintain in effect supplemental Medicare insurance coverage acceptable to us, and furnish evidence of such insurance coverage upon our request. If you are not qualified for Medicare coverage, you will be required to maintain comprehensive health coverage satisfactory to us. You agree to provide evidence of such insurance to us upon request. You also agree to execute all necessary forms to obtain payment of benefits which are or may be payable in the future for health care services provided hereunder to you.

You will be responsible for paying separately for all health care services that are not covered by Edgemere, Medicare (or an equivalent substitute policy approved by Edgemere), or Medicare supplemental insurance, as set forth in this Agreement. If you have any questions about such coverage, Edgemere will assist you in obtaining answers.

3.2 Power of Attorney, Guardianship. You acknowledge that at some future time you may be unable by reason of mental or physical disability to properly handle your own affairs and that it may be in your best interest to have an attorney in fact or a guardian appointed to handle your affairs. Therefore, you agree to designate in writing, prior to or at the time of entrance, person(s) who will have authority to act on your behalf in the event you should at any time become unable to properly handle your own affairs. If you should thereafter become either physically or mentally unable to properly administer your own affairs, this designated person shall either commence handling your affairs pursuant to the terms of a durable power of attorney or file a petition in a court of competent jurisdiction to have a guardian or conservator appointed to handle your affairs. If the designated person(s) are unable or unwilling to file such a petition, we are empowered to do so at your expense.

3.3 Home Health Care Services. It is the intent of Edgemere to enable you to maintain the highest level of independence possible. As such, home health care services may be provided to you in your Residence at your expense by a certified home health care agency of your choosing. Such services are typically intermittent and short-term in nature, often rendered following an acute care illness. Any assistance by Edgemere in choosing an appropriate agency shall in no way be deemed an endorsement of a particular agency, and Edgemere shall in no way be deemed responsible for the acts or failure to act of any such agency. You are to notify Edgemere if you are receiving or intend to receive home health care services. If you choose to receive home health care services, you are obligated to retain an aide who is employed by a licensed home health agency in Texas and to report the home health agency's periods of visitation to Edgemere. You must also comply with the provisions outlined in the Residents Handbook for retaining Private Duty Aides. Residents who need assistance with the activities of daily living or nursing service on a continuing basis will transfer to Assisted Living or Health Center to receive such services, in accordance with the provisions in Section 2.5.n.

3.4 Cost of Physicians, Medicines, Etc. You acknowledge and agree that any and all expenses or charges which may be incurred by or on behalf of you for costs not covered by this

Agreement, including, but not limited to, physicians, therapists, podiatrists, diagnostic services, mental health, medicines, prescription drugs, medical supplies, vitamins, crutches, braces, walkers, wheelchairs, special duty nursing, hospitalization, care and treatment of eyes, ears and teeth, and any and all other personal medical expenses shall be your sole and exclusive responsibility. You shall be entitled to treatment by the physician of your choice at your expense.

3.5 Resident Handbook. We will establish and adopt policies and procedures (collectively "Policies") for the occupancy and orderly operation and management of Edgemere. These Policies will be drafted to provide for the safety, welfare, peace and comfort of all Residents consistent with the provisions of the Life Care Agreement. These Policies will be published in writing in the Resident Handbook, which will be provided to you on or before the date you move in and may be amended from time to time. You agree to abide by and observe such Policies and all amendments and additions thereto. These Policies, as amended from time to time, are hereby incorporated by reference. In the event that the terms of this Agreement conflict with the Policies, the terms of this Agreement shall control.

3.6 Non-Impairment of Financial Responsibility. After execution of this Agreement, you agree not to impair your ability to meet your financial obligations under this Agreement and cause any act such that you would no longer meet the financial qualifications as set by Edgemere for your Residence.

4. TRANSFERS AND READMISSION

There may come a time when you must move to Assisted Living or Health Center or to another facility which provides services not available at Edgemere. Edgemere is aware that this is a critical transition and will follow the following procedures during any transfer or reassignment.

4.1 Consultations. Except in case of emergency, Edgemere agrees not to transfer you from your Residence to Assisted Living or Health Center, or to a care facility or hospital which is not on the campus of Edgemere, for health-related or other reasons unless it has consulted with you, your physician, your family and/or your designated representative, if applicable. Such a decision shall be made in the best interests of the Resident, and the decision of Edgemere shall be final and binding. In the case of an emergency transfer, Edgemere will schedule the consultations described above within seven (7) days after transfer.

Circumstances in which it is in the best interest of the Resident to be transferred include, but are not limited to, the following:

- a. A determination that the Resident can no longer function in an independent manner in a Residence, and the Resident requires additional assistance with activities of daily living or nursing care;
- b. A determination that the Resident is unable to remain ambulatory (for purposes of this document, the term "ambulatory" is used to describe a person who is capable of demonstrating the mental competence and physical ability to leave a building without human assistance or supervision in case of emergency); or,

- c. A determination that the continued residency of the Resident at Edgemere would be harmful to either the Resident, other Residents or staff of Edgemere.

If we determine, after consultation, that your health requires that you be transferred (a) from the Residence covered by this Agreement to Assisted Living or Health Center or (b) to a care facility or hospital which provides services which Edgemere does not provide or is not licensed to provide, you agree to be relocated in accordance with that decision.

- 4.2 Consents.** When Edgemere determines, after consultations as described above, to transfer you to Assisted Living, Health Center, or to a suitable care facility or hospital for health care or other health-related services, Edgemere shall be authorized to transfer you without having to obtain your further consent.

Edgemere shall not be responsible for the cost of any services rendered to a Resident who is transferred from Edgemere to another facility, except as specifically provided otherwise hereunder.

- 4.3 Transfers.** Pursuant to Section 4.1 and 4.2, transfers are defined below as temporary and permanent.

- a. **Temporary Transfer.** A transfer is considered temporary when pursuant to Section 4.1 and 4.2 the determination is made that the condition that requires your transfer has the potential to be resolved in a manner which may allow you to return to your Residence within ninety (90) days. Your residence will be held for your return.
- b. **Permanent Transfer.** A transfer is considered permanent when pursuant to Section 4.1 and 4.2 the determination is made that the condition that requires your transfer will not allow you to return to your Residence within ninety (90) days.

In the event of a Permanent Transfer of one Resident in the case of single occupancy or of both Residents in the case of double occupancy, you shall release your Residence in order for Edgemere to make your Residence available to a new Resident. In such event, Edgemere may enter into a new Life Care Agreement for occupancy of the Residence with a new Resident. You grant Edgemere the right to remove your personal property from the Residence fifteen (15) days after a Permanent Transfer and to store it at your expense. If your Residence is reassigned and should you subsequently recover sufficiently to maintain yourself independently in a Residence, you shall receive the next available Residence similar to the one relinquished, at the then current Monthly Service Fee. While you are in Assisted Living or the Health Center, the Monthly Service Fee will continue to be due and payable as described in Section 2.5.n.

If the Residence is occupied by two (2) Residents, the Permanent Transfer of one (1) Resident does not affect the rights and privileges under this Agreement of the remaining Resident.

5. RESIDENT DEPOSIT AND FEES

- 5.1 Occupancy Date.** The day you receive keys to your Residence is the occupancy date. You shall not be required to move into Edgemere before seven (7) days following the date you executed this Agreement and made the Reservation Deposit.

In the event you decide not to move into your Residence on the Occupancy Date, the obligation of Edgemere to provide care and services as provided hereunder shall not be effective until your Resident Deposit has been paid in full.

- 5.2 Resident Deposit.** You agree to make a non-transferable, non-interest bearing Resident Deposit in the total amount of \$ 209,660. The Reservation Deposit of \$ 20,966 is due at the time you execute this Agreement. The remaining balance of your Resident Deposit, being \$ 188,694, is due on or before the Occupancy Date, unless otherwise previously agreed in writing. In the event the remaining balance of the Resident Deposit is not paid by the Occupancy Date, Edgemere in its sole discretion may terminate this Agreement and re-market your Residence to a new resident. Once paid, this Resident Deposit will not be increased or changed during the duration of this Agreement. The Resident Deposit shall in no way be considered or interpreted to be a security deposit.

The Resident Deposit shall be the property of Edgemere for use in accordance with the terms of this Agreement, and shall not be subject to the claims of creditors of the Resident. The Resident Deposit shall be refundable in accordance with Section 7.

- 5.3 Monthly Service Fees and Changes in Fees.** Your Monthly Service Fee will be initially \$ 4,014 per month for one person and an additional \$ 0 per month for the second person. The Monthly Service Fee shall be due beginning on the Occupancy Date and will be prorated, if necessary, on a daily basis for the first and last months of occupancy. We may increase the Monthly Service Fee, upon sixty (60) days' written notice to you. It is our intention to make any adjustments to the Monthly Service Fee only once per year. The Monthly Service Fee, in addition to charges for additional services, shall be billed in advance to the Resident on or before the fifth business day of each month, and shall be paid on or before the fifteenth (15th) day of the month.

Fees for additional services will be charged in accordance with the Additional Services Fee Schedule we establish and will be on file in the management office.

- 5.4 Late Fee.** We will reserve the right to assess you a late fee of five percent (5%) per month (or the maximum amount allowed by applicable law, if less) of the amount due if the Monthly Service Fee or Additional Services Fees are not paid in full on or before the twentieth day (20th) of the calendar month in which they are due.

- 5.5 Changes in Occupancy.** If your Residence is occupied by two (2) Residents and one (1) Resident surrenders possession of the Residence to the other, other than by death or by a transfer covered by Section 4, the obligations of the Resident remaining in the Residence under this Agreement remain in legal force and effect, except that the Monthly Service Fee will be adjusted to reflect the single occupancy rate then in effect for the Residence. The Resident not remaining in the Residence will receive no services or benefits under this Agreement but will continue to be jointly and severally liable for the obligations of the

Resident remaining in the Residence. The remaining Resident may elect to relocate to a different Residence, if desired. The refund of the Resident Deposit will be made in accordance with Section 7.7 and once all conditions of Section 7.4 are met.

In the event the joint occupants of a Residence desire separate living accommodations at Edgemere, and one (1) Resident remains in the Residence designated hereunder, no refund of the Resident Deposit shall be made until the conditions of Section 7.4 are met and the Monthly Service Fee shall be adjusted to reflect the single occupancy rate then in effect for the Residence. Upon occupancy of the second Residence by the departing joint occupant, a new Life Care Agreement must be executed and submitted for approval by Edgemere, accompanied by the then current Resident Deposit, for the second living accommodations.

In the event of the marriage of a Resident to another Resident, they may: (a) continue to maintain two Residences and pay the applicable Monthly Service Fee for single occupancy then in effect; or (b) release either Residence occupied by them, and pay the applicable Monthly Service Fee for first and second person occupancy then in effect for the Residence retained. All benefits provided in each Life Care Agreement shall remain and continue in effect. There shall be no refund of the Resident Deposit to either Resident until both Residents leave and the conditions of Section 7.4 have been met.

If you and a non-Resident (including a new spouse) desire to share the Residence, the non-Resident may become a Resident and live in the Residence only if he/she meets the qualifications for entrance set forth in Section 6 and both persons execute a new Life Care Agreement. In such event, the Monthly Service Fee shall be adjusted to reflect the additional charge per month for a second person, and the non-Resident may be required to make a Resident Deposit in accordance with the then current policies established by Edgemere.

In the event you marry an individual while at Edgemere who does not meet the residency requirements for Edgemere, NSHC, at its sole discretion, may allow such person to reside at Edgemere. However, this person would not have any rights, privileges or protection under this Agreement.

5.6 Liability for Charges. Each person who is designated as Resident in this Agreement is jointly and severally liable for the payment of the Monthly Service Fee, Additional Service Fees and all other amounts required to be paid to Edgemere, pursuant to the provisions of this Agreement. In the event it is necessary for us to institute legal action or other proceedings to recover amounts payable to Edgemere under this Agreement, we also will be entitled to recover reasonable legal fees and costs incurred in connection with all such proceedings. This provision will survive any termination of this Agreement.

5.7 Residents Who Become Unable to Pay. It is Edgemere's policy that this Agreement will not be terminated solely because of your financial inability to continue to pay the Monthly Service Fee or other charges payable under the terms of this Agreement by reason of circumstances beyond your control; provided, however, this policy shall not be construed to qualify or limit Edgemere's right to terminate this Agreement in accordance with its terms. If you present facts which, in the opinion of Edgemere, justify special financial consideration, Edgemere will give careful consideration to subsidizing in part or in whole the Monthly Service Fee and other charges payable by you under the terms of this

Agreement so long as such subsidy can be made without impairing the ability of Edgemere to attain its objectives while operating on a sound financial basis. Any determination by Edgemere with regard to the granting of financial assistance shall be within the sole discretion of Edgemere, and any decision to provide such financial assistance shall continue in effect only so long as Edgemere, in its sole discretion, determines that it can continue to operate for the benefit of all residents on a sound basis.

In the event Edgemere determines to provide you with any financial assistance or subsidy, you agree we may charge such amounts, plus interest, against the refund of your Resident Deposit. Furthermore, we may require you to move to a smaller or less expensive Residence.

The cost of any such financial assistance provided shall be accrued and remain an obligation of the Resident and his or her estate.

6. APPLICATION AND ACCEPTANCE FOR RESIDENCY.

The obligations of Edgemere to provide services and facilities hereunder are conditioned upon acceptance of the Resident for residency at Edgemere in accordance with this paragraph. The decision to accept a Resident for residency at Edgemere shall be within the sole discretion of NSHC.

6.1 Requirements for Acceptance for Residency. We require that you be capable of independent living and have assets and income which are sufficient (under foreseeable circumstances and after provision for payment of your obligations hereunder) to meet ordinary and customary living expenses, after assuming occupancy. You hereby represent and warrant that you are capable of independent living and have assets and income which are sufficient to meet ordinary and customary living expenses after assuming occupancy.

6.1.1 Confidential Data Profile. You shall complete and submit a Confidential Data Profile provided by Edgemere prior to or concurrent with the execution of this Agreement. You hereby certify to Edgemere that all information reflected on such Confidential Data Profile, which is hereby incorporated by reference and made a part of this Agreement, including all personal financial data, is complete and accurate.

6.1.2 Confidential Medical Profile Report. In addition to the Confidential Data Profile you will be required to submit a Confidential Medical Profile completed by your physician within fifteen (15) days after the execution of this Agreement.

6.1.3 Age. To be accepted for admission at Edgemere, you must be at least sixty-two (62) years of age at or before the Occupancy Date.

6.2 Notification of Decision. Within thirty (30) days of satisfaction by you of all of the requirements set forth in Section 6.1, Edgemere shall notify you in writing of its decision concerning your acceptance to Edgemere. In the event you are not accepted for residency at Edgemere, your Reservation Deposit specified in Section 5 and tendered upon execution of this Agreement shall be refunded within ten (10) days of the date of the written notification

to you of non-acceptance for residency, and the parties shall have no further obligations to one another under this Agreement.

6.3 Acceptance for Residency Conditional Upon No Material Changes Prior to Occupancy. Acceptance for residency to Edgemere shall be conditioned upon no material change in the matters covered by the Confidential Data Profile and Confidential Medical Profile prior to your Occupancy Date. In the event of any such material change prior to the Occupancy Date, Edgemere may request that additional information be provided. In the event of the existence of a material change in condition, Edgemere may revoke its acceptance of you for residency to Edgemere at any time prior to the Occupancy Date by written notification to you, and your Reservation Deposit as specified in Section 5 shall be refunded within ten (10) days of the date of such notification.

6.4 Duty of Resident to Notify Edgemere. You acknowledge and agree that Edgemere has relied upon all of the information contained in your Confidential Data Profile and Confidential Medical Profile to make its decision regarding your acceptance for residency at Edgemere. Any misrepresentation or omission by you shall render this Agreement null and void at the option of Edgemere. You agree to notify Edgemere prior to the Occupancy Date of any material change in any of the matters covered by, or reflected on, the Confidential Data Profile or the Confidential Medical Profile.

7. TERMINATION AND REFUNDS

7.1 Termination Prior to Occupancy.

- a. You will be entitled to full reimbursement of any monies paid to us within thirty (30) days of our receiving your written termination of this Agreement and will be released from liability to pay to us any other amount under this Agreement under any one of the following conditions:
 - (i) If you terminate this Agreement within seven (7) days from the date on which you signed this Agreement and paid the Reservation Deposit.
 - (ii) If you die before occupying your Residence at Edgemere, or if, because of illness, injury, or incapacity, you would be precluded from occupying your Residence consistent with the representations made by you in the Confidential Data Profile or the Confidential Medical Profile, this Agreement will be automatically canceled.

Interest on the Resident Deposit will NOT be due or payable.

- b. If you terminate this Agreement prior to the date you occupy your Residence for reasons or conditions other than those described above, you will be entitled to a reimbursement of any monies paid, less a processing fee of five hundred dollars (\$500.00). Interest on the Resident Deposit will NOT be due or payable. Thereupon, you shall be relieved of further liability to pay a Resident Deposit or Monthly Service Fees under this Agreement. In this circumstance, we will pay the refund due to you within thirty (30) days after the date we have received your written notice of termination of this Agreement.

7.2 Termination of Residency After Occupancy. After you have assumed occupancy of your Residence, this Agreement is subject to termination as follows:

- a. By you at any time upon thirty (30) days prior written notice to Edgemere.
- b. Edgemere may terminate this Agreement after the Occupancy Date for the following nonmedical reasons:
 - (i) A material misrepresentation or omission by you in the Confidential Data Profile, Confidential Medical Profile, or related materials, which, if such information had been accurately provided, would have been material to the decision whether or not to accept the Resident for residency;
 - (ii) If you fail to comply with the policies and procedures of Edgemere or create a situation detrimental to the health, safety or quiet enjoyment of the community by other Residents or the staff;
 - (iii) If you fail to pay the Monthly Service Fee or other amounts due us when due unless other mutually satisfactory arrangements have been made, provided however, it is our policy that this Agreement shall not be terminated solely because of your financial inability to pay the fees to the extent that: (1) your inability to pay is not the result of your willful action; and (2) in the judgment of NSHC, the ability of Edgemere to operate on a sound financial basis will not be impaired.
 - (iv) Material breach by you of the terms and conditions of this Agreement; and,
 - (v) The Residence is no longer fit for occupancy and Edgemere elects not to restore the Residence to habitable condition.
- c. Edgemere may terminate this Agreement subsequent to Occupancy Date for medical reasons. If it is determined by the Medical Director (after consultation "to the extent feasible" with you, your personal physician, and your family and/or designated representative) that:
 - (i) You have developed a dangerous or contagious disease or mental illness;
 - (ii) You are in need of drug or alcoholic rehabilitation or any other condition for which we are not licensed or for which care cannot be provided by us without a significant and unique expenditure; or,
 - (iii) You are or have become mentally or emotionally disturbed to a degree that your continued presence at Edgemere is determined to be detrimental to the health, safety and welfare of other Residents or staff.

Therefore, should any of these situations occur, we are expressly authorized (after consultation with the Medical Director, your personal physician and your family

and/or your designated representative to the extent feasible) to transfer you, at your expense, to an appropriate hospital facility or alternative care facility.

If Edgemere seeks to terminate this Agreement and your occupancy, Edgemere shall give you sixty (60) days' prior written notice of termination which shall reasonably describe the conduct alleged to warrant the termination of this Agreement and shall set the time, place and date for a meeting between you and Edgemere's representative(s), which shall not be earlier than thirty (30) days nor later than forty-five (45) days after the notice of termination. At this meeting you may avoid termination upon your showing to Edgemere's reasonable satisfaction that you have cured the conduct alleged to warrant the termination.

- 7.3 Effect of Double Occupancy.** If your Residence is occupied by two (2) Residents and one (1) Resident dies, this Agreement will continue in full legal force and effect as to the surviving Resident, except the Monthly Service Fee will be adjusted to reflect the then applicable single occupancy rate payable for the type of Residence occupied. No refund of the Resident Deposit will occur until the surviving Resident leaves and all conditions of Section 7.4 are met.
- 7.4 Refund of Resident Deposit.** After termination of this Agreement in accordance with Section 7.2 or in the event of your death, or in the case of double occupancy, both occupants' deaths, we will refund ninety percent (90%) of the Resident Deposit (without interest) that you paid for your Residence at Edgemere. Except as provided in the next paragraph, the refund will be paid on the later of: (i) ten (10) days after a new resident deposit has been received from a new resident and the new resident has taken occupancy of your former Residence, or (ii) termination of this Agreement.
- 7.5 Use of Resident Deposit.** The purpose of the Resident Deposit is to generate investment income to contribute to the operating income of Edgemere and to help fund operating and capital costs. As such, interest income generated from the investment of the Resident Deposit will be paid to Edgemere. In addition, at the sole discretion of NSHC, Resident Deposits may also be used to pay for project development costs, start-up deficits, debt service, retirement of debt, costs of future capital expenditures, resident refunds and other purposes deemed appropriate by NSHC. No reserve funding will be established pertaining to the refund of the Resident Deposit. In order to obtain permanent financing and to secure the lender or other party or parties who provide financing, NSHC pledged the gross receipts and revenues of Edgemere including Resident Deposits to the extent allowable by Texas law.
- 7.6 Right of Off-Set; Other Rights.** We reserve the right to off-set against the refund of the Resident Deposit any fees or amounts payable to us under this Agreement including any charges deferred or unpaid. Termination of this Agreement for any reason will not affect or impair the exercise of any right or remedy granted to us or you under this Agreement for any claim or cause of action occurring prior to the date of such termination.
- 7.7 Relocation.** You may elect to move to another Residence, subject to availability. An administrative fee of \$500 will be applied to your account in the event of a relocation to a different residence. In such event, this Agreement will be amended to reflect the change in Residence status.

- a. **Relocation to a less expensive Residence.** You will receive a refund of the refundable portion of the Resident Deposit in excess of the refundable portion of the Resident Deposit then in effect for the new Residence in accordance with Section 7.4. No additional ten percent (10%) non refundable portion will be required. You will pay the then current Monthly Service Fee for the new Residence. All moving costs will be at your expense.
- b. **Relocation to a more expensive Residence.** You will be required to pay the difference between the initial Resident Deposit and the Resident Deposit then in effect for the new Residence selected. A portion of the additional Resident Deposit will be nonrefundable. You will pay the then current Monthly Service Fee for the new Residence. All moving costs will be at your expense.

8. MISCELLANEOUS

- 8.1 **Resident's Interest.** You do not have any proprietary interest in Edgemere, its assets or properties by virtue of this Agreement. While Edgemere is interested in Resident's input and comments, this Agreement does not give you the right to participate in management or policy making decisions of Edgemere or related properties.
- 8.2 **Responsibility for Protection of Resident's Property.** We shall not be responsible for damage or loss to any personal property belonging to you caused by fire, flooding or other casualty, or by leaking of water, bursting of pipes, theft or any other cause. You shall be solely responsible, at your own expense, for insuring against property damage or loss and personal liability to others. In the event of your death or transfer from Edgemere, we will exercise ordinary care in temporarily safekeeping your personal property. If such property is not removed from Edgemere premises within sixty (60) days after termination of this Agreement, we reserve the right to have such property placed in a commercial bonded warehouse at the expense and risk of you or your estate.
- 8.3 **Injury or Accident While Away from Edgemere.** If the Resident is injured in an accident or becomes ill while away from Edgemere, the Resident shall make every reasonable effort to notify Edgemere as soon as possible, and the Resident shall arrange to return to Edgemere as soon as reasonably possible if continued medical care is required. Edgemere shall not be responsible for or assume the cost of medical care for illness or injury incurred by the Resident while away from Edgemere. At such time as the Resident returns to Edgemere, Edgemere shall assume the responsibility for Assisted Living or Health Center services thereafter rendered as provided in this Agreement.
- 8.4 **Injury Caused by Third Party.** In the event of an accident or injury to you caused by a third party, for which such third party may be liable for the cost of any medical, surgical, nursing or additional care for you resulting therefrom, you or your designated representative shall notify Edgemere promptly and you or your designated representative shall pursue diligently any claim for damages which may be due from such third party for the injury. Edgemere is not required to bear the cost of care to you for which a third party is liable. You agree to indemnify NSHC for any expenses incurred by Edgemere in providing care to you for which a third party is liable.

NSHC may limit its actions as provided above to claims for recovery of the costs and expenses incurred by it, and in such event, NSHC shall not be obliged to assert any claim on behalf of you arising out of such accident or injury beyond the costs and expenses incurred by Edgemere.

8.5 INDEMNIFICATION FOR NEGLIGENCE. YOU HEREBY AGREE TO INDEMNIFY, PROTECT AND HOLD US HARMLESS FROM ANY LOSS, DAMAGE, INJURY OR EXPENSE INCURRED BY EDMERERE AS A RESULT OF YOUR NEGLIGENT OR WILLFUL ACTS OR THE ACTS OF YOUR INVITEES OR GUESTS.

8.6 Right of Entry. You hereby authorize our employees and agents to enter your Residence to provide services, repairs, maintenance, alterations, pest control and inspection, and to respond to perceived medical or other emergency. Non-emergency or non-medical services will be scheduled in advance with Resident.

8.7 Guests. Occupancy of the Residence and use of Edgemere common areas and grounds is limited to you and your guests. Guests may not occupy your Residence for more than fourteen (14) days without the prior written approval of Edgemere. You will be responsible for the conduct of your guests and for payment of any charges incurred by your guests.

8.8 Absence from Edgemere. You agree to notify Edgemere in advance of any contemplated absence that is anticipated to exceed twenty-four (24) hours.

8.9 Damage to Residence. Resident is responsible for excessive wear or damage to the Residence caused by Resident action or neglect. The cost of repair due to damage or neglect is the responsibility of the Resident and may be withheld from any refund due.

If your Residence is damaged by fire, flood, storm or other casualty or cause and we elect not to terminate this Agreement, we will, at our expense, proceed diligently to repair and restore your Residence. If your Residence is uninhabitable during the repair, we will relocate you to a comparable type Residence at Edgemere, if available, or, if not, we will try to relocate you temporarily to any other available Residence at Edgemere and the Monthly Service Fee will be adjusted for the type of Residence you temporarily occupy, but in no event shall be more than your Residence.

8.10 Entire Agreement. This Agreement constitutes the entire Agreement between you and NSHC with regard to your residence and care. We will not be liable for, or bound by, any statements, representations or promises made to you by any person representing or purporting to represent Edgemere unless such statements, representations or promises are expressly set forth and endorsed by both parties in writing, and attached to this Agreement.

8.11 Binding Effect. This Agreement is binding upon our successors and assigns and your heirs and personal representatives. The provisions of this Agreement are not assignable or transferable in whole or in part by you, and you will have no right to sublet the Residence.

8.12 Severability. Each provision of this Agreement will be deemed separate from each other provision and the invalidity or unenforceability of any provision will not affect the validity or enforceability of the balance of the Agreement.

- 8.13 Subordination.** Your rights under this Agreement will be subordinate to any mortgage, security interest, pledge, or other lien that now encumbers all or any part of Edgemere's assets and shall be further subordinate to any mortgage, security interest, pledge, or other lien hereafter placed on all or any part of Edgemere's assets, and you agree to execute, acknowledge and deliver such subordination agreements as any lender or future lender shall reasonably require in order to establish the priority of any such lien.
- 8.14 Nondiscrimination.** Edgemere will be operated on a non-discriminatory basis, and will provide the facilities and services described in this Agreement to individuals regardless of race, color, sex, marital status, religion, creed, handicap or national origin.
- 8.15 Notices.** Any notice to Edgemere by you will be given in writing and mailed or delivered to Edgemere at the administrative office or at such other address as we may designate in writing. Any notice to you by us will be given in writing and mailed or delivered to your Residence or at such other address as you may designate to Edgemere in writing.
- 8.16 Potential Tax Benefit.** You may be eligible for a one-time medical expense tax deduction for a portion of the Resident Deposit (in the first year of occupancy) and annually for a portion of the Monthly Service Fee paid to Edgemere in that tax year. Edgemere will provide a statement prepared by its auditors each year for your use in tax preparation. Edgemere makes no representations regarding the availability of any tax deduction relating to your residency and care at Edgemere. You are advised to seek tax advice on this issue from your tax advisor.
- 8.17 Choice of Law.** This Agreement will be interpreted according to the laws of the State of Texas without regard to conflict of law principles.
- 8.18 Change of Condition.** You agree to notify us of any material change in any of your physical, financial or mental conditions prior to residency.
- 8.19 Authorized Agent Signature.** This Agreement has been executed on behalf of Edgemere by its duly authorized agent and no officer, director, agent or employee of Edgemere shall have any personal liability hereunder to you under any circumstances.
- 8.20 No Third Party Rights.** No other persons or entities other than Edgemere and the Resident have any rights or obligations under this Agreement.
- 8.21 Failure to Act.** Failure or delay of any party to exercise any right, power, or privilege under this Agreement will not operate as a waiver of such right, power, or privilege.
- 8.22 Right of Subrogation.** If you are injured by a third party and such injury requires Edgemere to provide health care services under this Agreement, Edgemere shall be subrogated, to the extent allowed by Texas law, to your rights against such third party to the extent necessary to reimburse Edgemere for the costs incurred in providing services under this Agreement. To the extent allowed under Texas law, this right of subrogation authorizes Edgemere to institute legal action in your name; provided, however, that such action shall not cause or result in a compromise, waiver or release of any causes of action that you may have against such third party for such injuries.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, NORTHWEST SENIOR HOUSING CORPORATION
and the Resident(s) have signed this Agreement on this 30 day of January, 20 20.

RESIDENT(S):

Signature: Anwar Hussain
Print Name: ANWAR HUSSAIN
Signature: _____
Print Name: _____

NORTHWEST SENIOR HOUSING CORPORATION,
a Texas nonprofit corporation

By: Paul Pope
Its: Assistant Executive Director

Joel Hernandez
Edgemere Marketing Representative

Exhibit B

E D G E M E R E

Addendum to the Lifecare Agreement between

and Northwest Senior Housing Corporation

I (we) direct the refundable portion of the resident deposit to be refunded to:

The Estate of NIA ()
or

AMEKA Sergio 20% ()

ANAL Bernal 20%

SABAH Hussain 20%

LAYTH Hussain 20%

SARAB Stuart 20%

Contact person and mailing address for refund:

AMEKA Sergio
7126 Chipperston Drive
Dallas, TX 75225

IN WITNESS WHEREOF, THE NORTHWEST SENIOR HOUSING CORPORATION and

the Resident have signed this Agreement on this 12 day of July, 2023.

RESIDENT(S):

Signature:

Print Name:

Signature:

Print Name:

Northwest Senior Housing Corporation,
a Texas Not-for-Profit Corporation

Edgemoor Representative

Interim Executive Director

Title

Stephen A. McCartin (TX 13344700)
Thomas C. Scannell (TX 24070559)
FOLEY & LARDNER LLP
2021 McKinney Avenue, Ste. 1600
Dallas, Texas 75201
Telephone: (214) 999.3000
Facsimile: (214) 999.4667
smccartin@foley.com
tscannell@foley.com

**COUNSEL TO THE EDMERE
RESIDENTS TRUST**

**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 (MLV)

(Jointly Administered)

**DECLARATION OF MYRTLE LEMMON, FORMER RESIDENT OF EDMERE IN
SUPPORT OF FIRST APPLICATION OF EDMERE RESIDENTS TRUST**

I, Anwar Hussain, declare under penalty of perjury pursuant to 28 U.S.C § 1746:

1. I was a resident of Edgemere from September 2015 through June 2020, at which time I moved out of Edgemere. Edgemere has re-leased my independent living unit and my refund became fully due and payable prior to June 13, 2023, the Effective Date of the Plan.

2. My husband Harold and I executed the “double occupancy” Edgemere Life Care Agreement attached hereto as **Exhibit A** on September 21, 2015.

¹ The Debtors in these chapter 11 cases (the “**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) (together, the “**Debtors**”). The Debtors’ mailing address is 8523 Thackery Street, Dallas, Texas 75225.

3. We each executed the original Addendum attached hereto as **Exhibit B** on September 21, 2015 directing Edgemere to pay our refund to the last surviving spouse. Harold died on August 13, 2018 and I therefore became the last surviving spouse and the owner of 100% of the refund. On October 15, 2019 I executed the second Addendum attached hereto as **Exhibit C** directing my refund to be paid to my son, John Eric Keahey. It was always my understanding and intent that the Addendum would only be effective if I died on or before the date the refund became payable. Prior to my death, it was my intent that the second Addendum would not be effective and would be subject to amendment or revocation at my sole discretion.

4. Accordingly, since I am still living, and my second Addendum is only effective upon my death, I have made demand on the Edgemere Residents Trust to make all Trust Distributions attributable to my Refund Claim against Edgemere to me, and not to the addendum payee in the second Addendum.

Dated: September 4, 2023

By: Myrtle Lemmon
Myrtle Lemmon, Former Edgemere Resident

Stephen A. McCartin (TX 13344700)
Thomas C. Scannell (TX 24070559)
FOLEY & LARDNER LLP
2021 McKinney Avenue, Ste. 1600
Dallas, Texas 75201
Telephone: (214) 999.3000
Facsimile: (214) 999.4667
smccartin@foley.com
tscannell@foley.com

COUNSEL TO THE EDMERE
RESIDENTS TRUST

Exhibit A

EDGEMERE
LIFE CARE AGREEMENT

EDGEMERE

LIFE CARE AGREEMENT

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ADDENDUM A – CONFIDENTIAL DATA PROFILE

EDGEMERE

LIFE CARE AGREEMENT

NOTICES

- A. You may cancel this contract at any time prior to midnight of the seventh day after the date on which you sign this contract (Rescission Period) or you receive the Edgemere Disclosure Statement, whichever occurs later. If you elect to cancel the contract, you must do so by written notice, and you will be entitled to receive a refund of all assets transferred (without interest), subject to the terms and conditions contained in this contract, other than the periodic charges applicable to your occupancy of a living unit.
- B. This document, if executed, constitutes a legal and binding contract between you and Northwest Senior Housing Corporation. You may wish to consult a legal or financial advisor before signing, although it is not required that you do so to make this contract binding. This Agreement provides certain rights of occupancy of a senior living community, hereinafter referred to as "Edgemere" located in Dallas, Texas.
- C. You shall not be required to move into Edgemere before the expiration of the seven (7) calendar day period (Rescission Period).

TERMS OF OCCUPANCY

This Life Care Agreement ("Agreement") is entered into by _____

Jim and Myrt Lemmon
(individually and/or collectively "you" or "Resident"), and Northwest Senior Housing Corporation d/b/a Edgemere, which owns and operates Edgemere located in Dallas, Texas. The term "Edgemere" is used throughout this Agreement to denote Northwest Senior Housing Corporation, or the senior living community. The terms "we", "our", or "NSHC" are also used in lieu of Northwest Senior Housing Corporation.

Edgemere seeks to provide quality residential housing for retirement age men and women along with an array of personal services and amenities outlined in this Agreement, including certain assisted living and nursing services. Subject to the conditions contained in this Agreement, we agree to make available to you, an unfurnished independent living unit ("Residence") in Edgemere and provide you with general services and amenities described in this Agreement. The Residence is described as follows:

RESIDENCE NUMBER: 2208

RESIDENCE STYLE: 2 Br Deluxe

1. **RESERVATION OF RESIDENCE**

In connection with this Agreement, Resident made a deposit equal to ten percent (10%) of the Resident Deposit (hereinafter defined) or \$ 68,601.- (the "Reservation Deposit") to reserve the Residence identified above located within Edgemere.

- 1.1 **Conditions of Occupancy.** Conditions of occupancy of the Residence are that Resident shall: (i) meet the health and financial conditions of acceptance into Edgemere; (ii) execute this Agreement; (iii) pay in full the remaining balance of the Resident Deposit ("Resident Deposit Balance") and (iv) pay the applicable ongoing Monthly Service Fee(s).
- 1.2 **Escrow of Reservation Deposit.** The Reservation Deposit shall be placed and maintained in an escrow account to the extent required by Texas law. The escrow agent is Regions Bank, 1717 St. James Place, Suite 500, Houston, TX 77056.
- 1.3 **Refund of Reservation Deposit for Involuntary Termination.** The Reservation Deposit shall be refunded in full to Resident within thirty (30) days of termination of this Agreement under the following circumstances: (i) Edgemere's failure to meet its obligations under this Agreement prior to occupancy of the Residence by Resident; or (ii) death, incapacity or serious illness of Resident prior to occupancy. If Resident's health status changes after Resident is accepted for Residency by Edgemere so that at the time of occupancy Resident is precluded from independent living for health reasons and certified by a licensed physician, the entire Reservation Deposit shall be refunded to Resident; provided, however, Resident may elect not to terminate this Agreement and may elect direct admission into Assisted Living (hereinafter defined) or the Health Center (hereinafter defined) at the appropriate level of care, as determined by Edgemere.
- 1.4 **Refund of Reservation Deposit for Voluntary Termination.** If Resident terminates this Agreement after seven (7) days from the date it is executed other than for reasons in Section 1.3, above, Edgemere shall refund the entire Reservation Deposit within thirty (30) days, less a processing fee of five hundred dollars (\$500.00).
- 1.5 **Disclosures.** Resident acknowledges that Resident has received a copy of the Disclosure Statement and other information which may be material to Resident's decision whether to occupy the Residence. Resident understands that Resident may not occupy the Residence and is not entitled to any services or benefits of the Life Care Agreement until the Resident Deposit has been paid in full.

2. **GENERAL SERVICES AND FACILITIES**

- 2.1 **Basic Agreement.** In consideration of payment of a Resident Deposit in the amount stated in Section 5.2 and payment of the applicable Monthly Service Fee, initially in the amount stated in Section 5.3, you will be entitled to occupy the Residence indicated above and to receive the services and use of the facilities described in this Agreement according to the provisions of this Agreement.

Your right to occupy the Residence or such other care accommodations to which you may be transferred in accordance with this Agreement shall continue for your lifetime unless sooner terminated as provided herein.

The right to occupy the Residence and receive services under this Agreement shall apply exclusively to the named Resident hereunder, and to no other individual(s). No person other than the Resident entering into this Agreement shall be permitted to occupy the Residence without the express written permission of Edgemere as hereinafter provided.

- 2.2 Residence Furnishings.** The Residence will be furnished at our expense with floor coverings, , self-defrosting refrigerator and freezer with ice maker, range and oven, dishwasher, microwave oven, garbage disposal, washer, dryer, an emergency alert system, fire sprinkler system and a telephone/data communications port and cable TV hookup.
- 2.3 Parking.** Surface parking areas will be provided for you and for guests of Edgemere as defined in the Resident Handbook. One secured underground parking space will be provided for each Residence at the request of the Resident and in conformance with our parking policy.
- 2.4 Community Common Areas.** You will have use of Edgemere community common areas in accordance with the policies and procedures of Edgemere, as modified and amended from time to time. Community common areas are non-smoking and may include:
- a. Formal & Casual Dining Rooms
 - b. Private Dining Room
 - c. Performing Arts Center
 - d. Outdoor Dining Terrace
 - e. Library
 - f. Conference Room
 - g. Game & Card Room
 - h. Creative Arts Center
 - i. Beauty & Barber Shop
 - j. Business Center
 - k. Wellness and Fitness Center
 - l. Convenience Store
 - m. Swimming Pool
 - n. Living Rooms
 - o. Guest Suites
- 2.5 Included General Services.** So long as you are in compliance with your obligations hereunder, we will provide you with the following services covered by the Monthly Service Fee and Resident Deposit:
- a. **Food Service.** Meals will be served on a daily basis in the main dining room. You are entitled to one meal credit per person for each day of the month (for example, 30 meal credits for June and 31 meal credits for July). You may purchase guest meals or use accumulated meal credits at any time during the month for meals for you and/or your guests. Any unused meal credits for any month will be forfeited and may not be applied as a credit against meal charges for any other period. If you are absent from Edgemere for more than fourteen (14) consecutive days, you will receive a meal credit allowance in conformance with our meal credit policy, provided you give Edgemere written notice of your intended absence at least two (2)

weeks in advance. For health-related absences, no prior notice is required. Additional meals are available upon request for an additional fee.

- b. **Housekeeping.** Housekeeping of the Residence, including vacuuming, mopping, sweeping and changing of bed linens occurs on a weekly scheduled basis.
- c. **Utilities.** The costs of sewer, water, waste disposal, electricity, heat, air-conditioning, and basic cable television service are included in the Monthly Service Fee. The Residence will be centrally wired for cable television and telephone service, as well as a data communications port. You will be responsible for all telephone, premium cable television and internet service provider charges.
- d. **Security and Emergency Alert System.** Each Residence will be equipped with smoke detectors, a sprinkler system and an emergency alert system. Edgemere will monitor the emergency alert systems on a twenty-four hour basis and coordinate emergency responses as appropriate. Security personnel will be employed and exterior entrances will have secured access.
- e. **Laundry.** We will provide scheduled weekly laundry service of your personal bed linens.
- f. **Maintenance.** We will maintain all community common areas and grounds. Edgemere will be responsible for providing repair, maintenance and replacement of equipment and furnishings provided by Edgemere, provided that such repairs are not required as a result of your negligence. You are responsible for maintenance of your personal property and are encouraged to purchase a renter's insurance policy covering your personal property and personal liability.
- g. **Mail.** A U.S. mailbox will be provided to you in a central location.
- h. **Transportation.** We will provide local transportation to designated shopping, medical facilities, and other local destinations on a regularly scheduled basis.
- i. **Social and Recreational Programs.** A full-time Lifestyle Director will coordinate a variety of social, recreational, educational and cultural programs for those residents wishing to participate. Specific programs will be based on residents' interest.
- j. **Property Taxes and Insurance.** We will pay for real property taxes for the community, with the exception of those assessed on your personal property. We will also obtain property and casualty insurance coverage on the buildings and grounds. Such coverage will not insure against loss or damage to your personal property or damage or injury to others caused by you. Edgemere recommends that you purchase appropriate comprehensive insurance.
- k. **Storage Area.** An individual storage area located in Edgemere will be assigned and available for your use.

- l. Wellness Programming.** We will coordinate educational and screening programs promoting wellness and preventive health maintenance. Participation in these activities is voluntary.
- m. Medical Director.** We will retain the services of a qualified physician ("Medical Director") to be responsible for the appropriateness and quality of medical services and medically related activities provided by Edgemere. The Medical Director is not expected to provide medical services to Residents and will be retained as a consultant to Edgemere.
- n. Life Care Benefit.** If it is determined that you require assisted living or nursing care in the future, we will provide you with assisted living services available in our assisted living center ("Assisted Living") or nursing services available in our nursing center ("Health Center"), as described below and subject to changes in law.

 - (i) Admission.** When a determination is made by your physician and approved by the Medical Director that you need assisted living services or nursing care, then you will be transferred to Assisted Living or the Health Center as provided for in Section 4 of this Agreement. Transfers to Assisted Living or the Health Center will only occur after consultation with the Resident, the Resident's family, and a licensed physician.

In the event that space for you, for any reason, is not available in Assisted Living or the Health Center upon determination that a permanent transfer is required, Edgemere will arrange and pay for your care in your Residence by a certified home health care agency of Edgemere's choice, if reasonably possible, until space becomes available in Assisted Living or the Health Center. If home health care is not medically possible, Edgemere will arrange and pay for your care in another facility of Edgemere's choice that can provide the same care that would otherwise have been provided by Edgemere until space becomes available. Edgemere will pay for care in another facility to the same extent as if it were provided by Edgemere.

- (ii) Assisted Living.** We will provide to you, in a Traditional Assisted Living Apartment, support services that are designed to assist you with activities of daily living in accordance with Texas law. Services may include assistance with dressing, bathing, grooming, medication administration, and ambulation. Additional services and ancillary products may also be provided for a specified charge identified in the resident handbook.
 - (iii) Nursing Care.** We will provide to you, in a Traditional Private Room, licensed nursing care services approved by our Medical Director ("Nursing Care"). The care provided will cover services included in the basic private nursing room published daily rate then in effect. Such care may include those services required by applicable law to be supervised or administered by a professional licensed nursing staff, e.g., medication administration, condition and behavior observation and assessment, creation and administration of a care plan, assistance with activities of daily living and communication with physicians and other care providers. You will be

responsible for charges for supplies and services above those included in the basic published daily rate.

- (iv) **Fees and Charges.** We will provide without charge basic Assisted Living or Nursing Care as defined in Section 2.5.n.(ii) and (iii), to the extent that it is not covered by your insurance, Medicare or any other governmental programs or entitlements which you are required to maintain under this Agreement, subject to:

Effect on Monthly Service Fee.

a. Temporary Transfers.

Should you have a temporary need for Assisted Living or Health Center services while you are still occupying your Residence, you will continue to pay both the then current Monthly Service Fee for your Residence and the then current applicable pro-rated monthly rate at Assisted Living or the then current daily rate at the Health Center. By “temporary” we mean a Temporary Transfer as defined in Section 4.3.

b. Permanent Transfers.

1. Single Occupancy. Should you have a permanent need for Assisted Living or Health Center services, you will be required to release your Residence as provided under Section 4.3. Your Monthly Service Fee will be adjusted to the then current Monthly Service Fee for a Two Bedroom Classic independent living residence. By “permanent” we mean a Permanent Transfer as defined in Section 4.3.
2. Double Occupancy. Should one Resident have a permanent need for Assisted Living or Health Center services, you will continue to pay the then current Monthly Service Fee for your residence, and the relocated Resident will pay the then current Monthly Service Fee for the Two Bedroom Classic independent living residence. Should both Residents have a permanent need for Assisted Living or Health Center services, the Residents will be required to release the Residence as provided under Section 4.3. The first Resident will be required to pay the then current Monthly Service Fee for the Two Bedroom Classic independent living residence. The second Resident will also be required to pay the then current Monthly Service Fee for the Two Bedroom Classic independent living residence. By “permanent” we mean a Permanent Transfer as defined in Section 4.3.

- c. Additional Charges.** Residents will be responsible for all costs and charges associated with Assisted Living or the Health Center which are not covered by the basic published market daily rates for such care then in effect as described in Section 2.5n. (ii) and (iii). Additional charges apply in circumstances which include, but are not limited to, the following:

1. If you require Memory Support Deluxe Assisted Living you will be responsible for the difference between the then current Monthly Service Fee for a Traditional Assisted Living Apartment and the Memory Support Alcove Room.
2. If you require specialized memory support services at the Health Center, you will be responsible for the then current difference in daily rates between a Traditional Private Room in Nursing Care and a Memory Support Nursing Care Private Room.
3. In the event of a Temporary Transfer or Permanent Transfer, you will be responsible for all costs of relocation.

2.6 Additional Services. The following Additional Services may be available to Residents on a fee-for-service basis:

- a. Guest meals
- b. Catering for special occasions
- c. Barber and beauty services
- d. Tray service
- e. Additional resident meals
- f. Additional parking, subject to availability
- g. Additional housekeeping services
- h. Laundry services for personal items
- i. Usage of the guest suites

Charges for these Additional Services and others that may be offered will be made in accordance with the Resident Handbook then in effect and will be billed to you monthly.

2.7 Alteration to Residence. You may make alterations to your Residence at your cost, subject to Edgemere's policies and with Edgemere's prior written approval. Any approved alteration will be performed by our maintenance staff or by a contractor we approve. Any alterations of a permanent nature become the property of Edgemere. For your safety, you agree not to replace the existing locking device or add any locking devices to your Residence. Edgemere reserves the right to restore the apartment home to the pre-altered state upon vacancy of the apartment by Resident. The cost of the restoration is the responsibility of Resident and may be withheld from any refund due.

2.8 Advance Notice for Changes in Scope of Services. We will provide at least sixty (60) days advance notice before any change in the scope of care or services becomes effective unless an immediate transfer to Assisted Living or Health Center is deemed necessary as provided in Section 4 of this Agreement. This includes notification of any changes in charges for Additional Services.

3. RESIDENT'S OBLIGATIONS

3.1 Health Insurance. Edgemere will provide you with the services described in this Agreement, as appropriate. During the term of this Agreement, you shall obtain and maintain in force Medicare Parts A and B and any future program that may be offered by Medicare. You shall also maintain in effect supplemental Medicare insurance coverage acceptable to us, and furnish evidence of such insurance coverage upon our request. If you are not qualified for Medicare coverage, you will be required to maintain comprehensive health coverage satisfactory to us. You agree to provide evidence of such insurance to us upon request. You also agree to execute all necessary forms to obtain payment of benefits which are or may be payable in the future for health care services provided hereunder to you.

You will be responsible for paying separately for all health care services that are not covered by Edgemere, Medicare (or an equivalent substitute policy approved by Edgemere), or Medicare supplemental insurance, as set forth in this Agreement. If you have any questions about such coverage, Edgemere will assist you in obtaining answers.

3.2 Power of Attorney, Guardianship. You acknowledge that at some future time you may be unable by reason of mental or physical disability to properly handle your own affairs and that it may be in your best interest to have an attorney in fact or a guardian appointed to handle your affairs. Therefore, you agree to designate in writing, prior to or at the time of entrance, person(s) who will have authority to act on your behalf in the event you should at any time become unable to properly handle your own affairs. If you should thereafter become either physically or mentally unable to properly administer your own affairs, this designated person shall either commence handling your affairs pursuant to the terms of a durable power of attorney or file a petition in a court of competent jurisdiction to have a guardian or conservator appointed to handle your affairs. If the designated person(s) are unable or unwilling to file such a petition, we are empowered to do so at your expense.

3.3 Home Health Care Services. It is the intent of Edgemere to enable you to maintain the highest level of independence possible. As such, home health care services may be provided to you in your Residence at your expense by a certified home health care agency of your choosing. Such services are typically intermittent and short-term in nature, often rendered following an acute care illness. Any assistance by Edgemere in choosing an appropriate agency shall in no way be deemed an endorsement of a particular agency, and Edgemere shall in no way be deemed responsible for the acts or failure to act of any such agency. You are to notify Edgemere if you are receiving or intend to receive home health care services. If you choose to receive home health care services, you are obligated to retain an aide who is employed by a licensed home health agency in Texas and to report the home health agency's periods of visitation to Edgemere. You must also comply with the provisions outlined in the Residents Handbook for retaining Private Duty Aides. Residents who need assistance with the activities of daily living or nursing service on a continuing basis will transfer to Assisted Living or Health Center to receive such services, in accordance with the provisions in Section 2.5.n.

3.4 Cost of Physicians, Medicines, Etc. You acknowledge and agree that any and all expenses or charges which may be incurred by or on behalf of you for costs not covered by this

Agreement, including, but not limited to, physicians, therapists, podiatrists, diagnostic services, mental health, medicines, prescription drugs, medical supplies, vitamins, crutches, braces, walkers, wheelchairs, special duty nursing, hospitalization, care and treatment of eyes, ears and teeth, and any and all other personal medical expenses shall be your sole and exclusive responsibility. You shall be entitled to treatment by the physician of your choice at your expense.

3.5 Resident Handbook. We will establish and adopt policies and procedures (collectively "Policies") for the occupancy and orderly operation and management of Edgemere. These Policies will be drafted to provide for the safety, welfare, peace and comfort of all Residents consistent with the provisions of the Life Care Agreement. These Policies will be published in writing in the Resident Handbook, which will be provided to you on or before the date you move in and may be amended from time to time. You agree to abide by and observe such Policies and all amendments and additions thereto. These Policies, as amended from time to time, are hereby incorporated by reference. In the event that the terms of this Agreement conflict with the Policies, the terms of this Agreement shall control.

3.6 Non-Impairment of Financial Responsibility. After execution of this Agreement, you agree not to impair your ability to meet your financial obligations under this Agreement and cause any act such that you would no longer meet the financial qualifications as set by Edgemere for your Residence.

4. TRANSFERS AND READMISSION

There may come a time when you must move to Assisted Living or Health Center or to another facility which provides services not available at Edgemere. Edgemere is aware that this is a critical transition and will follow the following procedures during any transfer or reassignment.

4.1 Consultations. Except in case of emergency, Edgemere agrees not to transfer you from your Residence to Assisted Living or Health Center, or to a care facility or hospital which is not on the campus of Edgemere, for health-related or other reasons unless it has consulted with you, your physician, your family and/or your designated representative, if applicable. Such a decision shall be made in the best interests of the Resident, and the decision of Edgemere shall be final and binding. In the case of an emergency transfer, Edgemere will schedule the consultations described above within seven (7) days after transfer.

Circumstances in which it is in the best interest of the Resident to be transferred include, but are not limited to, the following:

- a. A determination that the Resident can no longer function in an independent manner in a Residence, and the Resident requires additional assistance with activities of daily living or nursing care;
- b. A determination that the Resident is unable to remain ambulatory (for purposes of this document, the term "ambulatory" is used to describe a person who is capable of demonstrating the mental competence and physical ability to leave a building without human assistance or supervision in case of emergency); or,

- c. A determination that the continued residency of the Resident at Edgemere would be harmful to either the Resident, other Residents or staff of Edgemere.

If we determine, after consultation, that your health requires that you be transferred (a) from the Residence covered by this Agreement to Assisted Living or Health Center or (b) to a care facility or hospital which provides services which Edgemere does not provide or is not licensed to provide, you agree to be relocated in accordance with that decision.

- 4.2 Consents.** When Edgemere determines, after consultations as described above, to transfer you to Assisted Living, Health Center, or to a suitable care facility or hospital for health care or other health-related services, Edgemere shall be authorized to transfer you without having to obtain your further consent.

Edgemere shall not be responsible for the cost of any services rendered to a Resident who is transferred from Edgemere to another facility, except as specifically provided otherwise hereunder.

- 4.3 Transfers.** Pursuant to Section 4.1 and 4.2, transfers are defined below as temporary and permanent.

- a. **Temporary Transfer.** A transfer is considered temporary when pursuant to Section 4.1 and 4.2 the determination is made that the condition that requires your transfer has the potential to be resolved in a manner which may allow you to return to your Residence within ninety (90) days. Your residence will be held for your return.
- b. **Permanent Transfer.** A transfer is considered permanent when pursuant to Section 4.1 and 4.2 the determination is made that the condition that requires your transfer will not allow you to return to your Residence within ninety (90) days.

In the event of a Permanent Transfer of one Resident in the case of single occupancy or of both Residents in the case of double occupancy, you shall release your Residence in order for Edgemere to make your Residence available to a new Resident. In such event, Edgemere may enter into a new Life Care Agreement for occupancy of the Residence with a new Resident. You grant Edgemere the right to remove your personal property from the Residence fifteen (15) days after a Permanent Transfer and to store it at your expense. If your Residence is reassigned and should you subsequently recover sufficiently to maintain yourself independently in a Residence, you shall receive the next available Residence similar to the one relinquished, at the then current Monthly Service Fee. While you are in Assisted Living or the Health Center, the Monthly Service Fee will continue to be due and payable as described in Section 2.5.n.

If the Residence is occupied by two (2) Residents, the Permanent Transfer of one (1) Resident does not affect the rights and privileges under this Agreement of the remaining Resident.

5. RESIDENT DEPOSIT AND FEES

- 5.1 Occupancy Date.** The day you receive keys to your Residence is the occupancy date. You shall not be required to move into Edgemere before seven (7) days following the date you executed this Agreement and made the Reservation Deposit.

In the event you decide not to move into your Residence on the Occupancy Date, the obligation of Edgemere to provide care and services as provided hereunder shall not be effective until your Resident Deposit has been paid in full.

- 5.2 Resident Deposit.** You agree to make a non-transferable, non-interest bearing Resident Deposit in the total amount of \$666.11. The Reservation Deposit of \$100.00 is due at the time you execute this Agreement. The remaining balance of your Resident Deposit, being \$481.10, is due on or before the Occupancy Date, unless otherwise previously agreed in writing. In the event the remaining balance of the Resident Deposit is not paid by the Occupancy Date, Edgemere in its sole discretion may terminate this Agreement and re-market your Residence to a new resident. Once paid, this Resident Deposit will not be increased or changed during the duration of this Agreement. The Resident Deposit shall in no way be considered or interpreted to be a security deposit.

The Resident Deposit shall be the property of Edgemere for use in accordance with the terms of this Agreement, and shall not be subject to the claims of creditors of the Resident. The Resident Deposit shall be refundable in accordance with Section 7.

- 5.3 Monthly Service Fees and Changes in Fees.** Your Monthly Service Fee will be initially \$69.10 per month for one person and an additional \$1.50 per month for the second person. The Monthly Service Fee shall be due beginning on the Occupancy Date and will be prorated, if necessary, on a daily basis for the first and last months of occupancy. We may increase the Monthly Service Fee, upon sixty (60) days' written notice to you. It is our intention to make any adjustments to the Monthly Service Fee only once per year. The Monthly Service Fee, in addition to charges for additional services, shall be billed in advance to the Resident on or before the fifth business day of each month, and shall be paid on or before the fifteenth (15th) day of the month.

Fees for additional services will be charged in accordance with the Additional Services Fee Schedule we establish and will be on file in the management office.

- 5.4 Late Fee.** We will reserve the right to assess you a late fee of five percent (5%) per month (or the maximum amount allowed by applicable law, if less) of the amount due if the Monthly Service Fee or Additional Services Fees are not paid in full on or before the twentieth day (20th) of the calendar month in which they are due.

- 5.5 Changes in Occupancy.** If your Residence is occupied by two (2) Residents and one (1) Resident surrenders possession of the Residence to the other, other than by death or by a transfer covered by Section 4, the obligations of the Resident remaining in the Residence under this Agreement remain in legal force and effect, except that the Monthly Service Fee will be adjusted to reflect the single occupancy rate then in effect for the Residence. The Resident not remaining in the Residence will receive no services or benefits under this Agreement but will continue to be jointly and severally liable for the obligations of the

Resident remaining in the Residence. The remaining Resident may elect to relocate to a different Residence, if desired. The refund of the Resident Deposit will be made in accordance with Section 7.7 and once all conditions of Section 7.4 are met.

In the event the joint occupants of a Residence desire separate living accommodations at Edgemere, and one (1) Resident remains in the Residence designated hereunder, no refund of the Resident Deposit shall be made until the conditions of Section 7.4 are met and the Monthly Service Fee shall be adjusted to reflect the single occupancy rate then in effect for the Residence. Upon occupancy of the second Residence by the departing joint occupant, a new Life Care Agreement must be executed and submitted for approval by Edgemere, accompanied by the then current Resident Deposit, for the second living accommodations.

In the event of the marriage of a Resident to another Resident, they may: (a) continue to maintain two Residences and pay the applicable Monthly Service Fee for single occupancy then in effect; or (b) release either Residence occupied by them, and pay the applicable Monthly Service Fee for first and second person occupancy then in effect for the Residence retained. All benefits provided in each Life Care Agreement shall remain and continue in effect. There shall be no refund of the Resident Deposit to either Resident until both Residents leave and the conditions of Section 7.4 have been met.

If you and a non-Resident (including a new spouse) desire to share the Residence, the non-Resident may become a Resident and live in the Residence only if he/she meets the qualifications for entrance set forth in Section 6 and both persons execute a new Life Care Agreement. In such event, the Monthly Service Fee shall be adjusted to reflect the additional charge per month for a second person, and the non-Resident may be required to make a Resident Deposit in accordance with the then current policies established by Edgemere.

In the event you marry an individual while at Edgemere who does not meet the residency requirements for Edgemere, NSHC, at its sole discretion, may allow such person to reside at Edgemere. However, this person would not have any rights, privileges or protection under this Agreement.

5.6 Liability for Charges. Each person who is designated as Resident in this Agreement is jointly and severally liable for the payment of the Monthly Service Fee, Additional Service Fees and all other amounts required to be paid to Edgemere, pursuant to the provisions of this Agreement. In the event it is necessary for us to institute legal action or other proceedings to recover amounts payable to Edgemere under this Agreement, we also will be entitled to recover reasonable legal fees and costs incurred in connection with all such proceedings. This provision will survive any termination of this Agreement.

5.7 Residents Who Become Unable to Pay. It is Edgemere's policy that this Agreement will not be terminated solely because of your financial inability to continue to pay the Monthly Service Fee or other charges payable under the terms of this Agreement by reason of circumstances beyond your control; provided, however, this policy shall not be construed to qualify or limit Edgemere's right to terminate this Agreement in accordance with its terms. If you present facts which, in the opinion of Edgemere, justify special financial consideration, Edgemere will give careful consideration to subsidizing in part or in whole the Monthly Service Fee and other charges payable by you under the terms of this

Agreement so long as such subsidy can be made without impairing the ability of Edgemere to attain its objectives while operating on a sound financial basis. Any determination by Edgemere with regard to the granting of financial assistance shall be within the sole discretion of Edgemere, and any decision to provide such financial assistance shall continue in effect only so long as Edgemere, in its sole discretion, determines that it can continue to operate for the benefit of all residents on a sound basis.

In the event Edgemere determines to provide you with any financial assistance or subsidy, you agree we may charge such amounts, plus interest, against the refund of your Resident Deposit. Furthermore, we may require you to move to a smaller or less expensive Residence.

The cost of any such financial assistance provided shall be accrued and remain an obligation of the Resident and his or her estate.

6. APPLICATION AND ACCEPTANCE FOR RESIDENCY.

The obligations of Edgemere to provide services and facilities hereunder are conditioned upon acceptance of the Resident for residency at Edgemere in accordance with this paragraph. The decision to accept a Resident for residency at Edgemere shall be within the sole discretion of NSHC.

6.1 Requirements for Acceptance for Residency. We require that you be capable of independent living and have assets and income which are sufficient (under foreseeable circumstances and after provision for payment of your obligations hereunder) to meet ordinary and customary living expenses, after assuming occupancy. You hereby represent and warrant that you are capable of independent living and have assets and income which are sufficient to meet ordinary and customary living expenses after assuming occupancy.

6.1.1 Confidential Data Profile. You shall complete and submit a Confidential Data Profile provided by Edgemere prior to or concurrent with the execution of this Agreement. You hereby certify to Edgemere that all information reflected on such Confidential Data Profile, which is hereby incorporated by reference and made a part of this Agreement, including all personal financial data, is complete and accurate.

6.1.2 Confidential Medical Profile Report. In addition to the Confidential Data Profile you will be required to submit a Confidential Medical Profile completed by your physician within fifteen (15) days after the execution of this Agreement.

6.1.3 Age. To be accepted for admission at Edgemere, you must be at least sixty-two (62) years of age at or before the Occupancy Date.

6.2 Notification of Decision. Within thirty (30) days of satisfaction by you of all of the requirements set forth in Section 6.1, Edgemere shall notify you in writing of its decision concerning your acceptance to Edgemere. In the event you are not accepted for residency at Edgemere, your Reservation Deposit specified in Section 5 and tendered upon execution of this Agreement shall be refunded within ten (10) days of the date of the written notification

to you of non-acceptance for residency, and the parties shall have no further obligations to one another under this Agreement.

6.3 Acceptance for Residency Conditional Upon No Material Changes Prior to Occupancy. Acceptance for residency to Edgemere shall be conditioned upon no material change in the matters covered by the Confidential Data Profile and Confidential Medical Profile prior to your Occupancy Date. In the event of any such material change prior to the Occupancy Date, Edgemere may request that additional information be provided. In the event of the existence of a material change in condition, Edgemere may revoke its acceptance of you for residency to Edgemere at any time prior to the Occupancy Date by written notification to you, and your Reservation Deposit as specified in Section 5 shall be refunded within ten (10) days of the date of such notification.

6.4 Duty of Resident to Notify Edgemere. You acknowledge and agree that Edgemere has relied upon all of the information contained in your Confidential Data Profile and Confidential Medical Profile to make its decision regarding your acceptance for residency at Edgemere. Any misrepresentation or omission by you shall render this Agreement null and void at the option of Edgemere. You agree to notify Edgemere prior to the Occupancy Date of any material change in any of the matters covered by, or reflected on, the Confidential Data Profile or the Confidential Medical Profile.

7. TERMINATION AND REFUNDS

7.1 Termination Prior to Occupancy.

- a. You will be entitled to full reimbursement of any monies paid to us within thirty (30) days of our receiving your written termination of this Agreement and will be released from liability to pay to us any other amount under this Agreement under any one of the following conditions:
 - (i) If you terminate this Agreement within seven (7) days from the date on which you signed this Agreement and paid the Reservation Deposit.
 - (ii) If you die before occupying your Residence at Edgemere, or if, because of illness, injury, or incapacity, you would be precluded from occupying your Residence consistent with the representations made by you in the Confidential Data Profile or the Confidential Medical Profile, this Agreement will be automatically canceled.

Interest on the Resident Deposit will NOT be due or payable.

- b. If you terminate this Agreement prior to the date you occupy your Residence for reasons or conditions other than those described above, you will be entitled to a reimbursement of any monies paid, less a processing fee of five hundred dollars (\$500.00). Interest on the Resident Deposit will NOT be due or payable. Thereupon, you shall be relieved of further liability to pay a Resident Deposit or Monthly Service Fees under this Agreement. In this circumstance, we will pay the refund due to you within thirty (30) days after the date we have received your written notice of termination of this Agreement.

7.2 Termination of Residency After Occupancy. After you have assumed occupancy of your Residence, this Agreement is subject to termination as follows:

- a. By you at any time upon thirty (30) days prior written notice to Edgemere.
- b. Edgemere may terminate this Agreement after the Occupancy Date for the following nonmedical reasons:
 - (i) A material misrepresentation or omission by you in the Confidential Data Profile, Confidential Medical Profile, or related materials, which, if such information had been accurately provided, would have been material to the decision whether or not to accept the Resident for residency;
 - (ii) If you fail to comply with the policies and procedures of Edgemere or create a situation detrimental to the health, safety or quiet enjoyment of the community by other Residents or the staff;
 - (iii) If you fail to pay the Monthly Service Fee or other amounts due us when due unless other mutually satisfactory arrangements have been made, provided however, it is our policy that this Agreement shall not be terminated solely because of your financial inability to pay the fees to the extent that: (1) your inability to pay is not the result of your willful action; and (2) in the judgment of NSHC, the ability of Edgemere to operate on a sound financial basis will not be impaired.
 - (iv) Material breach by you of the terms and conditions of this Agreement; and,
 - (v) The Residence is no longer fit for occupancy and Edgemere elects not to restore the Residence to habitable condition.
- c. Edgemere may terminate this Agreement subsequent to Occupancy Date for medical reasons. If it is determined by the Medical Director (after consultation "to the extent feasible" with you, your personal physician, and your family and/or designated representative) that:
 - (i) You have developed a dangerous or contagious disease or mental illness;
 - (ii) You are in need of drug or alcoholic rehabilitation or any other condition for which we are not licensed or for which care cannot be provided by us without a significant and unique expenditure; or,
 - (iii) You are or have become mentally or emotionally disturbed to a degree that your continued presence at Edgemere is determined to be detrimental to the health, safety and welfare of other Residents or staff.

Therefore, should any of these situations occur, we are expressly authorized (after consultation with the Medical Director, your personal physician and your family

and/or your designated representative to the extent feasible) to transfer you, at your expense, to an appropriate hospital facility or alternative care facility.

If Edgemere seeks to terminate this Agreement and your occupancy, Edgemere shall give you sixty (60) days' prior written notice of termination which shall reasonably describe the conduct alleged to warrant the termination of this Agreement and shall set the time, place and date for a meeting between you and Edgemere's representative(s), which shall not be earlier than thirty (30) days nor later than forty-five (45) days after the notice of termination. At this meeting you may avoid termination upon your showing to Edgemere's reasonable satisfaction that you have cured the conduct alleged to warrant the termination.

- 7.3 Effect of Double Occupancy.** If your Residence is occupied by two (2) Residents and one (1) Resident dies, this Agreement will continue in full legal force and effect as to the surviving Resident, except the Monthly Service Fee will be adjusted to reflect the then applicable single occupancy rate payable for the type of Residence occupied. No refund of the Resident Deposit will occur until the surviving Resident leaves and all conditions of Section 7.4 are met.
- 7.4 Refund of Resident Deposit.** After termination of this Agreement in accordance with Section 7.2 or in the event of your death, or in the case of double occupancy, both occupants' deaths, we will refund ninety percent (90%) of the Resident Deposit (without interest) that you paid for your Residence at Edgemere. Except as provided in the next paragraph, the refund will be paid on the later of: (i) ten (10) days after a new resident deposit has been received from a new resident and the new resident has taken occupancy of your former Residence, or (ii) termination of this Agreement.
- 7.5 Use of Resident Deposit.** The purpose of the Resident Deposit is to generate investment income to contribute to the operating income of Edgemere and to help fund operating and capital costs. As such, interest income generated from the investment of the Resident Deposit will be paid to Edgemere. In addition, at the sole discretion of NSHC, Resident Deposits may also be used to pay for project development costs, start-up deficits, debt service, retirement of debt, costs of future capital expenditures, resident refunds and other purposes deemed appropriate by NSHC. No reserve funding will be established pertaining to the refund of the Resident Deposit. In order to obtain permanent financing and to secure the lender or other party or parties who provide financing, NSHC pledged the gross receipts and revenues of Edgemere including Resident Deposits to the extent allowable by Texas law.
- 7.6 Right of Off-Set; Other Rights.** We reserve the right to off-set against the refund of the Resident Deposit any fees or amounts payable to us under this Agreement including any charges deferred or unpaid. Termination of this Agreement for any reason will not affect or impair the exercise of any right or remedy granted to us or you under this Agreement for any claim or cause of action occurring prior to the date of such termination.
- 7.7 Relocation.** You may elect to move to another Residence, subject to availability. An administrative fee of \$500 will be applied to your account in the event of a relocation to a different residence. In such event, this Agreement will be amended to reflect the change in Residence status.

- a. **Relocation to a less expensive Residence.** You will receive a refund of the refundable portion of the Resident Deposit in excess of the refundable portion of the Resident Deposit then in effect for the new Residence in accordance with Section 7.4. No additional ten percent (10%) non refundable portion will be required. You will pay the then current Monthly Service Fee for the new Residence. All moving costs will be at your expense.
- b. **Relocation to a more expensive Residence.** You will be required to pay the difference between the initial Resident Deposit and the Resident Deposit then in effect for the new Residence selected. A portion of the additional Resident Deposit will be nonrefundable. You will pay the then current Monthly Service Fee for the new Residence. All moving costs will be at your expense.

8. **MISCELLANEOUS**

- 8.1 **Resident's Interest.** You do not have any proprietary interest in Edgemere, its assets or properties by virtue of this Agreement. While Edgemere is interested in Resident's input and comments, this Agreement does not give you the right to participate in management or policy making decisions of Edgemere or related properties.
- 8.2 **Responsibility for Protection of Resident's Property.** We shall not be responsible for damage or loss to any personal property belonging to you caused by fire, flooding or other casualty, or by leaking of water, bursting of pipes, theft or any other cause. You shall be solely responsible, at your own expense, for insuring against property damage or loss and personal liability to others. In the event of your death or transfer from Edgemere, we will exercise ordinary care in temporarily safekeeping your personal property. If such property is not removed from Edgemere premises within sixty (60) days after termination of this Agreement, we reserve the right to have such property placed in a commercial bonded warehouse at the expense and risk of you or your estate.
- 8.3 **Injury or Accident While Away from Edgemere.** If the Resident is injured in an accident or becomes ill while away from Edgemere, the Resident shall make every reasonable effort to notify Edgemere as soon as possible, and the Resident shall arrange to return to Edgemere as soon as reasonably possible if continued medical care is required. Edgemere shall not be responsible for or assume the cost of medical care for illness or injury incurred by the Resident while away from Edgemere. At such time as the Resident returns to Edgemere, Edgemere shall assume the responsibility for Assisted Living or Health Center services thereafter rendered as provided in this Agreement.
- 8.4 **Injury Caused by Third Party.** In the event of an accident or injury to you caused by a third party, for which such third party may be liable for the cost of any medical, surgical, nursing or additional care for you resulting therefrom, you or your designated representative shall notify Edgemere promptly and you or your designated representative shall pursue diligently any claim for damages which may be due from such third party for the injury. Edgemere is not required to bear the cost of care to you for which a third party is liable. You agree to indemnify NSHC for any expenses incurred by Edgemere in providing care to you for which a third party is liable.

NSHC may limit its actions as provided above to claims for recovery of the costs and expenses incurred by it, and in such event, NSHC shall not be obliged to assert any claim on behalf of you arising out of such accident or injury beyond the costs and expenses incurred by Edgemere.

- 8.5 INDEMNIFICATION FOR NEGLIGENCE.** YOU HEREBY AGREE TO INDEMNIFY, PROTECT AND HOLD US HARMLESS FROM ANY LOSS, DAMAGE, INJURY OR EXPENSE INCURRED BY EDMERE AS A RESULT OF YOUR NEGLIGENCE OR WILLFUL ACTS OR THE ACTS OF YOUR INVITEES OR GUESTS.
- 8.6 Right of Entry.** You hereby authorize our employees and agents to enter your Residence to provide services, repairs, maintenance, alterations, pest control and inspection, and to respond to perceived medical or other emergency. Non-emergency or non-medical services will be scheduled in advance with Resident.
- 8.7 Guests.** Occupancy of the Residence and use of Edgemere common areas and grounds is limited to you and your guests. Guests may not occupy your Residence for more than fourteen (14) days without the prior written approval of Edgemere. You will be responsible for the conduct of your guests and for payment of any charges incurred by your guests.
- 8.8 Absence from Edgemere.** You agree to notify Edgemere in advance of any contemplated absence that is anticipated to exceed twenty-four (24) hours.
- 8.9 Damage to Residence.** Resident is responsible for excessive wear or damage to the Residence caused by Resident action or neglect. The cost of repair due to damage or neglect is the responsibility of the Resident and may be withheld from any refund due.
- If your Residence is damaged by fire, flood, storm or other casualty or cause and we elect not to terminate this Agreement, we will, at our expense, proceed diligently to repair and restore your Residence. If your Residence is uninhabitable during the repair, we will relocate you to a comparable type Residence at Edgemere, if available, or, if not, we will try to relocate you temporarily to any other available Residence at Edgemere and the Monthly Service Fee will be adjusted for the type of Residence you temporarily occupy, but in no event shall be more than your Residence.
- 8.10 Entire Agreement.** This Agreement constitutes the entire Agreement between you and NSHC with regard to your residence and care. We will not be liable for, or bound by, any statements, representations or promises made to you by any person representing or purporting to represent Edgemere unless such statements, representations or promises are expressly set forth and endorsed by both parties in writing, and attached to this Agreement.
- 8.11 Binding Effect.** This Agreement is binding upon our successors and assigns and your heirs and personal representatives. The provisions of this Agreement are not assignable or transferable in whole or in part by you, and you will have no right to sublet the Residence.
- 8.12 Severability.** Each provision of this Agreement will be deemed separate from each other provision and the invalidity or unenforceability of any provision will not affect the validity or enforceability of the balance of the Agreement.

- 8.13 Subordination.** Your rights under this Agreement will be subordinate to any mortgage, security interest, pledge, or other lien that now encumbers all or any part of Edgemere's assets and shall be further subordinate to any mortgage, security interest, pledge, or other lien hereafter placed on all or any part of Edgemere's assets, and you agree to execute, acknowledge and deliver such subordination agreements as any lender or future lender shall reasonably require in order to establish the priority of any such lien.
- 8.14 Nondiscrimination.** Edgemere will be operated on a non-discriminatory basis, and will provide the facilities and services described in this Agreement to individuals regardless of race, color, sex, marital status, religion, creed, handicap or national origin.
- 8.15 Notices.** Any notice to Edgemere by you will be given in writing and mailed or delivered to Edgemere at the administrative office or at such other address as we may designate in writing. Any notice to you by us will be given in writing and mailed or delivered to your Residence or at such other address as you may designate to Edgemere in writing.
- 8.16 Potential Tax Benefit.** You may be eligible for a one-time medical expense tax deduction for a portion of the Resident Deposit (in the first year of occupancy) and annually for a portion of the Monthly Service Fee paid to Edgemere in that tax year. Edgemere will provide a statement prepared by its auditors each year for your use in tax preparation. Edgemere makes no representations regarding the availability of any tax deduction relating to your residency and care at Edgemere. You are advised to seek tax advice on this issue from your tax advisor.
- 8.17 Choice of Law.** This Agreement will be interpreted according to the laws of the State of Texas without regard to conflict of law principles.
- 8.18 Change of Condition.** You agree to notify us of any material change in any of your physical, financial or mental conditions prior to residency.
- 8.19 Authorized Agent Signature.** This Agreement has been executed on behalf of Edgemere by its duly authorized agent and no officer, director, agent or employee of Edgemere shall have any personal liability hereunder to you under any circumstances.
- 8.20 No Third Party Rights.** No other persons or entities other than Edgemere and the Resident have any rights or obligations under this Agreement.
- 8.21 Failure to Act.** Failure or delay of any party to exercise any right, power, or privilege under this Agreement will not operate as a waiver of such right, power, or privilege.
- 8.22 Right of Subrogation.** If you are injured by a third party and such injury requires Edgemere to provide health care services under this Agreement, Edgemere shall be subrogated, to the extent allowed by Texas law, to your rights against such third party to the extent necessary to reimburse Edgemere for the costs incurred in providing services under this Agreement. To the extent allowed under Texas law, this right of subrogation authorizes Edgemere to institute legal action in your name; provided, however, that such action shall not cause or result in a compromise, waiver or release of any causes of action that you may have against such third party for such injuries.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, NORTHWEST SENIOR HOUSING CORPORATION
and the Resident(s) have signed this Agreement on this 29th day of September, 2016.

RESIDENT(S):

Signature:

Harold J. Lemmon

Print Name:

HAROLD J. LEMMON

Signature:

Myrtle K. Lemmon

Print Name:

MYRTLE K. LEMMON

NORTHWEST SENIOR HOUSING CORPORATION,
a Texas nonprofit corporation

By:

[Signature]

Its:

MANAGING DIRECTOR

[Signature]

Edgemere Marketing Representative

Exhibit B

Addendum to the Lifecare Agreement between

Harold & Myrt Lemmon
and Northwest Senior Housing Corporation

I (we) direct the refundable portion of the resident deposit to be refunded to:

The Estate of HAROLD J LEMMON (✓)
or
MYRTLE K. LEMMON ()
(to the surviving spouse)

Contact person and mailing address for refund:

IN WITNESS WHEREOF, THE NORTHWEST SENIOR HOUSING CORPORATION and
the Resident have signed this Agreement on this 29th day of September, 2015

RESIDENT(S):

Signature:

Harold J. Lemmon

Print Name:

HAROLD J. LEMMON

Signature:

Myrtle K. Lemmon

Print Name:

MYRTLE K. LEMMON

Northwest Senior Housing Corporation,
a Texas Not-For-Profit Corporation

Budgett Walsh

Edgemere Representative

Associate Executive Director

Title

Exhibit C

EDGE MERESM

An SQLC Community

Addendum to the Lifecare Agreement between

MYRT LEMMON AKA MYRTLE KEAHEY LEMMON
and Northwest Senior Housing Corporation

I (we) direct the refundable portion of the resident deposit to be refunded to:

The Estate of N/A ()
or

JOHN ERIC KEAHEY (X)
P.O. Box 43682
SEVEN POINTS, TX 75143

Contact person and mailing address for refund:

JOHN ERIC KEAHEY
P.O. Box 43682
SEVEN POINTS, TX 75143
903-432-4398

IN WITNESS WHEREOF, THE NORTHWEST SENIOR HOUSING CORPORATION and

the Resident have signed this Agreement on this 15 day of OCT., 20 19.

RESIDENT(S):

Signature: Myrtle Keahey Lemmon

Print Name: MYRTLE KEAHEY LEMMON

Signature: _____

Print Name: _____

Northwest Senior Housing Corporation,
a Texas Not-For-Profit Corporation

Edgemere Representative

Title

Executive Director

Stephen A. McCartin (TX 13344700)
Thomas C. Scannell (TX 24070559)
FOLEY & LARDNER LLP
2021 McKinney Avenue, Ste. 1600
Dallas, Texas 75201
Telephone: (214) 999.3000
Facsimile: (214) 999.4667
smccartin@foley.com
tscannell@foley.com

**COUNSEL TO THE EDGEMERE
RESIDENTS TRUST**

**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 (MLV)

(Jointly Administered)

**DECLARATION OF BETTY SHERRILL, FORMER RESIDENT OF EDGEMERE IN
SUPPORT OF FIRST APPLICATION OF EDGEMERE RESIDENTS TRUST**

I, Betty Sherrill, Former Edgemere Resident by and through her attorney-in-fact, James Sherrill, declare under penalty of perjury pursuant to 28 U.S.C § 1746:

1. I was a resident of Edgemere from August 2019 through April or May of 2022 (at which time I moved out of Edgemere). Edgemere has re-leased my independent living unit and my refund became fully due and payable prior to June 13, 2023, the Effective Date of the Plan.

2. My son, James H. Sherrill, with my power of attorney, executed the "single occupancy" Edgemere Life Care Agreement attached hereto as **Exhibit A** on August 13, 2019 on my behalf.

¹ The Debtors in these chapter 11 cases (the "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) (together, the "Debtors"). The Debtors' mailing address is 8523 Thackery Street, Dallas, Texas 75225.

3. My son, James H. Sherrill, with my power of attorney, executed the original Addendum attached hereto as **Exhibit B** on August 13, 2019 on my behalf. It was always my understanding and intent that the Addendum would only be effective if I died on or before the date the refund became payable. Prior to my death, it was my intent that the Addendum would not be effective and would be subject to amendment or revocation at my sole discretion.

4. Accordingly, since I am still living, and my Addendum is only effective upon my death, I have made demand on the Edgemere Residents Trust to make all Trust Distributions attributable to my Refund Claim against Edgemere to me, and not to the addendum payee in the Addendum.

Dated: September 11, 2023

By: James H. Sherrill
Betty Sherrill, Former Edgemere Resident

by and through her attorney-in-fact, James
Sherrill

Stephen A. McCartin (TX 13344700)
Thomas C. Scannell (TX 24070559)
FOLEY & LARDNER LLP
2021 McKinney Avenue, Ste. 1600
Dallas, Texas 75201
Telephone: (214) 999.3000
Facsimile: (214) 999.4667
smccartin@foley.com
tscannell@foley.com

COUNSEL TO THE EDGEMERE
RESIDENTS TRUST

Exhibit A

EDGEMERE
LIFE CARE AGREEMENT

EDGEMERE

LIFE CARE AGREEMENT

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ADDENDUM A – CONFIDENTIAL DATA PROFILE

EDGEMERE

LIFE CARE AGREEMENT

NOTICES

- A. You may cancel this contract at any time prior to midnight of the seventh day after the date on which you sign this contract (Rescission Period) or you receive the Edgemere Disclosure Statement, whichever occurs later. If you elect to cancel the contract, you must do so by written notice, and you will be entitled to receive a refund of all assets transferred (without interest), subject to the terms and conditions contained in this contract, other than the periodic charges applicable to your occupancy of a living unit.
- B. This document, if executed, constitutes a legal and binding contract between you and Northwest Senior Housing Corporation. You may wish to consult a legal or financial advisor before signing, although it is not required that you do so to make this contract binding. This Agreement provides certain rights of occupancy of a senior living community, hereinafter referred to as "Edgemere" located in Dallas, Texas.
- C. You shall not be required to move into Edgemere before the expiration of the seven (7) calendar day period (Rescission Period).

TERMS OF OCCUPANCY

This Life Care Agreement ("Agreement") is entered into by Betty Sherrill

(individually and/or collectively "you" or "Resident"), and Northwest Senior Housing Corporation d/b/a Edgemere, which owns and operates Edgemere located in Dallas, Texas. The term "Edgemere" is used throughout this Agreement to denote Northwest Senior Housing Corporation, or the senior living community. The terms "we", "our", or "NSHC" are also used in lieu of Northwest Senior Housing Corporation.

Edgemere seeks to provide quality residential housing for retirement age men and women along with an array of personal services and amenities outlined in this Agreement, including certain assisted living and nursing services. Subject to the conditions contained in this Agreement, we agree to make available to you, an unfurnished independent living unit ("Residence") in Edgemere and provide you with general services and amenities described in this Agreement. The Residence is described as follows:

RESIDENCE NUMBER: 5008

RESIDENCE STYLE: 1 BEDROOM GRAND

1. **RESERVATION OF RESIDENCE**

In connection with this Agreement, Resident made a deposit equal to ten percent (10%) of the Resident Deposit (hereinafter defined) or \$ 58,768 (the "Reservation Deposit") to reserve the Residence identified above located within Edgemere.

- 1.1 **Conditions of Occupancy.** Conditions of occupancy of the Residence are that Resident shall: (i) meet the health and financial conditions of acceptance into Edgemere; (ii) execute this Agreement; (iii) pay in full the remaining balance of the Resident Deposit ("Resident Deposit Balance") and (iv) pay the applicable ongoing Monthly Service Fee(s).
- 1.2 **Escrow of Reservation Deposit.** The Reservation Deposit shall be placed and maintained in an escrow account to the extent required by Texas law. The escrow agent is Regions Bank, 1717 St. James Place, Suite 500, Houston, TX 77056.
- 1.3 **Refund of Reservation Deposit for Involuntary Termination.** The Reservation Deposit shall be refunded in full to Resident within thirty (30) days of termination of this Agreement under the following circumstances: (i) Edgemere's failure to meet its obligations under this Agreement prior to occupancy of the Residence by Resident; or (ii) death, incapacity or serious illness of Resident prior to occupancy. If Resident's health status changes after Resident is accepted for Residency by Edgemere so that at the time of occupancy Resident is precluded from independent living for health reasons and certified by a licensed physician, the entire Reservation Deposit shall be refunded to Resident; provided, however, Resident may elect not to terminate this Agreement and may elect direct admission into Assisted Living (hereinafter defined) or the Health Center (hereinafter defined) at the appropriate level of care, as determined by Edgemere.
- 1.4 **Refund of Reservation Deposit for Voluntary Termination.** If Resident terminates this Agreement after seven (7) days from the date it is executed other than for reasons in Section 1.3, above, Edgemere shall refund the entire Reservation Deposit within thirty (30) days, less a processing fee of five hundred dollars (\$500.00).
- 1.5 **Disclosures.** Resident acknowledges that Resident has received a copy of the Disclosure Statement and other information which may be material to Resident's decision whether to occupy the Residence. Resident understands that Resident may not occupy the Residence and is not entitled to any services or benefits of the Life Care Agreement until the Resident Deposit has been paid in full.

2. **GENERAL SERVICES AND FACILITIES**

- 2.1 **Basic Agreement.** In consideration of payment of a Resident Deposit in the amount stated in Section 5.2 and payment of the applicable Monthly Service Fee, initially in the amount stated in Section 5.3, you will be entitled to occupy the Residence indicated above and to receive the services and use of the facilities described in this Agreement according to the provisions of this Agreement.

Your right to occupy the Residence or such other care accommodations to which you may be transferred in accordance with this Agreement shall continue for your lifetime unless sooner terminated as provided herein.

The right to occupy the Residence and receive services under this Agreement shall apply exclusively to the named Resident hereunder, and to no other individual(s). No person other than the Resident entering into this Agreement shall be permitted to occupy the Residence without the express written permission of Edgemere as hereinafter provided.

- 2.2 Residence Furnishings.** The Residence will be furnished at our expense with floor coverings, , self-defrosting refrigerator and freezer with ice maker, range and oven, dishwasher, microwave oven, garbage disposal, washer, dryer, an emergency alert system, fire sprinkler system and a telephone/data communications port and cable TV hookup.
- 2.3 Parking.** Surface parking areas will be provided for you and for guests of Edgemere as defined in the Resident Handbook. One secured underground parking space will be provided for each Residence at the request of the Resident and in conformance with our parking policy.
- 2.4 Community Common Areas.** You will have use of Edgemere community common areas in accordance with the policies and procedures of Edgemere, as modified and amended from time to time. Community common areas are non-smoking and may include:
- a. Formal & Casual Dining Rooms
 - b. Private Dining Room
 - c. Performing Arts Center
 - d. Outdoor Dining Terrace
 - e. Library
 - f. Conference Room
 - g. Game & Card Room
 - h. Creative Arts Center
 - i. Beauty & Barber Shop
 - j. Business Center
 - k. Wellness and Fitness Center
 - l. Convenience Store
 - m. Swimming Pool
 - n. Living Rooms
 - o. Guest Suites
- 2.5 Included General Services.** So long as you are in compliance with your obligations hereunder, we will provide you with the following services covered by the Monthly Service Fee and Resident Deposit:
- a. **Food Service.** Meals will be served on a daily basis in the main dining room. You are entitled to one meal credit per person for each day of the month (for example, 30 meal credits for June and 31 meal credits for July). You may purchase guest meals or use accumulated meal credits at any time during the month for meals for you and/or your guests. Any unused meal credits for any month will be forfeited and may not be applied as a credit against meal charges for any other period. If you are absent from Edgemere for more than fourteen (14) consecutive days, you will receive a meal credit allowance in conformance with our meal credit policy, provided you give Edgemere written notice of your intended absence at least two (2)

weeks in advance. For health-related absences, no prior notice is required. Additional meals are available upon request for an additional fee.

- b. **Housekeeping.** Housekeeping of the Residence, including vacuuming, mopping, sweeping and changing of bed linens occurs on a weekly scheduled basis.
- c. **Utilities.** The costs of sewer, water, waste disposal, electricity, heat, air-conditioning, and basic cable television service are included in the Monthly Service Fee. The Residence will be centrally wired for cable television and telephone service, as well as a data communications port. You will be responsible for all telephone, premium cable television and internet service provider charges.
- d. **Security and Emergency Alert System.** Each Residence will be equipped with smoke detectors, a sprinkler system and an emergency alert system. Edgemere will monitor the emergency alert systems on a twenty-four hour basis and coordinate emergency responses as appropriate. Security personnel will be employed and exterior entrances will have secured access.
- e. **Laundry.** We will provide scheduled weekly laundry service of your personal bed linens.
- f. **Maintenance.** We will maintain all community common areas and grounds. Edgemere will be responsible for providing repair, maintenance and replacement of equipment and furnishings provided by Edgemere, provided that such repairs are not required as a result of your negligence. You are responsible for maintenance of your personal property and are encouraged to purchase a renter's insurance policy covering your personal property and personal liability.
- g. **Mail.** A U.S. mailbox will be provided to you in a central location.
- h. **Transportation.** We will provide local transportation to designated shopping, medical facilities, and other local destinations on a regularly scheduled basis.
- i. **Social and Recreational Programs.** A full-time Lifestyle Director will coordinate a variety of social, recreational, educational and cultural programs for those residents wishing to participate. Specific programs will be based on residents' interest.
- j. **Property Taxes and Insurance.** We will pay for real property taxes for the community, with the exception of those assessed on your personal property. We will also obtain property and casualty insurance coverage on the buildings and grounds. Such coverage will not insure against loss or damage to your personal property or damage or injury to others caused by you. Edgemere recommends that you purchase appropriate comprehensive insurance.
- k. **Storage Area.** An individual storage area located in Edgemere will be assigned and available for your use.

- l. Wellness Programming.** We will coordinate educational and screening programs promoting wellness and preventive health maintenance. Participation in these activities is voluntary.
- m. Medical Director.** We will retain the services of a qualified physician (“Medical Director”) to be responsible for the appropriateness and quality of medical services and medically related activities provided by Edgemere. The Medical Director is not expected to provide medical services to Residents and will be retained as a consultant to Edgemere.
- n. Life Care Benefit.** If it is determined that you require assisted living or nursing care in the future, we will provide you with assisted living services available in our assisted living center (“Assisted Living”) or nursing services available in our nursing center (“Health Center”), as described below and subject to changes in law.

 - (i) Admission.** When a determination is made by your physician and approved by the Medical Director that you need assisted living services or nursing care, then you will be transferred to Assisted Living or the Health Center as provided for in Section 4 of this Agreement. Transfers to Assisted Living or the Health Center will only occur after consultation with the Resident, the Resident’s family, and a licensed physician.

In the event that space for you, for any reason, is not available in Assisted Living or the Health Center upon determination that a permanent transfer is required, Edgemere will arrange and pay for your care in your Residence by a certified home health care agency of Edgemere’s choice, if reasonably possible, until space becomes available in Assisted Living or the Health Center. If home health care is not medically possible, Edgemere will arrange and pay for your care in another facility of Edgemere’s choice that can provide the same care that would otherwise have been provided by Edgemere until space becomes available. Edgemere will pay for care in another facility to the same extent as if it were provided by Edgemere.

- (ii) Assisted Living.** We will provide to you, in a Traditional Assisted Living Apartment, support services that are designed to assist you with activities of daily living in accordance with Texas law. Services may include assistance with dressing, bathing, grooming, medication administration, and ambulation. Additional services and ancillary products may also be provided for a specified charge identified in the resident handbook.
 - (iii) Nursing Care.** We will provide to you, in a Traditional Private Room, licensed nursing care services approved by our Medical Director (“Nursing Care”). The care provided will cover services included in the basic private nursing room published daily rate then in effect. Such care may include those services required by applicable law to be supervised or administered by a professional licensed nursing staff, e.g., medication administration, condition and behavior observation and assessment, creation and administration of a care plan, assistance with activities of daily living and communication with physicians and other care providers. You will be

responsible for charges for supplies and services above those included in the basic published daily rate.

- (iv) **Fees and Charges.** We will provide without charge basic Assisted Living or Nursing Care as defined in Section 2.5.n.(ii) and (iii), to the extent that it is not covered by your insurance, Medicare or any other governmental programs or entitlements which you are required to maintain under this Agreement, subject to:

Effect on Monthly Service Fee.

a. Temporary Transfers.

Should you have a temporary need for Assisted Living or Health Center services while you are still occupying your Residence, you will continue to pay both the then current Monthly Service Fee for your Residence and the then current applicable pro-rated monthly rate at Assisted Living or the then current daily rate at the Health Center. By “temporary” we mean a Temporary Transfer as defined in Section 4.3.

b. Permanent Transfers.

1. Single Occupancy. Should you have a permanent need for Assisted Living or Health Center services, you will be required to release your Residence as provided under Section 4.3. Your Monthly Service Fee will be adjusted to the then current Monthly Service Fee for a Two Bedroom Classic independent living residence. By “permanent” we mean a Permanent Transfer as defined in Section 4.3.
2. Double Occupancy. Should one Resident have a permanent need for Assisted Living or Health Center services, you will continue to pay the then current Monthly Service Fee for your residence, and the relocated Resident will pay the then current Monthly Service Fee for the Two Bedroom Classic independent living residence. Should both Residents have a permanent need for Assisted Living or Health Center services, the Residents will be required to release the Residence as provided under Section 4.3. The first Resident will be required to pay the then current Monthly Service Fee for the Two Bedroom Classic independent living residence. The second Resident will also be required to pay the then current Monthly Service Fee for the Two Bedroom Classic independent living residence. By “permanent” we mean a Permanent Transfer as defined in Section 4.3.

- o. Additional Charges.** Residents will be responsible for all costs and charges associated with Assisted Living or the Health Center which are not covered by the basic published market daily rates for such care then in effect as described in Section 2.5n. (ii) and (iii). Additional charges apply in circumstances which include, but are not limited to, the following:

1. If you require Memory Support Deluxe Assisted Living you will be responsible for the difference between the then current Monthly Service Fee for a Traditional Assisted Living Apartment and the Memory Support Alcove Room.
2. If you require specialized memory support services at the Health Center, you will be responsible for the then current difference in daily rates between a Traditional Private Room in Nursing Care and a Memory Support Nursing Care Private Room.
3. In the event of a Temporary Transfer or Permanent Transfer, you will be responsible for all costs of relocation.

2.6 Additional Services. The following Additional Services may be available to Residents on a fee-for-service basis:

- a. Guest meals
- b. Catering for special occasions
- c. Barber and beauty services
- d. Tray service
- e. Additional resident meals
- f. Additional parking, subject to availability
- g. Additional housekeeping services
- h. Laundry services for personal items
- i. Usage of the guest suites

Charges for these Additional Services and others that may be offered will be made in accordance with the Resident Handbook then in effect and will be billed to you monthly.

2.7 Alteration to Residence. You may make alterations to your Residence at your cost, subject to Edgemere's policies and with Edgemere's prior written approval. Any approved alteration will be performed by our maintenance staff or by a contractor we approve. Any alterations of a permanent nature become the property of Edgemere. For your safety, you agree not to replace the existing locking device or add any locking devices to your Residence. Edgemere reserves the right to restore the apartment home to the pre-altered state upon vacancy of the apartment by Resident. The cost of the restoration is the responsibility of Resident and may be withheld from any refund due.

2.8 Advance Notice for Changes in Scope of Services. We will provide at least sixty (60) days advance notice before any change in the scope of care or services becomes effective unless an immediate transfer to Assisted Living or Health Center is deemed necessary as provided in Section 4 of this Agreement. This includes notification of any changes in charges for Additional Services.

3. RESIDENT'S OBLIGATIONS

3.1 Health Insurance. Edgemere will provide you with the services described in this Agreement, as appropriate. During the term of this Agreement, you shall obtain and maintain in force Medicare Parts A and B and any future program that may be offered by Medicare. You shall also maintain in effect supplemental Medicare insurance coverage acceptable to us, and furnish evidence of such insurance coverage upon our request. If you are not qualified for Medicare coverage, you will be required to maintain comprehensive health coverage satisfactory to us. You agree to provide evidence of such insurance to us upon request. You also agree to execute all necessary forms to obtain payment of benefits which are or may be payable in the future for health care services provided hereunder to you.

You will be responsible for paying separately for all health care services that are not covered by Edgemere, Medicare (or an equivalent substitute policy approved by Edgemere), or Medicare supplemental insurance, as set forth in this Agreement. If you have any questions about such coverage, Edgemere will assist you in obtaining answers.

3.2 Power of Attorney, Guardianship. You acknowledge that at some future time you may be unable by reason of mental or physical disability to properly handle your own affairs and that it may be in your best interest to have an attorney in fact or a guardian appointed to handle your affairs. Therefore, you agree to designate in writing, prior to or at the time of entrance, person(s) who will have authority to act on your behalf in the event you should at any time become unable to properly handle your own affairs. If you should thereafter become either physically or mentally unable to properly administer your own affairs, this designated person shall either commence handling your affairs pursuant to the terms of a durable power of attorney or file a petition in a court of competent jurisdiction to have a guardian or conservator appointed to handle your affairs. If the designated person(s) are unable or unwilling to file such a petition, we are empowered to do so at your expense.

3.3 Home Health Care Services. It is the intent of Edgemere to enable you to maintain the highest level of independence possible. As such, home health care services may be provided to you in your Residence at your expense by a certified home health care agency of your choosing. Such services are typically intermittent and short-term in nature, often rendered following an acute care illness. Any assistance by Edgemere in choosing an appropriate agency shall in no way be deemed an endorsement of a particular agency, and Edgemere shall in no way be deemed responsible for the acts or failure to act of any such agency. You are to notify Edgemere if you are receiving or intend to receive home health care services. If you choose to receive home health care services, you are obligated to retain an aide who is employed by a licensed home health agency in Texas and to report the home health agency's periods of visitation to Edgemere. You must also comply with the provisions outlined in the Residents Handbook for retaining Private Duty Aides. Residents who need assistance with the activities of daily living or nursing service on a continuing basis will transfer to Assisted Living or Health Center to receive such services, in accordance with the provisions in Section 2.5.n.

3.4 Cost of Physicians, Medicines, Etc. You acknowledge and agree that any and all expenses or charges which may be incurred by or on behalf of you for costs not covered by this

Agreement, including, but not limited to, physicians, therapists, podiatrists, diagnostic services, mental health, medicines, prescription drugs, medical supplies, vitamins, crutches, braces, walkers, wheelchairs, special duty nursing, hospitalization, care and treatment of eyes, ears and teeth, and any and all other personal medical expenses shall be your sole and exclusive responsibility. You shall be entitled to treatment by the physician of your choice at your expense.

3.5 Resident Handbook. We will establish and adopt policies and procedures (collectively “Policies”) for the occupancy and orderly operation and management of Edgemere. These Policies will be drafted to provide for the safety, welfare, peace and comfort of all Residents consistent with the provisions of the Life Care Agreement. These Policies will be published in writing in the Resident Handbook, which will be provided to you on or before the date you move in and may be amended from time to time. You agree to abide by and observe such Policies and all amendments and additions thereto. These Policies, as amended from time to time, are hereby incorporated by reference. In the event that the terms of this Agreement conflict with the Policies, the terms of this Agreement shall control.

3.6 Non-Impairment of Financial Responsibility. After execution of this Agreement, you agree not to impair your ability to meet your financial obligations under this Agreement and cause any act such that you would no longer meet the financial qualifications as set by Edgemere for your Residence.

4. TRANSFERS AND READMISSION

There may come a time when you must move to Assisted Living or Health Center or to another facility which provides services not available at Edgemere. Edgemere is aware that this is a critical transition and will follow the following procedures during any transfer or reassignment.

4.1 Consultations. Except in case of emergency, Edgemere agrees not to transfer you from your Residence to Assisted Living or Health Center, or to a care facility or hospital which is not on the campus of Edgemere, for health-related or other reasons unless it has consulted with you, your physician, your family and/or your designated representative, if applicable. Such a decision shall be made in the best interests of the Resident, and the decision of Edgemere shall be final and binding. In the case of an emergency transfer, Edgemere will schedule the consultations described above within seven (7) days after transfer.

Circumstances in which it is in the best interest of the Resident to be transferred include, but are not limited to, the following:

- a. A determination that the Resident can no longer function in an independent manner in a Residence, and the Resident requires additional assistance with activities of daily living or nursing care;
- b. A determination that the Resident is unable to remain ambulatory (for purposes of this document, the term “ambulatory” is used to describe a person who is capable of demonstrating the mental competence and physical ability to leave a building without human assistance or supervision in case of emergency); or,

- c. A determination that the continued residency of the Resident at Edgemere would be harmful to either the Resident, other Residents or staff of Edgemere.

If we determine, after consultation, that your health requires that you be transferred (a) from the Residence covered by this Agreement to Assisted Living or Health Center or (b) to a care facility or hospital which provides services which Edgemere does not provide or is not licensed to provide, you agree to be relocated in accordance with that decision.

- 4.2 Consents.** When Edgemere determines, after consultations as described above, to transfer you to Assisted Living, Health Center, or to a suitable care facility or hospital for health care or other health-related services, Edgemere shall be authorized to transfer you without having to obtain your further consent.

Edgemere shall not be responsible for the cost of any services rendered to a Resident who is transferred from Edgemere to another facility, except as specifically provided otherwise hereunder.

- 4.3 Transfers.** Pursuant to Section 4.1 and 4.2, transfers are defined below as temporary and permanent.

- a. **Temporary Transfer.** A transfer is considered temporary when pursuant to Section 4.1 and 4.2 the determination is made that the condition that requires your transfer has the potential to be resolved in a manner which may allow you to return to your Residence within ninety (90) days. Your residence will be held for your return.
- b. **Permanent Transfer.** A transfer is considered permanent when pursuant to Section 4.1 and 4.2 the determination is made that the condition that requires your transfer will not allow you to return to your Residence within ninety (90) days.

In the event of a Permanent Transfer of one Resident in the case of single occupancy or of both Residents in the case of double occupancy, you shall release your Residence in order for Edgemere to make your Residence available to a new Resident. In such event, Edgemere may enter into a new Life Care Agreement for occupancy of the Residence with a new Resident. You grant Edgemere the right to remove your personal property from the Residence fifteen (15) days after a Permanent Transfer and to store it at your expense. If your Residence is reassigned and should you subsequently recover sufficiently to maintain yourself independently in a Residence, you shall receive the next available Residence similar to the one relinquished, at the then current Monthly Service Fee. While you are in Assisted Living or the Health Center, the Monthly Service Fee will continue to be due and payable as described in Section 2.5.n.

If the Residence is occupied by two (2) Residents, the Permanent Transfer of one (1) Resident does not affect the rights and privileges under this Agreement of the remaining Resident.

5. RESIDENT DEPOSIT AND FEES

- 5.1 Occupancy Date.** The day you receive keys to your Residence is the occupancy date. You shall not be required to move into Edgemere before seven (7) days following the date you executed this Agreement and made the Reservation Deposit.

In the event you decide not to move into your Residence on the Occupancy Date, the obligation of Edgemere to provide care and services as provided hereunder shall not be effective until your Resident Deposit has been paid in full.

- 5.2 Resident Deposit.** You agree to make a non-transferable, non-interest bearing Resident Deposit in the total amount of \$ 587,687. The Reservation Deposit of \$ 58,768 is due at the time you execute this Agreement. The remaining balance of your Resident Deposit, being \$ 528,919, is due on or before the Occupancy Date, unless otherwise previously agreed in writing. In the event the remaining balance of the Resident Deposit is not paid by the Occupancy Date, Edgemere in its sole discretion may terminate this Agreement and re-market your Residence to a new resident. Once paid, this Resident Deposit will not be increased or changed during the duration of this Agreement. The Resident Deposit shall in no way be considered or interpreted to be a security deposit.

The Resident Deposit shall be the property of Edgemere for use in accordance with the terms of this Agreement, and shall not be subject to the claims of creditors of the Resident. The Resident Deposit shall be refundable in accordance with Section 7.

- 5.3 Monthly Service Fees and Changes in Fees.** Your Monthly Service Fee will be initially \$ 4,860 per month for one person and an additional \$ 0 per month for the second person. The Monthly Service Fee shall be due beginning on the Occupancy Date and will be prorated, if necessary, on a daily basis for the first and last months of occupancy. We may increase the Monthly Service Fee, upon sixty (60) days' written notice to you. It is our intention to make any adjustments to the Monthly Service Fee only once per year. The Monthly Service Fee, in addition to charges for additional services, shall be billed in advance to the Resident on or before the fifth business day of each month, and shall be paid on or before the fifteenth (15th) day of the month.

Fees for additional services will be charged in accordance with the Additional Services Fee Schedule we establish and will be on file in the management office.

- 5.4 Late Fee.** We will reserve the right to assess you a late fee of five percent (5%) per month (or the maximum amount allowed by applicable law, if less) of the amount due if the Monthly Service Fee or Additional Services Fees are not paid in full on or before the twentieth day (20th) of the calendar month in which they are due.

- 5.5 Changes in Occupancy.** If your Residence is occupied by two (2) Residents and one (1) Resident surrenders possession of the Residence to the other, other than by death or by a transfer covered by Section 4, the obligations of the Resident remaining in the Residence under this Agreement remain in legal force and effect, except that the Monthly Service Fee will be adjusted to reflect the single occupancy rate then in effect for the Residence. The Resident not remaining in the Residence will receive no services or benefits under this Agreement but will continue to be jointly and severally liable for the obligations of the

Resident remaining in the Residence. The remaining Resident may elect to relocate to a different Residence, if desired. The refund of the Resident Deposit will be made in accordance with Section 7.7 and once all conditions of Section 7.4 are met.

In the event the joint occupants of a Residence desire separate living accommodations at Edgemere, and one (1) Resident remains in the Residence designated hereunder, no refund of the Resident Deposit shall be made until the conditions of Section 7.4 are met and the Monthly Service Fee shall be adjusted to reflect the single occupancy rate then in effect for the Residence. Upon occupancy of the second Residence by the departing joint occupant, a new Life Care Agreement must be executed and submitted for approval by Edgemere, accompanied by the then current Resident Deposit, for the second living accommodations.

In the event of the marriage of a Resident to another Resident, they may: (a) continue to maintain two Residences and pay the applicable Monthly Service Fee for single occupancy then in effect; or (b) release either Residence occupied by them, and pay the applicable Monthly Service Fee for first and second person occupancy then in effect for the Residence retained. All benefits provided in each Life Care Agreement shall remain and continue in effect. There shall be no refund of the Resident Deposit to either Resident until both Residents leave and the conditions of Section 7.4 have been met.

If you and a non-Resident (including a new spouse) desire to share the Residence, the non-Resident may become a Resident and live in the Residence only if he/she meets the qualifications for entrance set forth in Section 6 and both persons execute a new Life Care Agreement. In such event, the Monthly Service Fee shall be adjusted to reflect the additional charge per month for a second person, and the non-Resident may be required to make a Resident Deposit in accordance with the then current policies established by Edgemere.

In the event you marry an individual while at Edgemere who does not meet the residency requirements for Edgemere, NSHC, at its sole discretion, may allow such person to reside at Edgemere. However, this person would not have any rights, privileges or protection under this Agreement.

5.6 Liability for Charges. Each person who is designated as Resident in this Agreement is jointly and severally liable for the payment of the Monthly Service Fee, Additional Service Fees and all other amounts required to be paid to Edgemere, pursuant to the provisions of this Agreement. In the event it is necessary for us to institute legal action or other proceedings to recover amounts payable to Edgemere under this Agreement, we also will be entitled to recover reasonable legal fees and costs incurred in connection with all such proceedings. This provision will survive any termination of this Agreement.

5.7 Residents Who Become Unable to Pay. It is Edgemere's policy that this Agreement will not be terminated solely because of your financial inability to continue to pay the Monthly Service Fee or other charges payable under the terms of this Agreement by reason of circumstances beyond your control; provided, however, this policy shall not be construed to qualify or limit Edgemere's right to terminate this Agreement in accordance with its terms. If you present facts which, in the opinion of Edgemere, justify special financial consideration, Edgemere will give careful consideration to subsidizing in part or in whole the Monthly Service Fee and other charges payable by you under the terms of this

Agreement so long as such subsidy can be made without impairing the ability of Edgemere to attain its objectives while operating on a sound financial basis. Any determination by Edgemere with regard to the granting of financial assistance shall be within the sole discretion of Edgemere, and any decision to provide such financial assistance shall continue in effect only so long as Edgemere, in its sole discretion, determines that it can continue to operate for the benefit of all residents on a sound basis.

In the event Edgemere determines to provide you with any financial assistance or subsidy, you agree we may charge such amounts, plus interest, against the refund of your Resident Deposit. Furthermore, we may require you to move to a smaller or less expensive Residence.

The cost of any such financial assistance provided shall be accrued and remain an obligation of the Resident and his or her estate.

6. APPLICATION AND ACCEPTANCE FOR RESIDENCY.

The obligations of Edgemere to provide services and facilities hereunder are conditioned upon acceptance of the Resident for residency at Edgemere in accordance with this paragraph. The decision to accept a Resident for residency at Edgemere shall be within the sole discretion of NSHC.

6.1 Requirements for Acceptance for Residency. We require that you be capable of independent living and have assets and income which are sufficient (under foreseeable circumstances and after provision for payment of your obligations hereunder) to meet ordinary and customary living expenses, after assuming occupancy. You hereby represent and warrant that you are capable of independent living and have assets and income which are sufficient to meet ordinary and customary living expenses after assuming occupancy.

6.1.1 Confidential Data Profile. You shall complete and submit a Confidential Data Profile provided by Edgemere prior to or concurrent with the execution of this Agreement. You hereby certify to Edgemere that all information reflected on such Confidential Data Profile, which is hereby incorporated by reference and made a part of this Agreement, including all personal financial data, is complete and accurate.

6.1.2 Confidential Medical Profile Report. In addition to the Confidential Data Profile you will be required to submit a Confidential Medical Profile completed by your physician within fifteen (15) days after the execution of this Agreement.

6.1.3 Age. To be accepted for admission at Edgemere, you must be at least sixty-two (62) years of age at or before the Occupancy Date.

6.2 Notification of Decision. Within thirty (30) days of satisfaction by you of all of the requirements set forth in Section 6.1, Edgemere shall notify you in writing of its decision concerning your acceptance to Edgemere. In the event you are not accepted for residency at Edgemere, your Reservation Deposit specified in Section 5 and tendered upon execution of this Agreement shall be refunded within ten (10) days of the date of the written notification

to you of non-acceptance for residency, and the parties shall have no further obligations to one another under this Agreement.

6.3 Acceptance for Residency Conditional Upon No Material Changes Prior to Occupancy. Acceptance for residency to Edgemere shall be conditioned upon no material change in the matters covered by the Confidential Data Profile and Confidential Medical Profile prior to your Occupancy Date. In the event of any such material change prior to the Occupancy Date, Edgemere may request that additional information be provided. In the event of the existence of a material change in condition, Edgemere may revoke its acceptance of you for residency to Edgemere at any time prior to the Occupancy Date by written notification to you, and your Reservation Deposit as specified in Section 5 shall be refunded within ten (10) days of the date of such notification.

6.4 Duty of Resident to Notify Edgemere. You acknowledge and agree that Edgemere has relied upon all of the information contained in your Confidential Data Profile and Confidential Medical Profile to make its decision regarding your acceptance for residency at Edgemere. Any misrepresentation or omission by you shall render this Agreement null and void at the option of Edgemere. You agree to notify Edgemere prior to the Occupancy Date of any material change in any of the matters covered by, or reflected on, the Confidential Data Profile or the Confidential Medical Profile.

7. TERMINATION AND REFUNDS

7.1 Termination Prior to Occupancy.

- a. You will be entitled to full reimbursement of any monies paid to us within thirty (30) days of our receiving your written termination of this Agreement and will be released from liability to pay to us any other amount under this Agreement under any one of the following conditions:
 - (i) If you terminate this Agreement within seven (7) days from the date on which you signed this Agreement and paid the Reservation Deposit.
 - (ii) If you die before occupying your Residence at Edgemere, or if, because of illness, injury, or incapacity, you would be precluded from occupying your Residence consistent with the representations made by you in the Confidential Data Profile or the Confidential Medical Profile, this Agreement will be automatically canceled.

Interest on the Resident Deposit will NOT be due or payable.

- b. If you terminate this Agreement prior to the date you occupy your Residence for reasons or conditions other than those described above, you will be entitled to a reimbursement of any monies paid, less a processing fee of five hundred dollars (\$500.00). Interest on the Resident Deposit will NOT be due or payable. Thereupon, you shall be relieved of further liability to pay a Resident Deposit or Monthly Service Fees under this Agreement. In this circumstance, we will pay the refund due to you within thirty (30) days after the date we have received your written notice of termination of this Agreement.

7.2 Termination of Residency After Occupancy. After you have assumed occupancy of your Residence, this Agreement is subject to termination as follows:

- a. By you at any time upon thirty (30) days prior written notice to Edgemere.
- b. Edgemere may terminate this Agreement after the Occupancy Date for the following nonmedical reasons:
 - (i) A material misrepresentation or omission by you in the Confidential Data Profile, Confidential Medical Profile, or related materials, which, if such information had been accurately provided, would have been material to the decision whether or not to accept the Resident for residency;
 - (ii) If you fail to comply with the policies and procedures of Edgemere or create a situation detrimental to the health, safety or quiet enjoyment of the community by other Residents or the staff;
 - (iii) If you fail to pay the Monthly Service Fee or other amounts due us when due unless other mutually satisfactory arrangements have been made, provided however, it is our policy that this Agreement shall not be terminated solely because of your financial inability to pay the fees to the extent that: (1) your inability to pay is not the result of your willful action; and (2) in the judgment of NSHC, the ability of Edgemere to operate on a sound financial basis will not be impaired.
 - (iv) Material breach by you of the terms and conditions of this Agreement; and,
 - (v) The Residence is no longer fit for occupancy and Edgemere elects not to restore the Residence to habitable condition.
- c. Edgemere may terminate this Agreement subsequent to Occupancy Date for medical reasons. If it is determined by the Medical Director (after consultation "to the extent feasible" with you, your personal physician, and your family and/or designated representative) that:
 - (i) You have developed a dangerous or contagious disease or mental illness;
 - (ii) You are in need of drug or alcoholic rehabilitation or any other condition for which we are not licensed or for which care cannot be provided by us without a significant and unique expenditure; or,
 - (iii) You are or have become mentally or emotionally disturbed to a degree that your continued presence at Edgemere is determined to be detrimental to the health, safety and welfare of other Residents or staff.

Therefore, should any of these situations occur, we are expressly authorized (after consultation with the Medical Director, your personal physician and your family

and/or your designated representative to the extent feasible) to transfer you, at your expense, to an appropriate hospital facility or alternative care facility.

If Edgemere seeks to terminate this Agreement and your occupancy, Edgemere shall give you sixty (60) days' prior written notice of termination which shall reasonably describe the conduct alleged to warrant the termination of this Agreement and shall set the time, place and date for a meeting between you and Edgemere's representative(s), which shall not be earlier than thirty (30) days nor later than forty-five (45) days after the notice of termination. At this meeting you may avoid termination upon your showing to Edgemere's reasonable satisfaction that you have cured the conduct alleged to warrant the termination.

- 7.3 Effect of Double Occupancy.** If your Residence is occupied by two (2) Residents and one (1) Resident dies, this Agreement will continue in full legal force and effect as to the surviving Resident, except the Monthly Service Fee will be adjusted to reflect the then applicable single occupancy rate payable for the type of Residence occupied. No refund of the Resident Deposit will occur until the surviving Resident leaves and all conditions of Section 7.4 are met.
- 7.4 Refund of Resident Deposit.** After termination of this Agreement in accordance with Section 7.2 or in the event of your death, or in the case of double occupancy, both occupants' deaths, we will refund ninety percent (90%) of the Resident Deposit (without interest) that you paid for your Residence at Edgemere. Except as provided in the next paragraph, the refund will be paid on the later of: (i) ten (10) days after a new resident deposit has been received from a new resident and the new resident has taken occupancy of your former Residence, or (ii) termination of this Agreement.
- 7.5 Use of Resident Deposit.** The purpose of the Resident Deposit is to generate investment income to contribute to the operating income of Edgemere and to help fund operating and capital costs. As such, interest income generated from the investment of the Resident Deposit will be paid to Edgemere. In addition, at the sole discretion of NSHC, Resident Deposits may also be used to pay for project development costs, start-up deficits, debt service, retirement of debt, costs of future capital expenditures, resident refunds and other purposes deemed appropriate by NSHC. No reserve funding will be established pertaining to the refund of the Resident Deposit. In order to obtain permanent financing and to secure the lender or other party or parties who provide financing, NSHC pledged the gross receipts and revenues of Edgemere including Resident Deposits to the extent allowable by Texas law.
- 7.6 Right of Off-Set; Other Rights.** We reserve the right to off-set against the refund of the Resident Deposit any fees or amounts payable to us under this Agreement including any charges deferred or unpaid. Termination of this Agreement for any reason will not affect or impair the exercise of any right or remedy granted to us or you under this Agreement for any claim or cause of action occurring prior to the date of such termination.
- 7.7 Relocation.** You may elect to move to another Residence, subject to availability. An administrative fee of \$500 will be applied to your account in the event of a relocation to a different residence. In such event, this Agreement will be amended to reflect the change in Residence status.

- a. **Relocation to a less expensive Residence.** You will receive a refund of the refundable portion of the Resident Deposit in excess of the refundable portion of the Resident Deposit then in effect for the new Residence in accordance with Section 7.4. No additional ten percent (10%) non refundable portion will be required. You will pay the then current Monthly Service Fee for the new Residence. All moving costs will be at your expense.
- b. **Relocation to a more expensive Residence.** You will be required to pay the difference between the initial Resident Deposit and the Resident Deposit then in effect for the new Residence selected. A portion of the additional Resident Deposit will be nonrefundable. You will pay the then current Monthly Service Fee for the new Residence. All moving costs will be at your expense.

8. **MISCELLANEOUS**

- 8.1 **Resident's Interest.** You do not have any proprietary interest in Edgemere, its assets or properties by virtue of this Agreement. While Edgemere is interested in Resident's input and comments, this Agreement does not give you the right to participate in management or policy making decisions of Edgemere or related properties.
- 8.2 **Responsibility for Protection of Resident's Property.** We shall not be responsible for damage or loss to any personal property belonging to you caused by fire, flooding or other casualty, or by leaking of water, bursting of pipes, theft or any other cause. You shall be solely responsible, at your own expense, for insuring against property damage or loss and personal liability to others. In the event of your death or transfer from Edgemere, we will exercise ordinary care in temporarily safekeeping your personal property. If such property is not removed from Edgemere premises within sixty (60) days after termination of this Agreement, we reserve the right to have such property placed in a commercial bonded warehouse at the expense and risk of you or your estate.
- 8.3 **Injury or Accident While Away from Edgemere.** If the Resident is injured in an accident or becomes ill while away from Edgemere, the Resident shall make every reasonable effort to notify Edgemere as soon as possible, and the Resident shall arrange to return to Edgemere as soon as reasonably possible if continued medical care is required. Edgemere shall not be responsible for or assume the cost of medical care for illness or injury incurred by the Resident while away from Edgemere. At such time as the Resident returns to Edgemere, Edgemere shall assume the responsibility for Assisted Living or Health Center services thereafter rendered as provided in this Agreement.
- 8.4 **Injury Caused by Third Party.** In the event of an accident or injury to you caused by a third party, for which such third party may be liable for the cost of any medical, surgical, nursing or additional care for you resulting therefrom, you or your designated representative shall notify Edgemere promptly and you or your designated representative shall pursue diligently any claim for damages which may be due from such third party for the injury. Edgemere is not required to bear the cost of care to you for which a third party is liable. You agree to indemnify NSHC for any expenses incurred by Edgemere in providing care to you for which a third party is liable.

NSHC may limit its actions as provided above to claims for recovery of the costs and expenses incurred by it, and in such event, NSHC shall not be obliged to assert any claim on behalf of you arising out of such accident or injury beyond the costs and expenses incurred by Edgemere.

8.5 INDEMNIFICATION FOR NEGLIGENCE. YOU HEREBY AGREE TO INDEMNIFY, PROTECT AND HOLD US HARMLESS FROM ANY LOSS, DAMAGE, INJURY OR EXPENSE INCURRED BY EDMERERE AS A RESULT OF YOUR NEGLIGENCE OR WILLFUL ACTS OR THE ACTS OF YOUR INVITEES OR GUESTS.

8.6 Right of Entry. You hereby authorize our employees and agents to enter your Residence to provide services, repairs, maintenance, alterations, pest control and inspection, and to respond to perceived medical or other emergency. Non-emergency or non-medical services will be scheduled in advance with Resident.

8.7 Guests. Occupancy of the Residence and use of Edgemere common areas and grounds is limited to you and your guests. Guests may not occupy your Residence for more than fourteen (14) days without the prior written approval of Edgemere. You will be responsible for the conduct of your guests and for payment of any charges incurred by your guests.

8.8 Absence from Edgemere. You agree to notify Edgemere in advance of any contemplated absence that is anticipated to exceed twenty-four (24) hours.

8.9 Damage to Residence. Resident is responsible for excessive wear or damage to the Residence caused by Resident action or neglect. The cost of repair due to damage or neglect is the responsibility of the Resident and may be withheld from any refund due.

If your Residence is damaged by fire, flood, storm or other casualty or cause and we elect not to terminate this Agreement, we will, at our expense, proceed diligently to repair and restore your Residence. If your Residence is uninhabitable during the repair, we will relocate you to a comparable type Residence at Edgemere, if available, or, if not, we will try to relocate you temporarily to any other available Residence at Edgemere and the Monthly Service Fee will be adjusted for the type of Residence you temporarily occupy, but in no event shall be more than your Residence.

8.10 Entire Agreement. This Agreement constitutes the entire Agreement between you and NSHC with regard to your residence and care. We will not be liable for, or bound by, any statements, representations or promises made to you by any person representing or purporting to represent Edgemere unless such statements, representations or promises are expressly set forth and endorsed by both parties in writing, and attached to this Agreement.

8.11 Binding Effect. This Agreement is binding upon our successors and assigns and your heirs and personal representatives. The provisions of this Agreement are not assignable or transferable in whole or in part by you, and you will have no right to sublet the Residence.

8.12 Severability. Each provision of this Agreement will be deemed separate from each other provision and the invalidity or unenforceability of any provision will not affect the validity or enforceability of the balance of the Agreement.

- 8.13 Subordination.** Your rights under this Agreement will be subordinate to any mortgage, security interest, pledge, or other lien that now encumbers all or any part of Edgemere's assets and shall be further subordinate to any mortgage, security interest, pledge, or other lien hereafter placed on all or any part of Edgemere's assets, and you agree to execute, acknowledge and deliver such subordination agreements as any lender or future lender shall reasonably require in order to establish the priority of any such lien.
- 8.14 Nondiscrimination.** Edgemere will be operated on a non-discriminatory basis, and will provide the facilities and services described in this Agreement to individuals regardless of race, color, sex, marital status, religion, creed, handicap or national origin.
- 8.15 Notices.** Any notice to Edgemere by you will be given in writing and mailed or delivered to Edgemere at the administrative office or at such other address as we may designate in writing. Any notice to you by us will be given in writing and mailed or delivered to your Residence or at such other address as you may designate to Edgemere in writing.
- 8.16 Potential Tax Benefit.** You may be eligible for a one-time medical expense tax deduction for a portion of the Resident Deposit (in the first year of occupancy) and annually for a portion of the Monthly Service Fee paid to Edgemere in that tax year. Edgemere will provide a statement prepared by its auditors each year for your use in tax preparation. Edgemere makes no representations regarding the availability of any tax deduction relating to your residency and care at Edgemere. You are advised to seek tax advice on this issue from your tax advisor.
- 8.17 Choice of Law.** This Agreement will be interpreted according to the laws of the State of Texas without regard to conflict of law principles.
- 8.18 Change of Condition.** You agree to notify us of any material change in any of your physical, financial or mental conditions prior to residency.
- 8.19 Authorized Agent Signature.** This Agreement has been executed on behalf of Edgemere by its duly authorized agent and no officer, director, agent or employee of Edgemere shall have any personal liability hereunder to you under any circumstances.
- 8.20 No Third Party Rights.** No other persons or entities other than Edgemere and the Resident have any rights or obligations under this Agreement.
- 8.21 Failure to Act.** Failure or delay of any party to exercise any right, power, or privilege under this Agreement will not operate as a waiver of such right, power, or privilege.
- 8.22 Right of Subrogation.** If you are injured by a third party and such injury requires Edgemere to provide health care services under this Agreement, Edgemere shall be subrogated, to the extent allowed by Texas law, to your rights against such third party to the extent necessary to reimburse Edgemere for the costs incurred in providing services under this Agreement. To the extent allowed under Texas law, this right of subrogation authorizes Edgemere to institute legal action in your name; provided, however, that such action shall not cause or result in a compromise, waiver or release of any causes of action that you may have against such third party for such injuries.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, NORTHWEST SENIOR HOUSING CORPORATION
and the Resident(s) have signed this Agreement on this 13 day of August, 20 19.

RESIDENT(S):

Signature:

Print Name:

Signature:

Print Name:

NORTHWEST SENIOR HOUSING CORPORATION,
a Texas nonprofit corporation

By:

Its:

Joel Hernandez
Edgemere Marketing Representative

Exhibit B

E D G E M E R E

Addendum to the Lifecare Agreement between

**Betty Sherrill
and Northwest Senior Housing Corporation**

I (we) direct the refundable portion of the resident deposit to be refunded to:

The Estate of _____ ()
or

James H. Sherrill ✓
4321 Westway Ave.
Dallas, TX 75205

Contact person and mailing address for refund:

SAA

**IN WITNESS WHEREOF, THE NORTHWEST SENIOR HOUSING CORPORATION and
the Resident have signed this Agreement on this 13 day of August, 20 19.**

RESIDENT(S):

Signature: Betty W. Sherrill, by James H. Sherrill, her attorney in fact

Print Name: Betty W. Sherrill

Signature: _____

Print Name: _____

**Northwest Senior Housing Corporation,
a Texas Not-For-Profit Corporation**

Edgemere Representative

Executive Director
Title

Addendum to the Lifecare Agreement between

***Charles E. Knudsen, Jr. and Claudia M. Knudsen
and Northwest Senior Housing Corporation***

We direct the refundable portion of the resident deposit to be refunded in accordance with the following:

If Charles E. Knudsen, Jr. is the second to die, we direct the refundable portion of the resident deposit to be refunded to the Trustee of The Charles E. Knudsen, Jr. Revocable Trust, created on January 12, 2004, completely amended and restated on February 20, 2015, and as hereafter amended, to be distributed in accordance with the terms thereof.

If Claudia M. Knudsen is the second to die, we direct the refundable portion of the resident deposit to be refunded to the Trustee of The Claudia M. Knudsen Revocable Trust, created on January 12, 2004, completely amended and restated on February 20, 2015, and as hereafter amended, to be distributed in accordance with the terms thereof.

Contact person and mailing address for refund:

Cynthia Ann Eichenholz, Successor Trustee of both Trusts
3933 Centenary Avenue
Dallas, Texas 75225
(214) 727-6597

John Christopher Knudsen, Successor Trustee of both Trusts
11 Steeple Court
Germantown, Maryland 20874
(301) 526-5985

**IN WITNESS WHEREOF, THE NORTHWEST SENIOR HOUSING CORPORATION and
the Resident have signed this Agreement on this 14 day of March, 2015.**

RESIDENTS:

Signature: Charles E. Knudsen, Jr.

Charles E. Knudsen, Jr.

Signature: Claudia M. Knudsen

Claudia M. Knudsen

Northwest Senior Housing Corporation,
a Texas Not-For-Profit Corporation

MANAGING DIRECTOR
Edgemere Representative

Title

E D G E M E R E

Addendum to the Lifecare Agreement between

Richard & Cynthia Hartman
and Northwest Senior Housing Corporation

I (we) direct the refundable portion of the resident deposit to be refunded to:

The Estate of Richard L. Hartman ()

or
The Estate of Cynthia P. Hartman ()

last survivor

Contact person and mailing address for refund:

Keith R. Hartman

917 N. Larrabee St.

West Hollywood CA 90069

ph # 310-927-6006

IN WITNESS WHEREOF, THE NORTHWEST SENIOR HOUSING CORPORATION and

the Resident have signed this Agreement on this 22 day of September, 2021.

RESIDENT(S):

Signature: Richard L. Hartman

Print Name: Richard L. Hartman

Signature: Cynthia P. Hartman

Print Name: Cynthia P. Hartman

Northwest Senior Housing Corporation,
a Texas Not-For-Profit Corporation

Christine Joyce
Edgemere Representative

Associate Executive Director
Title