

UNITED STATES BANKRUPTCY COURT Northern District of Texas		PROOF OF CLAIM
Name of Debtor: Erickson Retirement Communities, LLC		Case Number: 09-37010
NOTE: This form should not be used to make a claim for an administrative expense arising after the commencement of the case. A request for payment of an administrative expense may be filed pursuant to 11 U.S.C. § 503.		
Name of Creditor (the person or other entity to whom the debtor owes money or property): Manufacturers and Traders Trust Company		☐ Check this box to indicate that this claim amends a previously filed claim.
Name and address where notices should be sent: Manufacturers and Traders Trust Company 25 South Charles Street, 10th Floor, Baltimore, MD 21201 Attn: Linda J. Weinberg, Senior Vice President Telephone number: (410) 244-4025		Court Claim Number: _____ (If known) Filed on: _____
Name and address where payment should be sent (if different from above): Telephone number: _____		☐ Check this box if you are aware that anyone else has filed a proof of claim relating to your claim. Attach copy of statement giving particulars. ☐ Check this box if you are the debtor or trustee in this case.
RECEIVED FEB 25 2010 BMC GROUP		☐ Check this box if you are entitled to priority under 11 U.S.C. § 507(a). If any portion of your claim falls in one of the following categories, check the box and state the amount. Specify the priority of the claim.
1. Amount of Claim as of Date Case Filed: \$ <u>5,154,539.98</u> If all or part of your claim is secured, complete item 4 below; however, if all of your claim is unsecured, do not complete item 4. If all or part of your claim is entitled to priority, complete item 5. ☒ Check this box if claim includes interest or other charges in addition to the principal amount of claim. Attach itemized statement of interest or charges.		5. Amount of Claim Entitled to Priority under 11 U.S.C. § 507(a). If any portion of your claim falls in one of the following categories, check the box and state the amount. ☐ Domestic support obligations under 11 U.S.C. § 507(a)(1)(A) or (a)(1)(B). ☐ Wages, salaries, or commissions (up to \$10,950*) earned within 180 days before filing of the bankruptcy petition or cessation of the debtor's business, whichever is earlier – 11 U.S.C. § 507 (a)(4). ☐ Contributions to an employee benefit plan – 11 U.S.C. § 507 (a)(5). ☐ Up to \$2,425* of deposits toward purchase, lease, or rental of property or services for personal, family, or household use – 11 U.S.C. § 507 (a)(7). ☐ Taxes or penalties owed to governmental units – 11 U.S.C. § 507 (a)(8). ☐ Other – Specify applicable paragraph of 11 U.S.C. § 507 (a)(____). Amount entitled to priority: \$ _____
2. Basis for Claim: <u>see attached</u> (See instruction #2 on reverse side.)		*Amounts are subject to adjustment on 4/1/10 and every 3 years thereafter with respect to cases commenced on or after the date of adjustment.
3. Last four digits of any number by which creditor identifies debtor: _____ 3a. Debtor may have scheduled account as: _____ (See instruction #3a on reverse side.)		
4. Secured Claim (See instruction #4 on reverse side.) Check the appropriate box if your claim is secured by a lien on property or a right of setoff and provide the requested information. Nature of property or right of setoff: ☒ Real Estate ☐ Motor Vehicle ☒ Other Describe: <u>see attached</u> Value of Property: \$ <u>TBD</u> Annual Interest Rate _____ % <u>see attached</u> Amount of arrearage and other charges as of time case filed included in secured claim, if any: \$ <u>see attached</u> Basis for perfection: <u>see attached</u> Amount of Secured Claim: \$ <u>5,154,539.98</u> Amount Unsecured: \$ _____		
6. Credits: The amount of all payments on this claim has been credited for the purpose of making this proof of claim.		
7. Documents: Attach redacted copies of any documents that support the claim, such as promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, judgments, mortgages, and security agreements. You may also attach a summary. Attach redacted copies of documents providing evidence of perfection of a security interest. You may also attach a summary. (See instruction 7 and definition of "redacted" on reverse side.) SEE ATTACHED DO NOT SEND ORIGINAL DOCUMENTS. ATTACHED DOCUMENTS MAY BE DESTROYED AFTER SCANNING. If the documents are not available, please explain:		
Date: <u>02/23/2010</u> Signature: The person filing this claim must sign it. Sign and print name and title, if any, of the creditor or other person authorized to file this claim and state address and telephone number if different from the notice address above. Attach copy of power of attorney, if any. Manufacturers and Traders Trust Company By: Mark S. Gaffin, Vice President <i>[Signature]</i> <u>410-244-3932</u>		FOR COURT USE ONLY

Penalty for presenting fraudulent claim: Fine of up to \$500,000 or imprisonment for up to 5 years, or both. 18 U.S.C. §§ 152 and 3571.



RIDER TO PROOF OF CLAIM

ASHBURN CAMPUS, LLC ("**Ashburn**"), ERICKSON RETIREMENT COMMUNITIES, LLC ("**ERC**"), ERICKSON CONSTRUCTION, LLC ("**Erickson Construction**"), and ERICKSON GROUP, LLC ("**Erickson Group**") are each indebted to Capmark Bank, Chevy Chase Bank, A Division of Capital One, N.A., Citizens Bank of Pennsylvania, Manufacturers and Traders Trust Company, Manufacturers and Traders Trust Company, Successor by Merger to Provident Bank of Maryland, PNC Bank, National Association, Successor to Mercantile-Safe Deposit and Trust Company, Sandy Spring Bank, TD Bank, National Association, Successor to Commerce Bank, N.A., The Bank of Glen Burnie, Wachovia Bank, National Association, Wells Fargo Bank, National Association, Wilmington Trust FSB, each in its capacity as a Lender, (each a "**Lender**" and collectively, "**Lenders**"), and PNC Bank, National Association, Successor to Mercantile-Safe Deposit and Trust Company, in its capacity as Collateral and Administrative Agent for the Lenders, ("**Administrative Agent**," and together with the Lenders, collectively, "**Banks**"), under and/or in connection with a revolving loan facility ("**Construction Loan**") that the Lenders extended to Ashburn.

1. The obligations of Ashburn, ERC, Erickson Construction, and Erickson Group under and in connection with the Construction Loan are evidenced by, among other things:

a. The following Amended and Restated Revolving Loan Notes each dated August 14, 2007 (each a "**Revolving Loan Note**" and collectively, "**Revolving Loan Notes**") executed and delivered by Ashburn and in the respective amounts and payable to the order of the respective Lender set forth below:

- i. Revolving Loan Note in the stated principal amount of \$20,100,000.00 payable to the order of Capmark Bank;
- ii. Revolving Loan Note in the stated principal amount of \$10,000,000.00 payable to the order of Chevy Chase Bank, A Division of Capital One, N.A.;
- iii. Revolving Loan Note in the stated principal amount of \$10,000,000.00 payable to the order of Citizens Bank of Pennsylvania;
- iv. Revolving Loan Note in the stated principal amount of \$10,000,000.00 payable to the order of Manufacturers and Traders Trust Company;
- v. Revolving Loan Note in the stated principal amount of \$10,000,000.00 payable to the order of Manufacturers and Traders Trust Company, Successor by Merger to Provident Bank of Maryland;
- vi. Revolving Loan Note in the stated principal amount of \$10,000,000.00 payable to the order of PNC Bank, National Association, Successor To Mercantile-Safe Deposit and Trust Company;
- vii. Revolving Loan Note in the stated principal amount of \$10,000,000.00 payable to the order of Sandy Spring Bank;
- viii. Revolving Loan Note in the stated principal amount of \$10,000,000.00 payable to the order of TD Bank, National Association, Successor to Commerce Bank, N.A.;

- ix. Revolving Loan Note in the stated principal amount of \$4,900,000.00 payable to the order of The Bank of Glen Burnie;
- x. Revolving Loan Note in the stated principal amount of \$10,000,000.00 payable to the order of Wachovia Bank, National Association;
- xi. Revolving Loan Note in the stated principal amount of \$10,000,000.00 payable to the order of Wells Fargo Bank, N.A.; and
- xii. Revolving Loan Note in the stated principal amount of \$10,000,000.00 payable to the order of Wilmington Trust, FSB.

b. The Construction Loan Agreement dated as of May 31, 2007, by and between Ashburn, the Administrative Agent, and the Lenders parties thereto from time to time, as amended and modified pursuant to the First Comprehensive Amendment to Loan Documents dated as of August 14, 2007, Assignment and Acceptances dated to be effective as of August 14, 2007 with respect to each of the Lenders listed above, the Second Comprehensive Amendment to Loan Documents dated as of June 20, 2008, the Waiver Agreement dated as of April 30, 2009, the Standstill Agreement dated as of June 1, 2009, the Forbearance Agreement made to be effective as of 12:00 PM (EST) on June 30, 2009, the Funding Addendum to Forbearance Agreement made to be effective as of 12:00 PM (EST) on June 30, 2009, and the Second Forbearance Agreement made to be effective as of 12:00 PM (EST) on July 10, 2009 (collectively, as so amended, modified, assumed and assigned, "**Construction Loan Agreement**").

c. The Guaranty Agreement dated as of May 31, 2007 by and between ERC and the Administrative Agent for the Lenders ("**Guaranty**").

d. The Subordination Agreement dated as of May 31, 2007 in favor of the Administrative Agent for the Lenders by Erickson Construction as creditor and by Ashburn and ERC ("**Erickson Construction Subordination**").

e. The Subordination Agreement dated as of May 31, 2007 in favor of the Administrative Agent for the Lenders by Erickson Group, John C. Erickson and Nancy A. Erickson, as creditors, and by Ashburn and ERC ("**Erickson Group Subordination**").

True and correct copies of Revolving Loan Notes, the Construction Loan Agreement, and the Guaranty are attached hereto as **Exhibit 1**, **Exhibit 2**, and **Exhibit 3**, respectively. The Erickson Construction Subordination together with other documents comprising the Erickson Construction Subordination Documents (defined below) are attached hereto as **Exhibit 4**. The Erickson Group Subordination together with other documents comprising the Erickson Group Subordination Documents (defined below) are attached hereto as **Exhibit 5**.

2. The indebtedness and obligations that are owed to the Banks by Ashburn, ERC, Erickson Construction, and Erickson Group under the Revolving Loan Notes, the Construction Loan Agreement, the Guaranty, the Erickson Construction Subordination, and the Erickson Group Subordination, are secured by, *inter alia*, various assets of Ashburn, ERC, Erickson Construction, Erickson Group, and others (collectively, "**Collateral**"), including, without limitation:

a. a first-priority, duly perfected pledge and security interest and lien in, to and against 100% of the membership and other equity interests in Ashburn ("**Pledged Interests**"), including but not limited to all certificates and entries on the books and records of any financial intermediary pertaining to the Pledged Interests, all dividends, distributions, cash, warrants, rights, instruments and other property or proceeds from time to time received, receivable or otherwise distributed in respect of or in exchange for any or all of the Pledged Interests, all additional interests in, and all securities convertible into, and any warrants, options and other rights to purchase or otherwise acquire interests in any issuer of the Pledged Interests from time to time, and all cash and non-cash proceeds and products of any of the foregoing, pursuant to and as described in: (i) the Member Interest Pledge Agreement dated as of May 31, 2007 by and between ERC, as pledgor, and the Administrative Agent, as secured party ("**Pledge Agreement**"); and (ii) various UCC-1 Financing Statements against ERC, as debtor, in favor of the Administrative Agent, as secured party, recorded among the financing statement records of the Maryland State Department of Assessments and Taxation as filing no. 181306271, Liber U00515, folio 1979, and among the Land Records of Loudoun County, Virginia as instrument no. 20070514-0036447 (collectively, "**ERC Financing Statements**").

b. first-priority, duly perfected mortgage liens, security interests, pledges, assignments, and other liens in, to and against all of the tangible and intangible assets, property rights, and benefits of Ashburn, and all cash and non-cash proceeds and products thereof, pursuant to and as described in the following:

i. first-priority, duly perfected mortgage liens, security interests, grants, pledges, assignments, and other liens in, to and against all of the real property, improvements, fixtures, and related rights and properties comprising the retirement community generally known or to be known as "Ashby Ponds" ("**Retirement Community**") and located at, and generally known as, 25051 Loudoun County Parkway, Ashburn, Loudoun County, Virginia, all leases, rents, profits arising from the aforesaid property, and all other rights, titles, and interests of Ashburn in and to such property pursuant to and as described in: (A) the Amended and Restated Credit Line Deed of Trust, Assignment of Rents and Leases, Security Agreement and Fixture Filing dated as of May 31, 2007 by Ashburn to the trustee named therein for the benefit of the Administrative Agent for the Lenders, recorded among the Land Records of Loudoun County, Virginia as instrument no. 20070612-0044111; (B) the Assignment of Rents and Leases dated as of May 31, 2007 by Ashburn to the Administrative Agent for the Lenders, recorded among the Land Records of Loudoun County, Virginia as instrument no. 20070612-0044112; (C) the Environmental Compliance Certificate and Agreement dated as of May 31, 2007 by Ashburn and ERC, in favor of the Administrative Agent for the Lenders; and (D) and the various Financing Statements (as defined below) (all of the foregoing, collectively, "**Mortgage Security Documents**");

ii. first-priority, duly perfected security interests, pledges, grants, assignments, and other liens in, to and against all of Ashburn's assets, including,

without limitation, all accounts, equipment, fixtures, inventory, chattel paper, general intangibles, cash, deposits, and deposit accounts, bank accounts, instruments, documents, goods, motor vehicles, investment property and supporting obligations, "**Licenses**," "**Residence and Care Agreements**," (as such terms are defined and described in the Security Agreement, defined below), all rights, titles, and interests of Ashburn under the "**Community Documents**," "**Lease**," "**Working Capital Loan Documents**," "**Community Loan Documents**," "**Management Agreement**," and "**Development Agreement**," (as such terms are defined and described in the Construction Loan Agreement), including all amounts received or due thereunder, including all proceeds which Ashburn is entitled to receive under the Community Loan Documents, and all cash and non-cash proceeds and products of all of the foregoing, all pursuant to and as described in (A) Security Agreement, Pledge and Collateral Assignment of Licenses and Residence and Care Agreements dated as of May 31, 2007 by Ashburn and ERC in favor of the Administrative Agent for the Lenders ("**Security Agreement**") and (B) the UCC-1 Financing Statement against Ashburn, as debtor, in favor of the Administrative Agent, as secured party, recorded among the financing statement records of the Maryland State Department of Assessments and Taxation as file no. 181292166, in Liber U00493, folio 0562 et seq., as amended by the UCC Financing Statement Amendment recorded among the financing statement records of the Maryland State Department of Assessments and Taxation in Liber U00515, folio 1975 et seq., UCC-1 Financing Statement against Ashburn, as debtor, in favor of the Administrative Agent, as secured party, recorded among the financing statement records of the Maryland State Department of Assessments and Taxation as file no. 181306270, in Liber U00515, folio 1977 et seq., the UCC-1 Financing Statement against Ashburn, as debtor, in favor of the Administrative Agent, as secured party, recorded among the Land Records of Loudoun County Virginia as instrument no. 20061227-0106968, and UCC-1 Financing Statement against Ashburn, as debtor, in favor of the Administrative Agent, as secured party, recorded among the Land Records of Loudoun County Virginia as instrument no. 20070514-0036395 (collectively, "**Financing Statements**"); and

iii. first-priority, duly perfected security interests, pledges, grants, assignments, and other liens in, to and against all "**Project Documents**," as such term is defined in the Assignment of Project Documents (as defined below), and all right, title, and interest under the Completion Agreements (as defined below), including but not limited to all architectural, engineering, and similar plans, specifications, drawings and reports, including all copyrights relating to the foregoing, surveys, plats, permits and the like, all contracts for design, construction, operation and maintenance of, or provision of services to, the Retirement Community and/or the land located at 25051 Loudoun County Parkway, Ashburn, Loudoun County, Virginia ("**Land**"), all sewer taps and allocations, agreements for utilities, bonds, letters or credit and the like, all relating to the Land and the Retirement Community, all plans and specifications prepared by Nordstrom Samson Associates in connection with the construction of

the Retirement Community, together with all additions thereto and replacements, substitutions and modifications thereof, and all design, marketing and construction concepts, residence and care forms, leasing forms belonging to Ashburn or ERC or used in connection with the Land or the Retirement Community, but not the assignor's burdens or obligations thereunder, pursuant to and as described in (A) the Collateral Assignment of Project Documents dated as of May 31, 2007 by Ashburn and ERC to the Administrative Agent for the Lenders ("**Assignment of Project Documents**"), (B) General Contractor's Agreement to Complete dated as of May 31, 2007 by Erickson Construction for the benefit of the Administrative Agent for the Lenders, the Architect's Agreement to Complete dated as of May 29, 2007 by Marks-Thomas Architects for the benefit of the Administrative Agent for the Lenders, the Engineer's Agreement to Complete dated as of June 4, 2007 by Dewberry & Davis LLC for the benefit of the Administrative Agent for the Lenders, the Landscape Architect's Agreement to Complete dated as of May 28, 2007 by Lewis, Scully, Gionet for the benefit of the Administrative Agent for the Lenders, (collectively, "**Completion Agreements**") and (C) the Financing Statements.

c. first-priority, duly perfected security interests, pledges, assignments, and other liens in, to and against all tangible and intangible assets of Ashby Ponds, Inc. ("**Tenant**"), including but not limited to all inventory, accounts, general intangibles, chattel paper, equipment, fixtures, cash and deposits, bank accounts, deposit accounts, documents, goods, motor vehicles, instruments, investment property, supporting obligations, "**Entrance Deposits**," including but not limited to "**Initial Entrance Deposits**" and advances from the proceeds of Initial Entrance Deposits, all right, title, and interest of the Tenant in and to all "**Residence and Care Agreements**" and all payments due thereunder, and all licenses, certificates of need, operating permits, franchises and other governmental authorizations and approvals now or hereafter existing with respect to the acquisition, construction, renovation, expansion, leasing, ownership and/or operation of the Retirement Community, including, but not limited to, all certificates of need, licenses and other authorizations of any kind in connection with any nursing home or other health care facilities which are a part of the Retirement Community, any and all licenses issued by any governmental authority relating to the operation of food and beverage facilities and/or amenities, any and all third party payment contracts under which payment may be made for services rendered at the Retirement Community, and any and all personalty of the Tenant located on the property and utilized in connection with the operation or maintenance of the Retirement Community, and all additions to, modifications of and substitutions for any of the foregoing, and all cash and non-cash proceeds and products of all of the foregoing, as defined and described in, and granted by Tenant to Ashburn pursuant to, the Community Loan Agreement, the Working Capital Loan Documents, the Lease, the Security Agreement, Pledge and Collateral Assignment of Licenses and Residence and Care Agreements dated as of May 31, 2007 by the Tenant in favor of Ashburn ("**Tenant Security Agreement**"), and as contemplated by the Trust Agreement (as defined below), all of which were collaterally assigned by Ashburn to the Administrative Agent for the Lenders, and as evidenced by the UCC-1 Financing Statement against the Tenant, as debtor, in favor of Ashburn, as secured party, recorded among the financing statement records of the Maryland State Department of Assessments and Taxation as file no. 181306272, Liber U00515, folio 1986 et seq., and assigned by Ashburn to the Administrative Agent for the

Lenders pursuant to the UCC-1 Financing Statement Amendment recorded among the financing statement records of the Maryland State Department of Assessments and Taxation in Liber U00515, folio 1988, et seq., and the UCC-1 Financing Statement against the Tenant, as debtor, and Ashburn, as secured party, recorded among the Land Records of Loudoun County, Virginia as instrument no. 20070514-0036456, assigned by Ashburn to the Administrative Agent pursuant to the UCC-1 Financing Statement Amendment recorded among the Land Records of Loudoun County, Virginia as instrument no. 20070514, page 0036460 (together with the Tenant Security Agreement, collectively, "**Tenant Security Documents**"), all pursuant to and as further described in the (A) Security Agreement, (B) the Financing Statements, (C) the Consent of Ashby Ponds, Inc. dated as of May 31, 2007 ("**Ashby Consent**"), and (D) Agreement Regarding Bank Branch dated as of May 31, 2007 by Tenant ("**Bank Branch Agreement**").

d. first priority, duly perfected security interest, pledge, and lien in, to and against, and grant, in trust, for the benefit of the Administrative Agent of any and all existing and future "**Trust Funds**" and "**Trust Accounts**" including but not limited to "**Initial Entrance Deposits**", deposited into a Trust Account as Trust Funds, as an intended source of repayment of the Loan, all Trust Funds deemed to constitute loan advances to Ashburn under the Community Loan Documents, and all obligations of Tenant and Ashburn to hold Trust Funds in trust for the benefit of the Administrative Agent for the benefit of the Lenders, pursuant to and as described in the Trust Agreement for Initial Entrance Deposits at Ashby Ponds dated as of May 31, 2007 by Tenant and Ashburn for the benefit of the Administrative Agent ("**Trust Agreement**").

e. first-priority, duly perfected security interests, pledges, assignments, and other liens in, to and against the following tangible and intangible assets, property rights, and benefits of ERC, and all cash and non-cash proceeds and products thereof, pursuant to and as described in the following:

i. first-priority, duly perfected security interests, pledges, assignments, and other liens in, to and against all of its right, titles, and interests in the Management Agreement (including all extensions, replacements and substitutes) between the Tenant and ERC (or any future manager of the Retirement Community) for the Retirement Community, the Lease, the Working Capital Loan Documents, the Community Documents, and the Community Loan Documents, and any and all documents and agreements (including but not limited to the Development Agreement) by and between or among Ashburn, the Tenant, ERC (or any successor manager) and any other person or entity relating to the construction, leasing, occupancy and/or operation of the Retirement Community, and including, without limitation, any proceeds of loans which ERC is entitled to receive under the Community Loan Documents (including advances from Initial Entrance Deposits as contemplated by the Trust Agreement), pursuant to and as described in (A) the Security Agreement; and (B) the ERC Financing Statements;

ii. a first-priority, duly perfected security interest and lien in, to and against all of ERC's assets, including, without limitation, accounts, equipment, fixtures, inventory, chattel paper, general intangibles, licenses, cash and deposits, deposit accounts, bank accounts, instruments, documents, goods, motor vehicles,

investment property and supporting obligations, "**Licenses**," "**Residence and Care Agreements**" (as such terms are defined and described in the Security Agreement), all rights, titles, and interests of ERC under the "**Community Documents**," "**Lease**," "**Working Capital Loan Documents**," "**Community Loan Documents**," "**Management Agreement**" and "**Development Agreement**" (as such terms are defined and described in the Construction Loan Agreement), including all amounts received or due thereunder, including all proceeds which ERC is entitled to receive under the Community Loan Documents, and all cash and non-cash proceeds and products of all of the foregoing, to the extent that the same are located at, or are used solely in connection with, or relate to, or arise from the Retirement Community, and the development, financing, and operation of the Retirement Community (excluding certain computer systems) pursuant to and as described in (A) the Security Agreement and (B) the ERC Financing Statements; and

iii. first-priority, duly perfected security interests, pledges, grants, assignments, and other liens in, to and against all "**Project Documents**," as such term is defined in the Assignment of Project Documents, and all right, title, and interest under the Completion Agreements, including but not limited to all architectural, engineering, and similar plans, specifications, drawings and reports, including all copyrights relating to the foregoing, surveys, plats, permits and the like, all contracts for design, construction, operation and maintenance of, or provision of services to, the Retirement Community and/or Land, all sewer taps and allocations, agreements for utilities, bonds, letters or credit and the like, all relating to the Land and the Retirement Community, all plans and specifications prepared by Nordstrom Samson Associates in connection with the construction of the Retirement Community, together with all additions thereto and replacements, substitutions and modifications thereof, and all design, marketing and construction concepts, residence and care forms, leasing forms belonging to Ashburn or ERC or used in connection with the Retirement Community pursuant to and as described in (A) the Assignment of Project Documents, (B) Completion Agreements, and (C) the ERC Financing Statements.

f. All right, title, and interests of the Banks pursuant to and as described in, and all claims against John C. Erickson, Nancy A. Erickson, and Erickson Group under, the Erickson Group Subordination, and the duly perfected security interests, pledges, assignments, and other liens held by the Administrative Agent for the Lenders in and to the "Subordinated Indebtedness," as defined in the Erickson Group Subordination, and all proceeds thereof, and all rights and interests of John C. Erickson, Nancy A. Erickson, and/or Erickson Group in any of the "Subordinated Documents," as such term is defined in the Erickson Group Subordination, and as described in the UCC-1 Financing Statement against John C. Erickson and Nancy A. Erickson, as debtors, in favor of the Administrative Agent, as secured party, recorded among the financing statement records of the Maryland State Department as filing no. 181306274, Liber U00515, folio 1992, and among the financing statement records of the Florida Secretary of State as document no. 20070553554X, and the UCC-1 Financing Statement against Erickson Group, as debtor, in favor of the Administrative Agent, as secured party, recorded among the financing

statement records of the Maryland State Department of Assessments and Taxation as filing no. 181306275, Liber U00515, folio 1994 (together with the Erickson Group Subordination, "**Erickson Group Subordination Documents**").

g. All right, title and interests of the Banks pursuant to and as described in, and all claims against Tenant under, a Subordination Agreement dated as of May 31, 2007 ("**Ashby Ponds Subordination**") by Tenant, and the duly perfected security interests, pledges, assignments, and other liens held by the Administrative Agent for the Lenders in and to the "Subordinated Indebtedness" as defined in the Ashby Ponds Subordination, and all proceeds thereof, and all rights and interests of Tenant in any of the "Subordinated Documents," as such term is defined in the Ashby Ponds Subordination, and as described in the UCC-1 Financing Statement against Tenant, as debtor, in favor of the Administrative Agent, as secured party, recorded among the financing statement records of the Maryland State Department of Assessments and Taxation as filing no. 181306273, Liber U00515, folio 1990, and all right, title and interest of the Tenant in, to and under the Junior Deed of Trust (as such term is defined below) pursuant to the Collateral Assignment of Junior Deed of Trust dated as of May 31, 2007 by the Tenant to the trustee named therein for the benefit of the Administrative Agent for the Lenders recorded among the Land Records of Loudoun County, Virginia as instrument no. 20070612-0044114 (collectively, "**Ashby Ponds Subordination Documents**").

h. All right, title and interest of the Banks pursuant to and as described in, and all claims against the Tenant under, a Tenant Subordination Agreement dated as of May 31, 2007 ("**Tenant Subordination**") by Tenant, and pursuant to and as described in the Curative Rights Agreement dated as of May 31, 2007 by Tenant for the benefit of the Administrative Agent for the Lenders (together with the Tenant Subordination, "**Tenant Subordination Documents**").

i. All right, title and interests of the Banks pursuant to and as described in, and all claims against Erickson Construction under, the Erickson Construction Subordination, and the duly perfected security interests, pledges, assignments, and other liens held by the Administrative Agent for the Lenders in and to the "Subordinated Indebtedness," as defined in the Erickson Construction Subordination, and all proceeds thereof, and all rights and interests of Erickson Construction in any of the "Subordinated Documents," as such term is defined in the Erickson Construction Subordination, and as described in the UCC-1 Financing Statement against Erickson Construction, as debtor, in favor of the Administrative Agent, as secured party, recorded among the financing statement records of the Maryland State Department of Assessments and Taxation as filing no. 181306276, Liber U00515, folio 1996 (together with the Erickson Construction Subordination, collectively, "**Erickson Construction Subordination Documents**").

j. All right, title, and interest of the Banks pursuant to and as described in, and all claims against Strategic Ashby Ponds Lender, LLC ("**Strategic/Ashby Ponds**") under, the Subordination and Standstill Tri-Party Agreement dated as of May 31, 2007 ("**Tri-Party Agreement**") among the Administrative Agent for the Lenders, Ashburn, and Strategic/Ashby recorded among the Land Records of Loudoun County, Virginia as instrument no. 20070612-0044117, *inter alia*, subordinating the liens granted to Strategic/Ashby Ponds with respect to the

“Retirement Community” and the “Land” (as defined in the Tri-Party Agreement) to the liens held by Administrative Agent for the Lenders, and subordinating payment of the “Subordinated Obligations” (as defined in the Tri-Party Agreement) to the prior payment in full of the Construction Loan, and the first-priority duly perfected security interests, pledges, assignments, and other liens held by the Administrative Agent for the Lenders in and to all rights of Strategic/Ashby Ponds in and to the Loan Agreement dated as of May 31, 2007 by and between Ashburn and Strategic/Ashby Ponds, the Promissory Note dated as of May 31, 2007 by Ashburn in favor of Strategic/Ashby Ponds, and the Deed of Trust, Assignment of Rents and Leases, Security Agreement and Fixture Filing dated as of May 31, 2007 from Ashburn to the trustees named therein for the benefit of Strategic/Ashby Ponds recorded among the Land Records of Loudoun County Virginia as instrument no. 20070612-0044115 , and all of the other agreements, instruments, and documents executed by Ashburn and ERC to or for the benefit of Strategic/Ashby Ponds, and all rights and interests of Strategic/Ashby Ponds thereunder, as further described in the Tri-Party Agreement and in the UCC-1 Financing Statement against Strategic/Ashby Ponds, as debtor, in favor of the Administrative Agent, as secured party, recorded among the financing statement records of the Delaware Secretary of State as document no. 2007-2196565 (together with the Tri-Party Agreement, collectively, **“Strategic/Ashby Ponds Subordination Documents”**).

k. All right, title, and interest of the Banks pursuant to and as described in, and all claims against Strategic/Ashby Ponds under, the Cross Tri-Party Agreement dated as of May 31, 2007 (**“Strategic/Ashby Ponds Cross Tri-Party Agreement”**) among Strategic/Ashby Ponds, Concord Campus, L.P., and the PNC Bank, National Association in its capacity as Administrative Agent (**“Concord Agent”**) for the lenders party thereto from time to time under the Construction Loan Agreement dated as of August 30, 2005 (as amended from time to time, the **“Concord Loan Agreement,”**) recorded among the Land Records of Delaware County, Pennsylvania as instrument no. 2007053485, in RD Book 04129, Page 275, *et seq., inter alia* subordinating all of the obligations of payment and performance owed to Strategic/Ashby Ponds, by Concord Campus, LP to the obligations owed by Concord Campus, LP to the Concord Agent and the lenders under the Concord Loan Agreement, and the mortgages, security interests, pledges, assignments, and other liens held by Strategic/Ashby Ponds in and to the assets and property of Concord Campus, LP to the liens held by the Concord Agent for the benefit of the lenders under the Concord Loan Agreement, and the first-priority duly perfected security interests in and to all of Strategic/Ashby Ponds’ right, title, and interest as “Beneficiary” under the Indemnity Deed of Trust, Assignment of Rents and Leases, Security Agreement and Fixture Filing between Strategic/Ashby Ponds and Concord Campus, L.P. dated May 31, 2007 and the Guaranty Agreement between Strategic/Ashby Ponds and Concord Campus, L.P. dated May 31, 2007, as further described in the UCC-1 Financing Statement against Strategic/Ashby Ponds, as debtor, in favor of the Administrative Agent, as secured party, recorded among the financing statement records of the Delaware Secretary of State as document no. 2007-2196680 (together with the Strategic/Ashby Ponds Cross Tri-Party Agreement, collectively **“Strategic/Ashby Ponds Tri-Party Documents”**), and all right, title, and interest of the Banks pursuant to and as described in, and all claims against Strategic Concord Landholder, LP (**“Strategic/Concord”**) under, the Cross Tri-Party Agreement dated as of May 31, 2007 (**“Strategic/Concord Cross Tri-Party Agreement”**) among Strategic/Concord, Ashburn, and the Administrative Agent for the Lenders recorded among the Land Records of Loudoun County, Virginia as instrument no.

20070612-0044118, *inter alia*, subordinating all of the obligations of payment and performance owed to Strategic/Concord by Ashburn to the obligations owed by Ashburn to the Administrative Agent and the Lenders, and the mortgages, security interests, pledges, assignments, and other liens held by Strategic/Concord in and to the assets and property of Ashburn to the liens held by the Administrative Agent for the Lenders, and the first-priority duly perfected security interests in and to all of Strategic/Concord's right, title, and interest as "Beneficiary" under the Indemnity Deed of Trust, Assignment of Rents and Leases, Security Agreement and Fixture Filing between Strategic/Concord and Ashburn dated May 31, 2007 and the Guaranty Agreement between Strategic/Concord and Ashburn dated as of May 31, 2007, as further described in the UCC-1 Financing Statement against Strategic/Concord, as debtor, in favor of the Administrative Agent, as secured party, recorded among the financing statement records of the Delaware Secretary of State as document no. {2007-2196797} (together with the Strategic/Concord Cross Tri-Party Agreement, collectively "**Strategic/Concord Tri-Party Documents**").

True and correct copies of the Pledge Agreement and ERC Financing Statements, Mortgage Security Documents, Security Agreement and Financing Statements, Assignment of Project Documents, Completion Agreements, Tenant Security Documents, Ashby Consent, Bank Branch Agreement, Trust Agreement, Ashby Ponds Subordination Documents, Tenant Subordination Documents, Strategic/Ashby Ponds Subordination Documents, Strategic/Ashby Ponds Tri-Party Documents, and Strategic/Concord Tri-Party Documents are attached hereto as **Exhibit 6**, **Exhibit 7**, **Exhibit 8**, **Exhibit 9**, **Exhibit 10**, **Exhibit 11**, **Exhibit 12**, **Exhibit 13**, **Exhibit 14**, **Exhibit 15**, **Exhibit 16**, **Exhibit 17**, **Exhibit 18**, and **Exhibit 19**, respectively.

A true and correct copy of the form of Residence and Care Agreements (defined above) is attached hereto as **Exhibit 20**. The Lease (defined above) means the Master Lease and Use Agreement dated as of May 31, 2007 by and between Ashburn and the Tenant, a copy of which is attached hereto as **Exhibit 21**. The Working Capital Loan Documents (defined above) include without limitation, the Working Capital Loan Agreement dated as of May 31, 2007 by and between the Tenant and Ashburn, the Working Capital Promissory Note dated as of May 31, 2007 by the Tenant and payable to the order of Ashburn in the originally stated principal amount of Thirty-Three Million Six Hundred Thousand Dollars (\$33,600,000.00), the Lockbox Account Agreement dated as of May 31, 2007 by and between the Tenant and Ashburn, copies of which are attached hereto as **Exhibit 22**. The Community Loan Documents (defined above), include without limitation, the Community Loan Agreement dated as of May 31, 2007 by and between the Tenant and Ashburn, the Community Loan Note dated as of May 31, 2007 by Ashburn and payable to the order of Tenant in the originally stated principal amount of Six Hundred Fifty Million, Nine Hundred Thirty-Nine Thousand, Six Hundred Thirty One Dollars (\$650,939,631.00), the Credit Line Deed of Trust, Assignment of Rents, Security Agreement, and Fixture Filing dated as of May 31, 2007 ("**Junior Deed of Trust**") by Ashburn to the trustee named therein for the benefit of the Tenant recorded among the Land Records of Loudoun County, Virginia as instrument no. 20070612-0044113, copies of which are attached hereto as **Exhibit 23**. The Management Agreement (defined above) means the Management and Marketing Agreement dated as of May 31, 2007 between the Tenant and ERC, a copy of which is attached hereto as **Exhibit 24**. The Development Agreement (defined above) means the Development Agreement dated as of May 31, 2007 by and between Ashburn and ERC, a copy of which is attached hereto as **Exhibit 25**.

The Revolving Loan Notes, the Construction Loan Agreement, the Guaranty, the Erickson Construction Subordination Documents, the Erickson Group Subordination Documents, the Pledge Agreement and ERC Financing Statements, Mortgage Security Documents, Security Agreement and Financing Statements, Assignment of Project Documents, Completion Agreements, Tenant Security Documents, Ashby Consent, Bank Branch Agreement, Trust Agreement, Ashby Ponds Subordination Documents, Tenant Subordination Documents, Strategic/Ashby Ponds Subordination Documents, Strategic/Ashby Ponds Tri-Party Documents, Strategic/Concord Tri-Party Documents, Community Documents, Lease, Working Capital Loan Documents, Community Loan Documents, and Management Agreement, and the agreements, instruments, and documents referenced therein or executed in connection therewith, are collectively referred to herein as the "**Loan Documents**".

Prior to October 19, 2009 (the "**Petition Date**"), Ashburn defaulted on its payment obligations to the Banks under the terms and conditions of the Loan Documents. As of Petition Date, the amounts owed to Manufacturers and Traders Trust Company, as Lender and as Successor by Merger to Provident Bank of Maryland as Lender, under the Loan Documents, were not less than the following:

1. Manufacturers and Traders Trust Company (8.000% Lender's Interest)

Principal:	\$4,944,028.72
Interest:	\$ 37,477.87
Late charges:	\$ 1,194.09
Forbearance fees:	\$ 160,000.00
Legal fees and expenses	
(Counsel for Administrative Agent):	\$ 3,780.49
(Counsel for M&T Bank):	\$ 1,169.87
Professional fees (non-legal):	\$ 6,831.44
Other fees and charges:	\$ 57.50
Total (as of Petition Date):	<u>\$5,154,539.98</u>

(Interest rate as of Petition Date = 5.5% [PNC prime rate of 3.25% + 2.25%])

(Per diem interest as of Petition Date = \$9,441.72)

2. Manufacturers and Traders Trust Company, Successor by Merger to Provident Bank of Maryland (8.000% Lender's Interest)

Principal:	\$4,944,028.72
Interest:	\$ 37,477.87
Late charges:	\$ 1,194.09
Forbearance fees:	\$ 160,000.00
Legal fees and expenses	
(Counsel for Administrative Agent):	\$ 3,780.49
(Counsel for M&T Bank/Provident):	\$ 1,169.86

Professional fees (non-legal):	\$ 6,831.44
Other fees and charges:	\$ 57.50
Total (as of Petition Date):	<u>\$5,154,539.97</u>

(Interest rate as of Petition Date = 5.5% [PNC prime rate of 3.25% + 2.25%])
(Per diem interest as of Petition Date = \$9,441.72)

As of December 31, 2009, additional amounts owed to Manufacturers and Traders Trust Company, as Lender and as Successor by Merger to Provident Bank of Maryland as Lender, under Loan Documents, were not less than the following:

1. Manufacturers and Traders Trust Company (8.000% Lender's Interest)

Interest:	\$55,139.64
Late Charges:	\$ 2,303.78
Legal fees and expenses	
(Counsel for Administrative Agent):	\$ 8,065.83
(Counsel for M&T Bank):	\$14,035.85
Professional fees (non-legal):	\$ 4,962.21
<u>Appraisal fees:</u>	<u>\$ 1,200.00</u>
Total (10/19/09 – 12/31/09):	<u>\$85,707.31</u>

(Interest rate as of Petition Date = 5.5% [PNC prime rate of 3.25% + 2.25%])
(Per diem interest as of Petition Date = \$9,441.72)

2. Manufacturers and Traders Trust Company, Successor by Merger to Provident Bank of Maryland (8.000% Lender's Interest)

Interest:	\$55,139.64
Late Charges:	\$ 2,303.78
Legal fees and expenses	
(Counsel for Administrative Agent):	\$ 8,065.83
(Counsel for M&T Bank/Provident):	\$14,035.84
Professional fees (non-legal):	\$ 4,962.21
<u>Appraisal fees:</u>	<u>\$ 1,200.00</u>
Total (10/19/09 – 12/31/09):	<u>\$85,707.30</u>

(Interest rate as of Petition Date = 5.5% [PNC prime rate of 3.25% + 2.25%])
(Per diem interest as of Petition Date = \$9,441.72)

In addition to the foregoing amounts, Manufacturers and Traders Trust Company, as Lender and as Successor by Merger to Provident Bank of Maryland as Lender, reserves the right to collect as part of its respective claims against Ashburn, ERC, Erickson Construction, and Erickson Group, in accordance with the terms of the Loan Documents and applicable law: (i) all post-petition interest and late charges that accrue under the Loan Documents after the Petition Date, and (ii)

all pre-petition and post-petition attorneys' fees and expenses that Manufacturers and Traders Trust Company, as Lender and as Successor by Merger to Provident Bank of Maryland as Lender, has incurred and hereafter incurs as a result of the filing of this bankruptcy case, the defaults existing under the Loan Documents and the enforcement of rights and remedies of any and all of the Banks under the Loan Documents.

Manufacturers and Traders Trust Company, as Lender and as Successor by Merger to Provident Bank of Maryland as Lender, reserves the right to periodically supplement and/or amend this Proof of Claim from time to time and to assert an unsecured claim in this bankruptcy case to the extent that the value of the Collateral is insufficient to satisfy Manufacturers and Traders Trust Company's claims, as Lender and as Successor by Merger to Provident Bank of Maryland as Lender, against Ashburn, ERC, Erickson Construction, and Erickson Group under the Loan Documents. Manufacturers and Traders Trust Company, as Lender and as Successor by Merger to Provident Bank of Maryland as Lender, also reserves the right to amend and/or supplement this Proof of Claim in all other respects and to add additional claims of any nature whatsoever, including but not limited to claims entitled to administrative priority.

The filing of this Proof of Claim is not an acknowledgment of admission that the Bankruptcy Court has jurisdiction over Manufacturers and Traders Trust Company's claims, as Lender and as Successor by Merger to Provident Bank of Maryland as Lender, against any debtor or non-debtor entity, and Manufacturers and Traders Trust Company, as Lender and as Successor by Merger to Provident Bank of Maryland as Lender, reserves all rights with respect thereto.

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Fax: 973-643-6500

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650 College Road East
Princeton, NJ 08540
Tel: 609-227-4600
Fax: 609-227-4646

February 24, 2010

By Federal Express

BMC Group, Inc.
Attn: Erickson Retirement Communities, LLC
Claims Processing
18750 Lake Drive East
Chanhassen, MN 55317

Re: Erickson Retirement Communities; LLC; Case No. 09-37010 in
the United States Bankruptcy Court for the Northern District of
Texas

Dear sir or madam:

Enclosed for filing please find original, signed proofs of claim (along with their accompanying addenda) by Manufacturers and Traders Trust Company ("M&T") in its capacity as agent, individually as lender and as risk participant in an interest rate swap, and as successor in interest to Provident Bank of Maryland as lender, against the above-referenced debtor and related debtors whose cases are being administered jointly with the above-referenced case. Enclosed please also find copies of the proofs of claim to be stamped "Filed" and returned in the enclosed self-addressed, pre-paid FedEx envelope upon the filing of the originals.

For your reference, the following tables, titled "As Agent," "Individually as Lender," "Individually as Risk Participant," and "As Successor to Provident Bank of Maryland as Lender," set forth each of the claims submitted by M&T in its various capacities at this time.

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BMC Group, Inc.

February 24, 2010

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As Agent:

<u>Debtor</u>	<u>Case No.</u>	<u>Claim Amount</u>
Erickson Retirement Communities, LLC	09-37010	\$18,474,332.49
Erickson Construction, LLC	09-37016	\$18,474,332.49
Senior Campus Services, LLC	09-37017	\$18,474,332.49

Individually as Lender:

<u>Debtor</u>	<u>Case No.</u>	<u>Claim Amount</u>
Erickson Retirement Communities, LLC	09-37010	\$9,623,335.99
Erickson Retirement Communities, LLC	09-37010	\$62,196,541.70
Erickson Retirement Communities, LLC	09-37010	\$5,154,539.98
Erickson Retirement Communities, LLC	09-37010	\$9,576,390.43
Erickson Retirement Communities, LLC	09-37010	\$7,848,566.24
Dallas Campus GP, LLC	09-37013	\$62,196,541.70
Erickson Group, LLC	09-37015	\$62,196,541.70
Erickson Group, LLC	09-37015	\$5,154,539.98
Erickson Group, LLC	09-37015	\$9,576,390.43
Erickson Group, LLC	09-37015	\$7,848,566.24

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BMC Group, Inc.

February 24, 2010

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Erickson Construction, LLC	09-37016	\$9,623,335.99
Erickson Construction, LLC	09-37016	\$62,196,541.70
Erickson Construction, LLC	09-37016	\$5,154,539.98
Erickson Construction, LLC	09-37016	\$9,576,390.43
Senior Campus Services, LLC	09-37017	\$9,623,335.99
Senior Campus Services, LLC	09-37017	\$62,196,541.70
Ashburn Campus, LLC	09-37018	\$5,154,539.98
Concord Campus, LP	09-37020	\$9,576,390.43
Concord Campus GP, LLC	09-37021	\$62,196,541.70
Concord Campus GP, LLC	09-37021	\$9,576,390.43
Littelton Campus, LLC	09-37023	\$7,848,566.24
Warminster Campus GP, LLC	09-37027	\$62,196,541.70

Individually as Risk Participant:

<u>Debtor</u>	<u>Case No.</u>	<u>Claim Amount</u>
Erickson Retirement Communities, LLC	09-37010	\$3,590,250.00

As Successor to Provident Bank of Maryland as Lender:

<u>Debtor</u>	<u>Case No.</u>	<u>Claim Amount</u>
Erickson Retirement Communities, LLC	09-37010	\$6,219,556.15

Erickson Retirement Communities, LLC	09-37010	\$5,154,539.97
Erickson Retirement Communities, LLC	09-37010	\$4,788,176.31
Dallas Campus GP, LLC	09-37013	\$6,219,556.15
Erickson Group, LLC	09-37015	\$6,219,556.15
Erickson Group, LLC	09-37015	\$5,154,539.97
Erickson Group, LLC	09-37015	\$4,788,176.31
Erickson Construction, LLC	09-37016	\$6,219,556.15
Erickson Construction, LLC	09-37016	\$5,154,539.97
Erickson Construction, LLC	09-37016	\$4,788,176.31
Senior Campus Services, LLC	09-37017	\$6,219,556.15
Ashburn Campus, LLC	09-37018	\$5,154,539.97
Concord Campus, LP	09-37020	\$4,788,176.31
Concord Campus GP, LLC	09-37021	\$6,219,556.15
Concord Campus GP, LLC	09-37021	\$4,788,176.31
Warminster Campus GP, LLC	09-37027	\$6,219,556.15

Please also find a compact disc enclosed containing documents submitted in support of the proofs of claim by M&T in its capacity as agent (*i.e.*, the three claims set forth in the first chart above, under the heading "As Agent") in accordance with the Bankruptcy Court's Order Granting Joint Motion to Establish Protocol Under Federal Rules of Bankruptcy Procedure 3001 and 2019 for Filing Proofs of Claim, entered on February 8, 2010.

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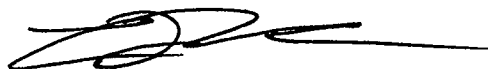
BMC Group, Inc.

February 24, 2010

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Thank you for your assistance in this matter. If you have any questions about or issues with return shipping, please contact me at (973)-286-5534.

Regards,

A handwritten signature in black ink, appearing to read 'Lucas F. Hammonds', with a long horizontal flourish extending to the right.

Lucas F. Hammonds

LFH
Enclosures