

CONFIDENTIALITY AND NON-DISCLOSURE AGREEMENT

THIS AGREEMENT is hereby made and entered into this _____ day of _____, 2023 (the "Effective Date"), by and between Richard Ray, Receiver for Watco Communities, LLC. and Mountainbrook Assisted Living, LLC (hereinafter "Receiver"), and _____ (hereinafter the "Interested Party").

WITNESSETH:

WHEREAS, RECEIVER owns and possesses certain confidential information with respect to Watco Communities, LLC. and Mountainbrook Assisted Living, LLC and related businesses including, but not limited to, non-public information regarding its, equipment, inventory, real property and other assets, present and future products, income, expenses, liabilities, vendors, customers, strategic plans, business methods, and other information with respect to the ownership and operation of its business and assets (all of the foregoing is hereinafter referred to as the "Confidential Information");

WHEREAS, the Interested Party desires to obtain access to all or part of the Confidential Information to use in its evaluation regarding the Watco Communities, LLC. and Mountainbrook Assisted Living, LLC;

WHEREAS, RECEIVER is willing to provide and divulge certain Confidential Information to the Interested Party upon the terms and conditions hereinafter set forth;

NOW, THEREFORE, for and in consideration of the mutual covenants and agreements herein contained, the sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

1. *Disclosure of Information.* Receiver may disclose and provide copies of certain Confidential Information to the Interested Party so the Interested Party may evaluate a possible transaction between itself and Receiver. Receiver will designate any information that it believes is to be treated as Confidential Information under this Agreement by including in conspicuous typeface and font the terms "**CONFIDENTIAL INFORMATION**" on each page of such Confidential Information at the time of disclosure to the Interested Party.

2. *Confidential Nature.* The Interested Party recognizes and acknowledges the confidential nature of the Confidential Information and that damage could result to the Receiver if any of the Confidential Information is disclosed to any third party, or if the Interested Party uses Confidential Information in any manner unauthorized by Receiver or this Agreement.

3. *Use of Confidential Information.* The Interested Party shall use the Confidential Information solely for the purpose of evaluating a possible transaction regarding the real

estate, tangible personal property and goodwill of the business known as Mountainbrook Village, owned by Watco Communities, LLC and Mountainbrook Assisted Living, LLC. Such Confidential Information shall not be used in any way detrimental to Receiver. The Interested Party will take reasonable precautions to safeguard the Confidential Information and not disclose it to third parties other than its Representatives (as defined below).

4. *Representatives.* The Interested Party may disclose the Confidential Information to its directors, officers, contractors, employees, advisors, accountants, and attorneys (herein collectively referred to as the "Representatives"). The Interested Party shall be responsible and liable for any breach of this Agreement by its Representatives.

5. *Non-Disclosure of Confidential Information.* Neither the Interested Party nor its Representatives shall disclose any Confidential Information to any third person or entity without the prior written consent of Receiver, except as required by applicable law, legal process, or by subpoena or document request pursuant to litigation. The Interested Party and/or its Representatives shall give Receiver prior and prompt notice and, if not prohibited by law, consult with Receiver on the advisability of seeking a protective order or other means to preserve the confidential treatment of such Confidential Information before any disclosure by the Interested Party and/or its Representatives. If Receiver determines that a protective order is necessary to preserve the confidential treatment of such Confidential Information, Receiver may, at its sole expense, seek a protective order before the time specified for compliance pursuant to applicable law, legal process, subpoena, or document request. If, after the notice required by this paragraph, RECEIVER fails to obtain a protective order before the time specified for compliance pursuant to applicable law, legal process, subpoena, or document request, the Interested Party and/or its Representatives may provide such Confidential Information to the requesting party.

6. *Non-Disclosure of Discussions.* Except as permitted herein, neither Receiver nor the Interested Party, nor the respective Representatives of Receiver and the Interested Party, shall disclose to any other person or entity either the fact that discussions or negotiations are taking place concerning a possible transaction between the Interested Party and Receiver, or any of the terms, conditions, or other facts with respect to a possible transaction, including the status thereof, except for such disclosure which might be required by applicable law, legal process, or by subpoena or document request pursuant to litigation, or such disclosure is permitted by prior written consent of the other party.

In the event that any transaction contemplated by this Agreement is not consummated, the Interested Party and the Representatives shall not use the Confidential Information for any purpose without the prior written consent of Receiver.

7. *Return or Destruction of Copies.* Upon the written request of Receiver at any time, the Confidential Information and all copies thereof shall, in the Interested Party's sole discretion: (a) be returned to RECEIVER and not retained by the Interested Party or the Representatives in any form for any reason; or (b) destroyed.

If the Interested Party chooses to destroy the documents in lieu of returning them, the Interested Party shall provide an affidavit attesting to the documents' destruction.

8. *Exclusions.* Notwithstanding anything else herein contained, this Agreement shall not apply to any information which (a) is or becomes publicly available other than as a result of a disclosure by the Interested Party or its Representatives; (b) is in the possession of or known to the Interested Party prior to its receipt from Receiver; (c) is independently developed by the Interested Party without the use of any Confidential Information belonging to RECEIVER.

9. *Accuracy.* Although Receiver has included in the Confidential Information materials that it believes to be relevant for the purpose of the Interested Party's investigation, Receiver makes no representation or warranty as to the accuracy or completeness of the Confidential Information. Receiver and its officers, directors, employees, agents, advisors and representatives shall have no liability to the Interested Party or the Representatives arising out of the use or analysis of the Confidential Information by the Interested Party or the Representatives.

10. *Remedies.* In addition to the recovery of damages and without limiting any other remedies available in law or equity, Receiver shall be entitled to immediate injunctive or other equitable relief in the event of a breach or threatened breach of any provisions of this Agreement. Failure or delay by Receiver in exercising any right, power or privilege hereunder shall not be deemed to be a waiver thereof nor shall any single or partial exercise thereof preclude any other or further exercise of any such right, power or privilege.

11. *Captions.* The captions contained in this Agreement are for reference purposes only and shall in no way be deemed to limit or broaden the provisions of this Agreement.

12. *Binding Effect.* This Agreement shall be binding upon, and inure to the benefit of, the parties hereto and their respective successors and assigns, and shall remain effective even if the possible transaction contemplated by and between the parties fail to occur. The parties understand that nothing herein requires either party to proceed with any proposed transaction or relationship in connection with which Confidential Information may be disclosed.

13. *Severability.* Should any provision of this Agreement be determined to be invalid, illegal or unenforceable by a court of competent jurisdiction, such invalidity, illegality or unenforceability shall not affect the other provisions herein contained, which shall remain in full force and effect.

14. *Applicable Law.* This Agreement shall be interpreted under, and construed in accordance with, the laws of the State of Tennessee. The Parties agree that the venue for any dispute under this agreement lies in Sevier County, Tennessee.

15. *Amendment.* This Agreement shall be amended only by a writing signed by both parties.

16. *Financial Capability.* The Interested Buyer affirms that he/she has the financial capability to acquire the business assets at or about the \$5.9 million suggested price and agrees to produce a bank document supporting his/her financial capability in exchange for access to the Confidential Information

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the day and date first above written.

By: _____

[*name*], [*title*]

[*name*], [*title*]