

the Debtors who, as of the Petition Date, no longer was a director, officer, or employee of a Debtor shall terminate and be discharged pursuant to section 502(e) of the Bankruptcy Code or otherwise, as of the Effective Date: provided, however, that the Reorganized Debtors reserve the right to honor or reaffirm such indemnification obligations (other than those already rejected or terminated by a prior or subsequent Final Order of the Bankruptcy Court), whether or not executory, in which case such honoring or reaffirmation shall be in complete satisfaction, discharge, and release of any Claim on account of such indemnification obligation. Redwood and the Acquisition Companies and any other affiliate of Redwood are not obligated to indemnify directors, officers, agents, or employees of the Debtors for any acts or omission occurring prior to the Closing Date. Further, the Liquidating Creditor Trust shall not be liable, directly or indirectly, for such indemnification obligations and such obligations shall be without prejudice to the Liquidating Creditor Trust.

10.6 *Survival of Other Employment Arrangements.* As set forth in the Definitive Agreement, Redwood will have the opportunity during the due diligence investigation to identify and meet key employees of the Business and assess the compensation and benefits available to such employees and the likelihood such employees will accept employment with the applicable Acquisition Company and/or Transferred Landowner. It is anticipated that, at or before the Closing, the Acquisition Companies and/or Transferred Landowners will offer employment to certain employees and enter into employment agreements with these employees. Such employment agreements will contain customary provisions such as noncompetition, non-solicitation and confidentiality provisions. Redwood will be liable for only those employment agreements expressly acquired pursuant to the Definitive Agreement.

SECTION 11. CONDITIONS PRECEDENT TO EFFECTIVE DATE

11.1 *Conditions Precedent.* Pursuant to ~~Article VIII of the Definitive Agreement,~~ ~~the~~The occurrence of the Effective Date of the Plan is subject to the following conditions precedent:

(a) the Plan Confirmation Order, in form and substance satisfactory to the Redwood shall have been entered and shall be in full force and effect and there shall not be a stay or injunction in effect with respect thereto;

(b) all actions, documents, and agreements necessary to implement the Plan, including, without limitation, all actions, documents, and agreements necessary to implement the Restructuring Transactions ~~contemplated under the Definitive Agreement,~~ shall have been effected or executed, and the Closing shall have occurred;

(c) the Debtors shall have received all authorizations, consents, regulatory approvals, rulings, letters, no-action letters, opinions, or documents necessary to implement the Plan and the terms of the Definitive Agreement and that are required by law, regulation, or order;

(d) (i) execution of New Management Agreements satisfactory to ManagementCo (to be effective as of Closing) to replace all existing Management Agreements and (ii) have a minimum term of ten (10) years, subject to a three (3) year and seven (7) year right to review the management fee terms of the agreements to determine whether the fees reflect current market pricing and (iii) termination of all Management Agreements existing on October 19, 2009;

(e) approval of the terms of the Definitive Agreement by relevant third parties as described in the Definitive Agreement, if required;

(f) the absence of any material adverse change in the Company's business, financial condition, prospects, assets or operations since October 19, 2009; provided that no material adverse change shall be deemed to arise from the bankruptcy filing;

(g) absence of pending or threatened litigation regarding the Definitive Agreement or the transactions to be contemplated thereby;

(h) delivery of customary legal opinions, closing certificates and other documentation required for the Closing;

(i) the terms of any bankruptcy procedures, orders and/or this Plan being acceptable to Redwood in its sole and absolute discretion;

(j) absence of any pending or threatened government action or any law that has the effect of or actually does prevent consummation of the Restructuring Transactions ~~contemplated under the Definitive Agreement~~;

(k) ERC, Erickson Group, and other affiliates of ERC as Redwood may identify prior to Closing shall have each changed their respective entity name to a different name satisfactory to Redwood;

(l) such affiliates of ERC as Redwood may identify prior to Closing have been dissolved;

(m) the waiting period under the Hart-Scott-Rodino Antitrust Improvements Act of 1976 applicable to the consummation of the transactions contemplated under the Definitive Agreement shall have expired or been terminated;

(n) Redwood shall have entered into a lease satisfactory to Redwood with respect to the UMBC Building;

(o) all necessary third parties shall have agreed to Redwood's \$50,000,000 Working Capital Facility, the purpose of which is to fund post-Closing working capital and project development needs of the Acquisition Companies;

(p) the Debtors' release of NSC, the NSC-NFPs, their affiliates and their respective directors, officers, agents, counsel and advisors from any liability in form and substance satisfactory to such entities and individuals;

(q) as contemplated under this Plan;

(r) the release of the Lenders' Agents as contemplated under this Plan;

(s) delivery of the Cash Transaction Proceeds;

(t) funding of the TIP with (i) a contribution of \$2 million from the NSC (NSC Payment Rebate); (ii) IEDs collected at Warminster through and including November 27, 2009 in the approximate amount of \$1.516 million; (iii) Cash proceeds of PNC certificates of deposit with numbers ending -6514 (in the approximate amount of \$115,007.79) and -9562 (in the approximate amount of \$550,000), *conditioned upon* the return, undrawn, of both original PNC letters of credit numbered 18106643 and 17106642, which were issued to the Township of Warminster; and (iv) the delivery of an effective assignment of ERC's interest in the first \$7 million received on account of the

Cedar Crest Receivable. This condition precedent may be waived, modified, or extended by agreement of the Debtors and the Agents; and

(u) satisfaction of any other conditions to Closing set forth in the Definitive Agreement.

11.2 *Effect of Failure of Conditions.* If the Definitive Agreement is terminated in accordance with its terms after the Plan Confirmation Date or, if the Definitive Agreement is still in effect, the conditions precedent specified in Section 11.1 have not been satisfied or waived by one hundred twenty (120) days after the Plan Confirmation Date, then (i) the Plan Confirmation Order shall be vacated, (ii) no distributions under the Plan shall be made, (iii) the Debtors and all Holders of Claims and Interests shall be restored to the *status quo ante* as of the day immediately preceding the Plan Confirmation Date as though the Plan Confirmation Date never occurred, and (iv) all of the Debtors' obligations with respect to the Claims and the Interests shall remain unchanged and nothing contained herein shall be deemed to constitute a waiver or release of any Claims by or against the Debtors or any other entity or to prejudice in any manner the rights of the Debtors or any other entity in any further proceedings involving the Debtors or otherwise.

SECTION 12. EFFECT OF CONFIRMATION

12.1 *Vesting of Assets.* Except as otherwise provided in this Plan and Definitive Agreement, as of the Effective Date, pursuant to section 1141(b) and (c) of the Bankruptcy Code, all property of the Debtors' Estates, and any property acquired by a Debtor or Reorganized Debtor under the Plan, shall vest in the Reorganized Debtors, the Liquidating Creditor Trust, or the Acquisition Companies, as applicable, free and clear of all claims, liens, encumbrances, charges, and other interests, except as expressly provided herein, in the Liquidating Creditor Trust documents and the Definitive Agreement. On or after the Effective Date, except as otherwise provided in, and subject to, the Plan and the Definitive Agreement, each Reorganized Debtor, Liquidating Creditor Trust, and/or Acquisition Company may operate its business and may use, acquire, and dispose of property and compromise or settle any Claims or causes of action free of any restrictions of the Bankruptcy Code or the Bankruptcy Rules, without supervision or approval by the Bankruptcy Court, and in all respects as if there were no pending cases under any chapter or provision of the Bankruptcy Code, except as provided herein. Without limiting the foregoing, each Reorganized Debtor may pay the charges it incurs on or after the Effective Date for Professionals' fees and expenses, disbursements, expenses or related support services (including fees relating to the preparation of Professional fee applications) without application to, or approval of, the Bankruptcy Court.

12.2 Injunction.

~~12.2~~ *Injunction.* ~~12.2.1~~ Except as otherwise provided in this Plan, all persons or entities who have held, now hold, or may hold Claims against any of the Debtors or Interests in the Debtors and all other parties in interest, along with their respective present and former employees, agents, officers, directors, principals, and affiliates, are permanently enjoined from and after the Effective Date, from (i) commencing or continuing in any manner any action or other proceeding of any kind with respect to such Claim or Interest against (a) the Debtors, (b) the Reorganized Debtors, (c) Redwood, ERC Funding Co. LLC, the Creditors Committee and each of its members (each solely in its capacity as a member of such Creditors Committee and subject to Section 6.4 of this Plan), the Liquidating Creditor Trust, the Trustee, the Corporate Revolver Lenders, the Construction Lenders, HCP, Inc., HCP ER2, LP, HCP ER3, LP, HCP ER6, LP, Agents, or the Lenders including any participants, the lenders under the UMBC Building Construction Loan, the ~~holders of Participating Mezzanine Claims Bond Trustees~~, MSRESS III Dallas Campus, L.P., MSRESS III Denver Campus, LLC, MSRESS III Kansas Campus, L.P., Strategic Concord Landholder, LP, Strategic Ashby Ponds

Lender, LLC, the NSC, the NSC-NFPs, the Acquisition Companies, PNC Bank, National Association, as collateral and administrative agent with respect to the syndicated Ashburn Construction Loan, syndicated Concord Construction Loan, syndicated Kansas Construction Loan and syndicated Houston Construction Loan, and as the lender with respect to the participated Novi Construction Loan, the Holders of the Interest Rate Swap Claims, the holder of the loan secured by the Corporate Headquarters and (d) their Advisors, affiliates, employees, advisors, officers and directors, (as to affiliates of the Debtors,¹⁰ subject to Section 6.4 of this Plan), employees (as to employees of the Debtors, subject to Section 6.4 of this Plan), advisors, officers (as to officers of the Debtors, subject to Section 6.4 of this Plan) and directors (as to directors of the Debtors, subject to Section 6.4 of this Plan), agents, and attorneys or any thereof and, in the case of Agents or Lenders, both in their capacities as Agents or Lenders and in any other capacities ((c) and (d) above, the “Third Party Releasees”); (ii) for the avoidance of doubt and in accordance with the definition of the term “NSC-NFPs”, the term “Third Party Releasees” does not include Charlestown, Inc. or Henry Ford Village, Inc.; also for the avoidance of doubt, the term “Third-Party Releasees” does not include the Erickson Parties and Zeigler, a record holder of the STAMPS; (ii) with respect to such Claim or Interest, the enforcement, attachment, collection, or recovery by any manner or means of any judgment, award, decree, or order against the Debtors, the Reorganized Debtors, or the Third Party Releasees; (iii) with respect to such Claim or Interest, creating, perfecting, or enforcing any encumbrance of any kind against the Debtors, the Reorganized Debtors, or Third Party Releasees or against the property or interests in property of the Debtors, the Reorganized Debtors, or Third Party Releasees; or (iv) with respect to such Claim or Interest, asserting any right of setoff, subrogation, or recoupment of any kind against any obligation due from the Debtors, the Reorganized Debtors, or Third Party Releasees, with respect to such Claim or Interest. Such injunction shall extend to any successors of the Debtors, Reorganized Debtors, Third Party Releasees, and their respective properties and interest in properties. Notwithstanding the above, neither the foregoing terms nor any other provision of the Disclosure Statement, the Plan or any order on the Disclosure Statement and/or Plan shall release or in any manner limit (i) the obligations of any NSC-NFP or other party not a Debtor in these cases under any Bond Documents; (ii) any rights or claims by any Bond Trustee or beneficial bondholder against any NSC-NFP or other party not a Debtor based on obligations under any Bond Documents; or (iii) any rights or claims by any NSC-NFP against any party not a Debtor in these cases based on obligations under any Bond Documents. Notwithstanding the foregoing, the Lenders and Agents shall not be enjoined from commencing any actions, enforcing or pursuing in any manner whatsoever the following claims against the NSC and NSC-NFPs the following: (A) claims for indemnity, contribution, cross claims, counter-claims and third party claims in the event that any of the Agents and/or the Lenders are sued by any third party; (B) claims under the parties’ subordination agreements to the extent that the NSC and NSC-NFPs receive any distributions from the bankruptcy estates, Creditors’ Trust, the Debtors, the Reorganized Debtors or any other source related to the bankruptcy cases (except for the assumed Community Loans); and (C) that litigation commenced in Circuit Court for Baltimore County by PNC Bank, National Association against the NSC/NFPs, Case No. _____ (the “NSC/NFP Carveout Claims”). The Debtors reserve the right to amend or modify the language in this Section. Any such amendment or modification will be included in a Plan Supplement filed with the Bankruptcy Court no later than five(5) Business Days prior to the Plan Confirmation Hearing.

12.2.2 The provisions of Section 12.2.1 of this Plan shall apply to Claims (collectively, the “NSC-NFP Subject Claims”) (i) of the Agents and/or the Lenders and/or their respective present and former employees, agents, officers, directors, principals, and affiliates; (ii) against the NSC and/or any one or more of the NSC-NFPs and/or their affiliates, employees, advisors, officers and directors, agents, and attorneys or any thereof; and (iii) arising from or related to (AA) a Management Agreement between ERC and an NSC-NFP that operates a Campus that is owned or leased by a Landowner Debtor (each such NSC-NFP, a “Debtor-Related NSC-

¹⁰ The following are not affiliates of the Debtors: the NSC; the NSC-NFPs; or any of the Erickson Parties.

NFP” and, collectively, the “Debtor-Related NSC-NFPs”), (BB) a master lease between a Debtor-Related NSC-NFP and a Landowner Debtor, (CC) the Community Loans (including the related note(s)), (DD) a working capital loan from a Landowner Debtor or ERC to a Debtor-Related NSC-NFP (including the related note(s)), (EE) any mortgage, security agreement, pledge agreement, assignment (absolute or collateral) or estoppel certificate given, granted, provided or pledged to an Agent or a Lender by a Debtor-Related NSC-NFP directly in connection with the Construction Loan to the corresponding Landowner Debtor, the Community Loan from the applicable Debtor-Related NSC-NFP to the corresponding Landowner Debtor or the working capital loan from the applicable Landowner Debtor to the corresponding Debtor-Related NSC-NFP, (FF) payments made by the Debtors to the NSC and/or the NSC-NFPs prior to the Petition Date (including payments made by offset), the NSC Interim Payments or the NSC Payment (other than with respect to the NSC and the NSC-NFPs’ obligations with respect to the NSC Payment Rebate), (GG) except as set forth in the succeeding sentence, any subordination agreement or standstill agreement with respect to a master lease and/or Community Loan (and/or any related mortgage, lien, security interest or pledge) between an Agent and a Debtor-Related NSC-NFP, (HH) any other document entered into directly in connection with the Construction Loans provided to the Landowner Debtors, (II) subject to the NSC and the NSC-NFPs’ obligations with respect to the NSC Payment Rebate, charitable contributions made by any person or entity to the NSC or any NSC-NFP or any affiliated charitable fund or any other distribution to the NSC-NFPs as provided for under the terms of this Plan, or (JJ) any claim in tort, in contract or otherwise in connection with or related to the relationship established on account of the entry into the documents described in sub-clauses (AA) through (HH) of this clause (iii). The NSC-NFP Subject Claims shall also include Claims (aa) of the Agents and/or the Lenders and/or their respective present and former employees, agents, officers, directors, principals, and affiliates; (bb) against the NSC and/or any one or more of the NSC-NFPs and/or their affiliates, employees, advisors, officers and directors, agents, and attorneys or any thereof; and (cc) arising (xx) in connection with the Corporate Revolver (including any agreement (including any Management Agreement), instrument or other document related thereto or entered into in connection therewith and including any claim in tort, in contract or otherwise in connection with or related to the relationship established on account of the entry into any such agreement, instrument or other document), (yy) in connection with the UMBC Construction Loan (including any agreement, instrument or other document related thereto or entered into in connection therewith and including any claim in tort, in contract or otherwise in connection with or related to the relationship established on account of the entry into any such agreement, instrument or other document), or (zz) under the Bankruptcy Code or otherwise applicable law with respect to preferential transfer, fraudulent conveyance, fraudulent transfer or any other avoidance action or remedy available to the persons or entities, acting in any capacity, listed in clause (aa) of this sentence (nothing in this clause (zz) is intended to modify the definition of “Transferred Claims” or the definition of “Estate Assigned Claims” set forth in this Plan). Notwithstanding anything in this Section 12.2.2, the provisions of Section 12.2.1 of this Plan shall not apply to any action against the NSC or any NSC-NFP and/or their affiliates, employees, advisors, officers and directors, agents, and attorneys or any thereof to enforce or pursue in any manner whatsoever the following: (XX) any claims (including any Claims and/or NSC-NFP Subject Claims) for indemnity or contribution or any cross claims, counter claims or third party claims (to the extent that such cross claims, counter claims or third party claims arise from or in connection with or are related to, whether directly or indirectly, the action, claim or proceeding pursued or prosecuted against any Agent or Lender) in the event that any third party (including, without limitation, any governmental entity or regulatory body) pursues or prosecutes any action, claim or proceeding against any Agent or Lender; or (YY) any claims (including any Claims and/or NSC-NFP Subject Claims) under existing subordination agreements to the extent that the NSC and/or any NSC-NFP receives, after the Effective Date of the Plan, any distributions (other than as provided under this Plan) from the Estates, Creditors’ Trust or the Debtors (the claims described in clauses (XX) and/or (YY), collectively, the “NSC-NFP Carveout Claims”). The NSC

and the NSC-NFPs retain all defenses to the NSC-NFP Carveout Claims. For the avoidance of doubt, nothing under this Plan entitles the NSC or any NSC-NFP to a distribution from the Liquidating Creditor Trust.

12.2.3 The provisions of Section 12.2.1 of this Plan shall apply to Claims (collectively, the "Agent/Lender Subject Claims" and, together with the NSC-NFP Subject Claims, the "Subject Claims") (i) of the NSC and/or one or more of the NSC-NFPs and/or their respective present and former employees, agents, officers, directors, principals, and affiliates; (ii) against the Agents and/or the Lenders and/or their affiliates, employees, advisors, officers and directors, agents, and attorneys or any thereof; and (iii) arising from or related to (AA) a Management Agreement between ERC and a Debtor-Related NSC-NFP that operates a Campus that is owned or leased by a Landowner Debtor, (BB) a master lease between a Debtor-Related NSC-NFP and a Landowner Debtor, (CC) the Community Loans (including the related note(s)), (DD) a working capital loan from a Landowner Debtor to a Debtor-Related NSC-NFP (including the related note(s)), (EE) any mortgage, security agreement, pledge agreement, assignment (absolute or collateral) or estoppel certificate given, granted, provided or pledged to an Agent or a Lender by a Debtor-Related NSC-NFP directly in connection with the Construction Loan to the corresponding Landowner Debtor, the Community Loan from the applicable Debtor-Related NSC-NFP to the corresponding Landowner Debtor or the working capital loan from the applicable Landowner Debtor to the corresponding Debtor-Related NSC-NFP, (FF) any subordination agreement or standstill agreement with respect to a master lease and/or Community Loan (and/or any related mortgage, lien, security interest or pledge) between an Agent and a Debtor-Related NSC-NFP, (GG) any other document entered into directly in connection with the Construction Loans provided to the Landowner Debtors, or (HH) any claim in tort, in contract or otherwise in connection with or related to the relationship established on account of the entry into the documents described in sub-clauses (AA) through (GG) of this clause (iii). The Agent/Lender Subject Claims shall also include Claims (aa) of the NSC and/or one or more of the NSC-NFPs and/or their respective present and former employees, agents, officers, directors, principals, and affiliates; (bb) against the Agents and/or the Lenders and/or their affiliates, employees, advisors, officers and directors, agents, and attorneys or any thereof; and (cc) arising (xx) in connection with the Corporate Revolver (including any agreement (including any Management Agreement), instrument or other document related thereto or entered into in connection therewith and including any claim in tort, in contract or otherwise in connection with or related to the relationship established on account of the entry into any such agreement, instrument or other document), (yy) in connection with the UMBC Construction Loan (including any agreement, instrument or other document related thereto or entered into in connection therewith and including any claim in tort, in contract or otherwise in connection with or related to the relationship established on account of the entry into any such agreement, instrument or other document), or (zz) under the Bankruptcy Code or otherwise applicable law with respect to preferential transfer, fraudulent conveyance, fraudulent transfer or any other avoidance action or remedy available to the persons or entities, acting in any capacity, listed in clause (aa) of this sentence (nothing in this clause (zz) is intended to modify the definition of "Transferred Claims" or the definition of "Estate Assigned Claims" set forth in this Plan).

12.2.4 The provisions of Section 12.2.1 of this Plan shall not apply to Claims (collectively, the "Exempt Claims" and, together with the NSC-NFP Carveout Claims, the "Reserved Claims") (i) of the Agents and/or the Lenders and/or their respective present and former employees, agents, officers, directors, principals, and affiliates against the NSC and/or any one or more of the NSC-NFPs and/or their affiliates, employees, advisors, officers and directors, agents, and attorneys or any thereof that are not NSC-NFP Subject Claims; (ii) of the NSC and/or any one or more of the NSC-NFPs and/or their respective present and former employees, agents, officers, directors, principals, and affiliates against an Agent or any Lender and/or their affiliates.