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

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In re:           : Chapter 11
:               : Case No. 09-37010
:               :
ERICKSON RETIREMENT :
COMMUNITIES, LLC, et al., : (Jointly Administered)
:               :
Debtors.         : Objections Due: April 9, 2010 at 4:00 p.m.
:               : Hearing: April 15, 2010 at 2:30 p.m.
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**OBJECTION OF VERIZON BUSINESS GLOBAL LLC  
 TO PROPOSED CURE AMOUNT IN NOTICE OF (I) POSSIBLE  
 ASSUMPTION OF EXECUTORY CONTRACTS AND UNEXPIRED LEASES  
(II) FIXING OF CURE AMOUNTS AND (III) DEADLINE TO OBJECT THERETO**

COMES NOW, Verizon Business Global LLC and certain of its affiliates and subsidiaries (collectively, “Verizon Business”), by and through counsel, and respectfully submits its Objection of Verizon Business Global LLC to Proposed Cure Amount in Notice of (I) Possible Assumption of Executory Contracts and Unexpired Leases (II) Fixing of Cure Amounts

and (III) Deadline to Object Thereto (“Objection”). In support of the Objection, Verizon Business states as follows:

### **INTRODUCTION**

Verizon Business delivers advanced IP, data, voice and wireless solutions to Erickson Retirement Communities, LLC, *et al.* (“Debtors”) pursuant to telecommunications agreements. Although Verizon Business does not oppose assumption, it objects to such assumption to the extent that the proposed cure fails to satisfy all existing defaults in accordance with 11 U.S.C. § 365(b).

### **FACTS**

1. On October 19, 2009, each of the Debtors filed a voluntary petition for relief with this Court under Chapter 11 of the Bankruptcy Code. The Debtors’ cases are jointly administered.

2. The Debtors are operating their businesses and maintaining their assets as debtors in possession pursuant to 11 U.S.C. §§ 1107(a) and 1108.

3. The Debtors and Verizon Business, specifically, Verizon Business Network Services, Inc. on behalf of MCI Communications Services, Inc. d/b/a Verizon Business Services, were parties to a telecommunications agreement dated June 17, 2009 (together with all amendments, supplements, purchase orders, riders, change orders and other documents related thereto, the “2009 Service Agreement”), pursuant to which Verizon Business provides certain telecommunications services to one or more of the Debtors.

4. The Debtors and Verizon Business, specifically, Verizon Business Network Services, Inc. on behalf of Verizon Maryland, Inc., are also parties to a telecommunications agreement, dated February 28, 2008 (together with all amendments, supplements, purchase

orders, riders, change orders and other documents related thereto, the "2008 Service Agreement" and collectively with the 2009 Service Agreement, the "Service Agreements"), pursuant to which Verizon Business provides certain telecommunications services to one or more of the Debtors.

5. On March 25, 2010, the Debtors filed a Notice of (I) Possible Assumption of Executory Contracts and Unexpired Leases (II) Fixing of Cure Amounts and (III) Deadline to Object Thereto (the "Assumption Notice"). The Assumption Notice listed "Network connectivity contracts" with Verizon Business among those executory contracts on the Contract Assumption List attached to the Assumption Notice.

6. The cure amount for the Service Agreements proposed by the Debtors for Verizon Business is \$0.00. This amount is insufficient to cure the debt owed to Verizon Business and assume the Service Agreements.

7. According to Verizon Business's calculations, the Debtors owe \$240,608.98 to Verizon Business to cure the pre-petition monetary default on the Service Agreements. *See* Verizon Business's Proof of Claim, filed February 1, 2010, and numbered in the claims register by BMC Group, the Debtors' notice, claims and solicitation agent as Claim No. 783.

8. As the case proceeds and Verizon Business continues to provide post-petition services to the Debtors' estate, additional amounts become due under the Service Agreements. Any additional post-petition amounts due must also be paid to Verizon Business in order to cure the existing defaults.

9. Section 365(b)(1) of Title 11, United States Code states, in pertinent part:

(b)(1) If there has been a default in an executory contract or unexpired lease of the debtor, the trustee may not assume such contract or lease unless, at the time of assumption of such contract or lease, the trustee—

(A) cures, or provides adequate assurance that the trustee will promptly cure such default . . . ;

(B) compensates, or provides adequate assurance that the trustee will promptly compensate, a party other than the debtor to such contract or lease, for any actual pecuniary loss to such party resulting from such default; and

(C) provides adequate assurance of future performance under such contract or lease.

11 U.S.C. § 365(b)(1).

10. A cure under 11 U.S.C. § 365 means that all unpaid amounts due under the agreement have been paid. *In re Network Access Solutions, Corp.*, 330 B.R. 67, 76 (Bankr. D. Del. 2005).

11. Accordingly, unless and until the Debtors cure the pre-petition balances owed to Verizon Business in full and pay any post-petition amounts that may be due, the Debtors cannot assume the Service Agreements.

12. Verizon Business has been and looks forward to continuing negotiations with the Debtors and purchaser of substantially all of the Debtors' assets, Redwood Capital Investments, LLC and its affiliates and subsidiaries, in order to reach an agreement as to the amounts necessary to fully cure the Service Agreements.

WHEREFORE, Verizon Business respectfully requests that this Court enter an Order:

- a. conditioning the assumption of the Service Agreements upon the payment of the cure amounts demanded herein; and
- b. granting such other and further relief as this Court may deem equitable and proper.

Dated: April 5, 2010

Respectfully submitted:

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**CERTIFICATE OF SERVICE**

I hereby certify that on April 5, 2010, the foregoing Objection of Verizon Business Global LLC to Proposed Cure Amount in Notice of (I) Possible Assumption of Executory Contracts and Unexpired Leases (II) Fixing of Cure Amounts and (III) Deadline to Object Thereto was served by electronic mail or first-class mail, postage prepaid upon the following:

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