



September 7, 2023

**VIA FEDERAL EXPRESS**

Attorney General  
Charitable Trusts Section  
455 Golden Gate Avenue, Suite 11000  
San Francisco, California 94102-7004

**Re: Mercy Retirement and Care Center-Written Notice and Request for California Attorney General Consent to Affiliation (Corp. Code §5920 / 11 C.C.R. 999.5).**

Dear Sir or Madam:

Pursuant to California Corporations Code §§ 5920, *et seq.*, Mercy Retirement and Care Center, a California nonprofit public benefit corporation ("MRCC"), hereby:

- (a) Provides written notice through this letter and all attachments hereto ("Notice") to the California Attorney General, in accordance with the requirements of Section 999.5(a),<sup>1</sup> of a proposed change in control transaction (the "Affiliation") involving MRCC, Elder Care Alliance, a California nonprofit public benefit corporation ("ECA"), and Transforming Age, a Washington nonprofit corporation, ("TA"); and
- (b) Requests the Attorney General's consent to such transaction pursuant to California Corporations Code § 5920(a).

The proposed Affiliation contemplates that MRCC will become a part of the Transforming Age nonprofit network through Transforming Age becoming the sole corporate member of Elder Care Alliance. Elder Care Alliance is the sole corporate member of MRCC. Elder Care Alliance currently has no members.

ECA is a multi-site senior living organization that operates an integrated system committed to serving and enriching the holistic wellness of older adults and those who care for them through

---

<sup>1</sup> Section references are to Title 11 of the California Administrative Code, unless otherwise indicated, and capitalized terms have the meanings in Section 999.5.

education, innovation, and a network of professionals, care communities and partners. ECA has been engaged in its charitable mission since 1997.

The ECA system includes MRCC, whose facilities are located in Oakland, California. ECA is the sole member of MRCC. MRCC has operated at the Oakland location since 1907. The current operations of MRCC include 85 assisted living apartment homes, 22 memory care beds and a 59-bed skilled nursing facility. MRCC and ECA hold a Certificate of Authority from the California Department of Social Services to operate MRCC as a continuing care retirement community (“CCRC”) under Division 2, Chapter 10 of the Health and Safety Code.

MRCC is sponsored by The Institute of the Sisters of Mercy of the Americas, a public juridic person of the Roman Catholic Church (the “Sisters of Mercy”). Under the bylaws of ECA and MRCC, the Sisters of Mercy have the right to approve certain actions of MRCC and of ECA affecting MRCC, including the election of directors of MRCC. The Affiliation is conditioned on the approval of the Sisters of Mercy, who have already granted preliminary approval. Following the Affiliation, MRCC will retain its Catholic identity, and the Sisters of Mercy will retain their approval rights.

In addition to MRCC, Elder Care Alliance owns and operates four other senior living communities in California. Three of these are licensed as residential care facilities for the elderly, and one is an age-restricted apartment building. This application relates to MRCC’s skilled nursing facility.

ECA has concluded that it is in the best interests of its existing residents, staff, and the constituents it serves, and in the public interest, to enter into an Affiliation with TA for the purposes of:

(i) enhancing the provision of high quality and cost-effective care for its existing and future residents; (ii) ensuring ECA’s ongoing financial viability; and (iii) expanding ECA’s mission for holistic wellbeing in a more socio-economically diverse way.

MRCC recently completed a repositioning project that required it to take an assisted living floor (about 23 apartments) out of service for over two years. That coupled with the pressures of the pandemic have significantly impacted financial performance at MRCC. MRCC is finally making progress in refilling the assisted living vacancies, which is improving its financial performance. However, the downward pressure on margins in senior living due to inflation, rising insurance costs, increased benefits costs, and workforce shortage pressures were exacerbated by the pandemic. This is not part of a short-term cycle but a long-term impact that has to be addressed.

In part to address this impact, ECA began a robust strategic planning process starting in Fall of 2020. It included evaluating the current and future needs of seniors in our communities, increases in the aging population, and opportunities to serve in both traditional (bricks and mortar) and other ways. One key strategic focus emerging from that process was developing a robust culture of wellness, encompassing not only the resident experience but how the wellness experience might be delivered through technology and at-home services.

Three key priorities for ECA’s Board were and are to: exponentially grow mission impact; obtain mission impact growth in a more socio-economically diverse way; and achieve that growth in a financially sustainable way. Additionally, delivering the mission in new ways requires different strategic core competencies. ECA believes the pursuit of innovation and demands of the future may be optimally tackled as part of a larger entity better able to assemble the required core competencies. Thus, the ECA Board came to the conclusion that pursuing a strategic affiliation was the best way to achieve the key priorities. Goals for the strategic affiliation were:

- Advance innovation to move into new, emerging markets for non-traditional services.

- Seek opportunities for better economies of scale to enhance current resident and team member experiences.
- Join an organization with a record for growth and execution of strategies.
- Continue ECA's focus on a faith-rooted, holistic wellness approach to care and services.
- Gain access to expanded leadership and administrative resources along with strategic core competencies.
- Ensure alignment with charitable mission, culture, values and strategic vision.

Following the determination to pursue a strategic affiliation, the ECA Board delegated authority to its Strategic Planning Taskforce to explore strategic affiliation with key targets ("Interested Parties") and charged the Strategic Planning Taskforce with making reports and recommendations to the ECA Board concerning its findings. ECA retained CliftonLarsonAllen ("CLA"), an independent consulting and audit firm with expertise in financial analysis and nonprofit management and affiliations, to assist with the affiliation. CLA worked closely with the Strategic Planning Taskforce throughout the months-long process in identifying and evaluating optimal candidates whose missions, values and strategic vision provided a reasonable basis to believe that an affiliation with one such candidate could help ECA meet its objectives.

In the following months, ECA conducted extensive negotiations and due diligence. In May 2023, the ECA Board reviewed alternatives, concluding that TA was an optimal choice for the strategic affiliation given TA's robust shared services, values and culture alignment, and a strategic vision that is synergistic with ECA's. Following the meeting, additional due diligence was performed, and the ECA Board formally approved the Affiliation at a board meeting in July 2023. The parties entered into the Affiliation Agreement dated as of July 28, 2023 (the "Affiliation Agreement").

ECA is submitting the Notice rapidly after signing of the Affiliation Agreement to help expedite approval by the California Attorney General. Urgency is indicated by macroeconomic financial pressures, which include inflation, rising insurance and benefit costs, and workforce shortages which place upward pressure on wages resulting in downward pressure on margins.

We are submitting this Notice, which contains a complete set of materials containing all of the information and documentation required under Section 999.5, along with a CD-ROM containing an identical set of these materials in PDF format. A separate set of confidential documents is being sent under separate cover.

Also enclosed is an additional copy of this cover letter. To acknowledge your receipt of this notice, please date stamp and return the copy of this cover letter to the undersigned in the self-addressed and metered envelope provided or via email.

We would be happy to provide any additional information or documentation which you may require or to answer any questions you may have regarding the Notice. Please feel free to contact me at your convenience. We appreciate your consideration of this request and look forward to your response.

Respectfully submitted,



Adriene Iverson, President & CEO

Enclosures

Notice of Proposed Transaction and Request for Consent under Corporations Code Section 5914  
by:

**Mercy Retirement & Care Center,**  
a California nonprofit public benefit corporation

in Connection with an Affiliation Agreement with

**Transforming Age,**  
a Washington nonprofit corporation

Prepared for the Office of the Attorney General California Department of Justice  
Healthcare Rights and Access

September 7, 2023

#1

Cal. Corp. Code § 5914(b)<sup>2</sup>

*List of primary languages spoken at the facilities subject to the transaction and the threshold languages for Medi-Cal beneficiaries for the county in which such facilities are located*

<b>Facility</b>	<b>Primary Languages Spoken at Facility</b>	<b>Threshold Languages for Medi-Cal Beneficiaries</b>
Skilled nursing facility	English Spanish Chinese	English Spanish Chinese

---

<sup>2</sup> Any matters discussed or addressed in one section of this notice should be considered a discussion or response in all other applicable sections of this notice.  
7377495.8

Title 11, California Code of Regulations, § 999.5(d)(1)(A)

*A full description of the proposed agreement and transaction*

Mercy Retirement and Care Center, a California nonprofit public benefit corporation ("MRCC"), submits this Notice to the California Attorney General under California Corporations Code Section 5920 in accordance with the requirements of Section 999.5(a).

The Parties

The proposed Transaction involves the admission of a new corporate member of ECA, which is the sole corporate member of MRCC. The parties to the proposed transaction are MRCC, ECA and Transforming Age ("TA"). MRCC is the Applicant. All of the parties are nonprofit corporations.

*Elder Care Alliance*

ECA is a California nonprofit public benefit corporation, and the parent organization of a multi-site senior living system that owns and operates MRCC, along with three other RCFEs and one age-restricted apartment building. ECA is the sole corporate member of each of the five affiliates, including MRCC. In addition, ECA has a management agreement in place with each of its affiliates.

*Mercy Retirement and Care Center*

MRCC is a California nonprofit public benefit corporation that operates a continuing care retirement community offering assisted living, memory care and skilled nursing services located at 3431 Foothill Blvd., Oakland, California, 94601 (the "CCRC"). MRCC and its CCRC have operated as part of ECA since 1997.

Tracing its roots back 150 years, MRCC has operated at its current site in Oakland since 1907. MRCC has 85 assisted living apartments, 22 memory care beds, and 59 skilled nursing beds.

MRCC is sponsored by The Institute of the Sisters of Mercy of the Americas, a public juridic person of the Roman Catholic Church (the "Sisters of Mercy"). Under the bylaws of ECA and MRCC, the Sisters of Mercy have the right to approve certain actions of MRCC and of ECA affecting MRCC, including the election of directors of MRCC. The Affiliation is conditioned on the approval of the Sisters of Mercy, who have already granted preliminary approval. Following the Affiliation, MRCC will retain its Catholic identity, and the Sisters of Mercy will retain their oversight and approval rights.

*Transforming Age*

TA is a Washington nonprofit corporation, and is the ultimate parent corporation of a multi-institutional nonprofit system that includes senior living, affordable housing, and home and community-based services. TA is nationally recognized for offering holistic and integrated solutions that enable people to age successfully, serving more than 100,000 older adults by integrating housing, community services, technology, philanthropy and partnerships. Transforming Age is recognized for their robust nonprofit mission, commitment to creating a culture of excellence, and their diverse network of affiliates that serve older adults across the economic spectrum. TA currently does not own any senior living facilities in California, and is not a competitor of ECA or MRCC. TA will become the sole corporate member of ECA.

### Key Affiliation Terms

The proposed transaction (the “Affiliation”) is described in the Affiliation Agreement dated July 28, 2023 (the “Affiliation Agreement”) between ECA and TA. A copy of the Affiliation Agreement is attached as Exhibit 3-A to our response to Section 999.5(d)(1)(B).

The Affiliation will result in TA becoming the sole member of ECA (as that term is defined in California Corporations Code Section 5056). ECA currently has no members. ECA will remain the sole corporate member of MRCC.

As sole corporate member, TA will have the right to elect all of the members of the Board of Directors of ECA. ECA has and will retain the right to elect all of the members of the Board of Directors of MRCC, subject to the approval of the Sisters of Mercy. The parties anticipate that at the closing TA will elect a new board of directors of ECA, and ECA will elect a new board of directors of MRCC. The parties anticipate that a majority of members of the new boards will be members of the TA board, with local community representation by one of ECA’s current board members. As required by regulation, MRCC will retain its resident representative board members.

By virtue of the Affiliation, MRCC will become part of the TA nonprofit system that will include ECA and its other affiliates. The intent of the Affiliation is to sustain ECA’s network of senior living communities and advance its ability to achieve its mission and strategic vision. This includes MRCC’s 150-year legacy and its connection to the community it serves.

### *Changes to Corporate Documents*

At the closing of the Affiliation (the “Closing”), ECA will adopt amended and restated bylaws (the “ECA Amended Bylaws”), which will designate TA as the sole member of ECA. There are no proposed changes to the ECA articles of incorporation. Copies of the ECA Amended Bylaws to be adopted by ECA at Closing are attached as Exhibit 3-B to Section 999.5(d)(1)(B).

There are no proposed changes to MRCC articles of incorporation or bylaws.

### *Employees*

Employees of ECA and its affiliates, including MRCC, will remain employed at Closing.

### *Medical Staff*

As a skilled nursing facility, MRCC does not have an organized medical staff.

### *Charity Care*

In the Affiliation Agreement, TA commits to complying with the charity care policies of ECA and its subsidiaries as of the Closing, or with charity care policies no less favorable than ECA’s charity care policy as of the Closing.

### *Healthcare Service after the Closing*

In the Affiliation Agreement, TA agrees that for five (5) years post-closing, unless otherwise approved by the Attorney General by separate application—

- TA will maintain and operate the MRCC skilled nursing facility as a licensed skilled nursing facility, and will maintain the same licensure, types, and/or levels of services as its current licensure and types and levels of service. TA will not place all or any portion of the licensed bed capacity or services of the Mercy SNF in voluntary suspension or surrender its license for any beds or services.
- TA will maintain and continue to employ staff at the MRCC skilled nursing facility who are in good standing as of the Closing Date, and shall maintain all staff wages and benefits at present levels subject to market adjustments, adjustments based on any law or regulation, or merit based increases.
- TA will Maintain and support the corporate existence, charitable mission and tax-exempt status of ECA and MRCC, including providing services at the MRCC skilled nursing facility to a broad cross-section of the communities served by MRCC, including Medicare and Medi-Cal beneficiaries, and complying with the charity care policies of ECA and its subsidiaries as of the Closing, or with charity care policies no less favorable than ECA's charity care policy.
- TA will maintain the certification of the MRCC skilled nursing facility to participate in the Medi-Cal program, and maintain a Medi-Cal Provider Number to provide the same types and levels of skilled nursing services at the MRCC skilled nursing facility to Medi-Cal beneficiaries as required by the Affiliation Agreement to be provided to its patients generally; and maintain the certification of the MRCC skilled nursing facility to participate in the Medicare program and have a Medicare Provider Number to provide the same types and levels of skilled nursing services at the MRCC skilled nursing facility to Medicare beneficiaries (both traditional and managed care) as required by the Agreement to be provided to its patients generally.
- TA acknowledges that the Mercy Operator receives its nonprofit status as a sponsored Catholic ministry and its Catholic identity from its Facility and Program Sponsor, the Institute of the Sisters of Mercy of the Americas, a public juridic person of the Roman Catholic Church (the "Facility and Program Sponsor"). TA will support ECA in ensuring that the Mercy Operator supports the religious and charitable mission of its Facility and Program Sponsor and conducts its activities in a manner consistent with and supportive of the mission and philosophy stated in the MRCC Statement of Catholic Identity of the Facility and Program Sponsor, a copy of which is attached hereto as Exhibit C, and in adherence to and in compliance with the Ethical and Religious Directives for Catholic Healthcare Facilities.
- In addition, TA acknowledges that the Facility and Program Sponsor has certain approval rights with respect to material actions that may impact MRCC, which are contained in a Governance and Affiliation Agreement, dated May 23, 2023, by and among ECA, MRCC and the Facility and Program Sponsor, as well as the governing documents of ECA and MRCC (together, the "Sponsorship Documents"), and TA and ECA agree that they will refrain from taking action, or causing MRCC from taking action, that could impact the Facility and Program Sponsor's sponsorship of MRCC or diminish their reserved authority and approval rights under the Sponsorship Documents."
- TA will sustain a robust spiritual care program in each of ECA's RCFE Facilities.
- To the extent that ECA is unable to fully fund its continuing operational expenses including payroll, service debt and liabilities, and/or make any necessary repairs or improvements to maintain ECA in a condition that is safe and inviting for its existing or future residents, or

otherwise to comply with the undertakings set forth above, then TA agrees to provide the funding necessary to ensure those operational expenses are met through an intercompany loan.

#### *Healthcare Service Commitments*

See above.

#### *Conditions to Closing*

Conditions to the Closing of the Affiliation include the following:

- The Institute of the Sisters of Mercy of the Americas, a public juridic person of the Roman Catholic Church (the "Sisters of Mercy"), shall have approved the Affiliation.
- ECA shall have obtained the written consent of the Attorney-General to the Affiliation pursuant to California Corporations Code section 5920(a), or the Attorney General shall have given ECA a written waiver as to the Affiliation pursuant to California Corporations Code section 5920(c).
- The parties shall have applied for and received such approvals as may be necessary for the consummation of the Affiliation from the California Department of Social Services, the California Department of Public Health, and any other government agency or private party whose approval or consent is necessary as a matter of law or contract for the consummation of the Affiliation.

#### *Termination of the Affiliation Agreement*

Each party's rights to terminate the Affiliation Agreement include:

- By mutual written agreement.
- Conditions to closing are not satisfied by 180 days from the effective date of July 28, 2023.
- Breach of the agreement that is not cured within 10 days of written notice.
- The Attorney General notifies the parties that he does not consent to the Affiliation as set forth in the Agreement.

#3

Title 11, California Code of Regulations, § 999.5(d)(1)(B)

*A complete copy of all proposed written agreements or contracts to be entered into by the applicant and the transferee that relate to or effectuate any part of the proposed transaction*

Attached to this Section 999.5(d)(1)(B) as Exhibit 3-A is a copy of the Affiliation Agreement, with exhibits. Also attached as Exhibit 3-B is a copy of the Consulting and Shared Services Agreement, which enables ECA to benefit from TA's shared services (such as IT) beginning August 1, 2023.

Exhibit 3-A

Affiliation Agreement

Affiliation Agreement  
by and between  
Transforming Age  
and  
Elder Care Alliance

THIS AFFILIATION AGREEMENT (this "Agreement") is dated as of July 28, 2023 (the "Effective Date"), by and among Transforming Age, a Washington nonprofit corporation with a principal place of business at 1980 112<sup>th</sup> Avenue NE, Suite 210, Bellevue, WA 98004 ("TA") doing business as Transforming Age, on its behalf, and Elder Care Alliance ("ECA"), a California nonprofit public benefit corporation with a principal place of business at 1301 Marina Village Pkwy Suite #210, Alameda, CA, 94501 on its behalf, together the parties to this Agreement.

WHEREAS, ECA is a California non-profit public benefit corporation that is the sole corporate member of five corporations, each of which operates a senior community in California rooted in holistic wellness (collectively, the "ECA Subsidiaries"). The ECA Subsidiaries are: Elder Care Alliance of Camarillo, Elder Care Alliance of San Francisco, Elder Care Alliance of San Mateo and Elder Care Alliance of San Rafael (collectively, the "AlmaVia Operators"), and Mercy Retirement and Care Center (the "Mercy Operator," and with the AlmaVia Operators, the "ECA Operators"). Each of the ECA Operators except for Elder Care Alliance of San Mateo ("ECASM") operates a residential care facility for the elderly ("RCFE") licensed by the California Department of Social Services ("DSS"), and the Mercy Operator and ECA operate a continuing care retirement community under a Certificate of Authority issued by DSS, including a residential care facility, and a skilled nursing facility with a licensed bed capacity of 59 (the "Mercy SNF") licensed by the California Department of Public Health ("CDPH") (ECASM, the RCFEs and the Mercy SNF being referred to individually as an "ECA Facility," and collectively as the "ECA Facilities");

WHEREAS, ECA offers its residents independent living, assisted living, memory care, and a skilled nursing program and engages community services for the elderly such as the Mercy Brown Bag Program;

WHEREAS, ECA has concluded that it is in the best interests of its existing residents, staff, and the constituents it serves, and in the public interest, to enter into an Affiliation with TA for the purpose of: (i) enhancing the provision of high quality and cost-effective care for its existing and future residents; (ii) ensuring ECA's financial viability; and (iii) expanding ECA's holistic wellbeing beyond buildings;

WHEREAS, ECA desires that TA should be the sole member and corporate parent of its corporation;

WHEREAS, TA desires to become the sole member and corporate parent of ECA and to provide the support described below;

WHEREAS, this Agreement is intended to memorialize the actions that each of ECA and TA must take in order to effect the structure described above (the "Affiliation"); and

WHEREAS, the Boards of Directors of each of ECA and TA have approved, adopted and authorized this Agreement and the Affiliation of ECA with TA, upon the terms and subject to the conditions set forth in this Agreement;

NOW, THEREFORE, in consideration of the representations, warranties, promises and the mutual covenants and agreements hereinafter contained each of the parties hereto, intending to be legally bound, hereby agree as follows:

1. General Provisions.

- a) "Affiliation Documents" means and includes:
  - (i) This Agreement;
  - (ii) The Seventh Amended and Restated Bylaws of ECA in the form attached hereto as Exhibit A (the "Restated ECA Bylaws"); and
  - (iii) Any exhibit attached to this Agreement shall be deemed incorporated into this Agreement by reference.
- b) Any reference in this Agreement to the adoption of an Affiliation Document means the adoption or approval of such Document by the governing body or bodies of ECA or TA, as the case may be, validly authorized to take any such action.
- c) Each of ECA and TA agrees that it will take all requisite actions to authorize the filing or adoption, as the case may be, of each of the other documents described in Section 2 hereof as and when provided in this Agreement.

2. Conditions Precedent to the Affiliation.

- a) The obligation of the parties to consummate the transactions contemplated by this Agreement shall be subject to the satisfaction or waiver of the following conditions precedent (provided that a party may not waive its own satisfaction of any such condition):
  - (i) The boards of directors or trustees and, if their consent is required, the members of each of the parties shall have approved the Affiliation, and shall have approved or authorized the approval of the Transaction Documents, and any approval so authorized shall have been given. Without limiting the foregoing, the board of directors of ECA shall have approved the filing of the Restated ECA Articles of Incorporation upon the Closing (as defined below), and shall have approved and adopted the Restated ECA Bylaws, to be effective upon the Closing (and not otherwise).
  - (ii) The Institute of the Sisters of Mercy of the Americas, a public juridic person of the Roman Catholic Church (the "Sisters of Mercy"), shall have approved the Affiliation.
  - (iii) ECA shall have obtained the written consent of the Attorney-General of the State of California (the "Attorney-General") to the Affiliation pursuant to California Corporations Code section 5920(a), or the Attorney General shall have given ECA a written waiver as to the Affiliation pursuant to California Corporations Code section 5920(c).
  - (iv) The parties shall have applied for and received such approvals as may be necessary for the consummation of the Affiliation from the California

Department of Social Services, the California Department of Public Health, and any other government agency or private party whose approval or consent is necessary as a matter of law or contract for the consummation of the Affiliation.

- (v) No injunction or restraining order shall be in effect to forbid or enjoin the consummation of the transactions contemplated by this Agreement and no Federal, state, local or foreign statute, rule or regulation shall have been enacted which prohibits, restricts or unreasonably delays the consummation hereof.
  - (vi) The parties shall have executed and delivered each of the Transaction Documents, and where necessary, filed any such document with the appropriate authority.
- b) The obligation of TA to consummate the transactions contemplated by this Agreement shall be subject to the satisfaction by ECA or waiver by TA of the following conditions precedent:
  - (i) Each of the directors of ECA and each of the ECA Subsidiaries shall have submitted his or her resignation from the board of directors of ECA or such ECA Subsidiary, as the case may be, to be effective upon the Closing (and not otherwise).
  - (ii) The representations and warranties of ECA in this Agreement shall be true, complete and correct in all material respects on and as of the Closing Date, and TA shall have received a certificate to that effect dated the Closing Date and executed on behalf of ECA.
  - (iii) Each of the agreements and covenants of ECA to be performed under this Agreement at or prior to the Closing Date shall have been duly performed in all material respects and TA shall have received a certificate to that effect dated the Closing Date and executed on behalf of ECA.
- c) The obligation of ECA to consummate the transactions contemplated by this Agreement shall be subject to the satisfaction by TA or waiver by ECA of the following conditions precedent:
  - (i) The representations and warranties of TA in this Agreement shall be true, complete and correct in all material respects on and as of the Closing Date, and ECA shall have received a certificate to that effect dated the Closing Date and executed on behalf of TA.
  - (ii) Each of the agreements and covenants of the TA to be performed under this Agreement at or prior to the Closing Date shall have been duly performed in all material respects, and ECA shall have received a certificate to that effect dated the Closing Date and executed on behalf of TA.

3. Closing: Subject to the parties' termination rights in Section 4, the closing of the transactions contemplated by this Agreement (the "Closing") shall take place as soon as practicable after the conditions set forth in Section 2.c)(ii) are satisfied or waived (the date on which the Closing occurs being referred to as the "Closing Date"). The Closing shall be held on the Closing Date by the electronic exchange of documents or at such location as may be agreed to by the Purchaser and the Sellers. Upon the Closing:

- a) The Restated ECA Bylaws shall go into effect;
- b) The resignations of the members of the board of directors of ECA and the ECA Subsidiaries referred to in Section 2.b)(i) shall go into effect;
- c) TA, as sole corporate member under the ECA Bylaws, shall elect the persons listed on Exhibit B as directors of ECA; and, ECA, as the sole corporate member of each of the ECA Subsidiaries, shall elect the persons listed on Exhibit B as directors of each of the ECA Subsidiaries.

4. Termination. Prior to Closing, this Agreement shall terminate and the transactions contemplated hereby abandoned upon any one of the following:

- a) By the mutual written agreement of the Parties;
- b) By ECA if TA shall have materially breached its representations or warranties contained in this Agreement, or defaulted in the performance of its covenants contained in this Agreement, and such breach or noncompliance continues uncured through the date that is ten (10) days after delivery of written notice to Purchaser specifying such breach or noncompliance;
- c) By TA if ECA shall have materially breached its representations or warranties contained in this Agreement, or defaulted in the performance of their covenants contained in this Agreement, and such breach or noncompliance continues uncured through the date that is ten (10) days after delivery of written notice to Sellers specifying such breach or noncompliance;
- d) By either party on written notice to the other, if the Attorney General notifies ECA that he does not consent to the Affiliation as set forth in this Agreement;
- e) By either party, upon delivery of written notice of termination to the other, at any time after the date that is 180 days after the Effective Date (the "Outside Closing Date"), if the Closing has not occurred by that date; provided that a party may not give notice of termination under this subsection e) unless at the time of delivery of the notice it is in compliance with its obligations under this agreement; and provided, further, that if the breach by a party (the "Breaching Party") of its obligations under this Agreement has caused delay in the Closing, then, for purposes of the Breaching Party's right to give notice of termination under this subsection, the Outside Closing Date shall be extended by the period of such delay.

- f) Liability Upon Termination. Upon the termination of this Agreement in accordance with this Section 4, neither of the Parties shall have any further liability hereunder upon such termination, except that each Party shall remain liable to the other for any breach by it of this Agreement or of any representation, warranty or covenant contained herein.

5. Obligations Pending Closing.

- a) From the Effective Date through the Closing (but without prejudice to the right of a party to terminate this Agreement in accordance with Section 4) the parties shall use commercially reasonable efforts to take, or cause to be taken, all actions and do or cause to be done all things necessary to consummate the transactions contemplated by this Agreement, including, without limitation, to obtain all consents, approvals and authorizations of third parties and to make all filings with, and give all notices to, third parties which may be necessary or required in order to effectuate the transactions contemplated hereby; and each of the parties shall cooperate reasonably with the other in connection with the consummation of the Affiliation.
- b) TA and ECA acknowledge and agree that Torsten Hirche is hereby authorized to execute any and all documents necessary to facilitate the Affiliation on behalf of TA, and Adriene Iverson is hereby authorized to execute any and all documents necessary to facilitate the Affiliation on behalf of ECA, provided that the chair of the board of trustees of ECA shall countersign this Agreement.

6. Affiliation of ECA with TA.

- a) The Affiliation. The Affiliation notwithstanding, ECA shall continue its corporate existence under California state law with all of its rights, privileges, immunities, powers and franchises.
- b) Affiliation Closing. Subject to the satisfaction or waiver of the conditions set forth in Section 2, the Closing of the Affiliation shall occur on the date determined pursuant to Section 3 at the ECA offices – 1301 Marina Village Pkwy Suite #210, Alameda, CA, 94501, unless another date, time or place is mutually agreed to in writing by ECA and TA.
- c) Affiliation Provisions. TA and ECA acknowledge and agree to the following Affiliation Provisions which shall be binding on the parties hereto:
  - (i) Operational Commitments. TA shall comply with the following provisions for a period of five (5) years following the Closing insofar as the following commitments relate to or affect the Mercy Operator or the Mercy SNF, and otherwise for a period of two (2) years following the Closing (provided, that, with the written approval of the Attorney-General of California as required, the following commitments may be terminated or amended insofar as they relate to the Mercy Operator or the Mercy SNF prior to the

expiration of the foregoing five-year period, and if required, as approved by the Attorney General):

- 1) TA acknowledges that the Mercy Operator receives its nonprofit status as a sponsored Catholic ministry and its Catholic identity from its Facility and Program Sponsor, the Institute of the Sisters of Mercy of the Americas, a public juridic person of the Roman Catholic Church (the “Facility and Program Sponsor”). TA will support ECA in ensuring that the Mercy Operator supports the religious and charitable mission of its Facility and Program Sponsor and conducts its activities in a manner consistent with and supportive of the mission and philosophy stated in the MRCC Statement of Catholic Identity of the Facility and Program Sponsor, a copy of which is attached hereto as Exhibit C, and in adherence to and in compliance with the Ethical and Religious Directives for Catholic Healthcare Facilities.

In addition, TA acknowledges that the Facility and Program Sponsor has certain approval rights with respect to material actions that may impact MRCC, which are contained in a Governance and Affiliation Agreement, dated May 23, 2023, by and among ECA, MRCC and the Facility and Program Sponsor, as well as the governing documents of ECA and MRCC (together, the “Sponsorship Documents”), and TA and ECA agree that they will refrain from taking action, or causing MRCC from taking action, that could impact the Facility and Program Sponsor’s sponsorship of MRCC or diminish their reserved authority and approval rights under the Sponsorship Documents.”

- 2) TA shall sustain a robust spiritual care program in each of ECA’s RCFE Facilities.
- 3) TA shall maintain and continue to employ staff at each ECA Facility who are in good standing as of the Closing Date, and shall maintain all staff wages and benefits at present levels subject to market adjustments, adjustments based on any law or regulation, or merit based increases. ECA acknowledges that no existing staff member is paid grossly above market under a special arrangement or employment contract.
- 4) TA shall—
  - a. Maintain and support the corporate existence, charitable mission and tax-exempt status of ECA and each of the ECA Subsidiaries, including:
    - i. Providing services at the ECA Facilities to a broad cross-section of the communities served by ECA and its subsidiaries, including Medicare and Medi-Cal beneficiaries in the Mercy SNF, without unlawful discrimination in services or programs on the basis of

any protected personal characteristic identified in state or federal civil rights laws, including section 51 of the California Civil Code and title 42, section 18116 of the United States Code;

- ii. Complying with the charity care policies of ECA and its subsidiaries as of the Closing, or with charity care policies no less favorable than ECA's charity care policy as of the Closing;
- b. Maintain and operate the Mercy SNF and each of the RCFEs as a licensed skilled nursing facility or residential care facility for the elderly, as applicable, and maintain the same licensure, types, and or levels of services being provided at each such facility as its current licensure and types and levels of service.
- c. Not place all or any portion of any ECA Facility's licensed bed or resident capacity or services in voluntary suspension or surrender its license for any beds or services.
- d. Maintain the certification of the Mercy SNF to participate in the Medi-Cal program, and maintain a Medi-Cal Provider Number to provide the same types and levels of skilled nursing services at the Mercy SNF to Medi-Cal beneficiaries as required by this Agreement to be provided to its patients generally; and maintain the certification of the Mercy SNF to participate in the Medicare program and have a Medicare Provider Number to provide the same types and levels of skilled nursing services at Mercy SNF to Medicare beneficiaries (both traditional and managed care) as required by this Agreement to be provided to its patients generally.
- e. If required as a condition of approval by the Attorney-General, for five (5) years from the closing date of the Purchase and Sale Agreement, consult on a quarterly basis with a community Advisory Board consisting of residents of the Mercy SNF and RCFE chosen by residents of the Mercy SNF and RCFE. The Community Advisory Board will provide advice and feedback on a quarterly basis on the quality of care and quality of life being provided to the residents and patients.
- f. Make commercially reasonable efforts to comply, or ensure compliance with, all applicable laws and regulations in the conduct of ECA and the ECA Subsidiaries, and the operation of the ECA Facilities.
- g. Abide by all resident admission agreements, leases, and other agreements relating to the occupancy of the ECA Facilities in place on the Closing Date.

- h. Continue to operate the ECA Facilities in a condition that is safe and inviting for its existing and future residents.
  - i. Maintain resident representation on the board of directors of the Mercy Operator, as required by applicable law and regulation.
  - j. To the extent that ECA is unable to fully fund its continuing operational expenses including payroll, service debt and liabilities, and/or make any necessary repairs or improvements to maintain ECA in a condition that is safe and inviting for its existing or future residents, or otherwise to comply with the undertakings set forth above, then TA agrees to provide the funding necessary to ensure those operational expenses are met through an intercompany loan.
  - k. Where commercially feasible and reasonable, new development or acquisition of licensed senior living facilities in California by TA or any of its subsidiaries will have ECA as its sole corporate member and be an affiliate of ECA.
- 5) ECA and TA shall work collaboratively to co-message the Affiliation to each organization's constituencies, including but not limited to: (a) making appropriate modifications to the ECA website to announce and highlight the Affiliation and related information; and (b) hosting one or more joint question and answer sessions with existing ECA residents.
- (ii) Employee Retention. TA acknowledges that ECA shall retain Adriene Iverson for a period of not less than two (2) years from the Affiliation Effective Date on the same or comparable terms of employment existing immediately prior to the Affiliation Effective Date in an at will employment relationship.
  - (iii) Retention of the Property. For a period of five (5) years following the Closing insofar as the following commitments relate to or affect the Mercy Operator or the Mercy SNF, and otherwise for a period of two (2) years following the Closing, (provided that, the written approval of the Attorney-General of California as required, the following commitments may be terminated or amended insofar as they relate to the Mercy Operator or the Mercy SNF prior to the expiration of the foregoing five-year period, and if required as approved by the Attorney General): TA agrees to retain the ECA Facilities as of the Affiliation Effective Date (the "Retention Period"), and not to transfer control or a material part of the assets of ECA, any ECA Subsidiary or any ECA Facility to any third party. The Retention Period shall be binding upon any successor to or affiliate of TA. A subsequent reorganization of ECA (including a merger or liquidation thereof) shall not reduce or eliminate the Retention Period. Following the Retention Period, TA shall use "best efforts" to retain the ECA Facilities indefinitely. "Best

efforts” means that when considering a sale of the ECA real property following the Retention Period TA shall: (a) act in good faith; (b) exercise reasonable commercial standards for the completion of relevant due diligence with regard to such potential sale; and balance (c) ECA’s desire that the ECA Facilities be retained indefinitely; with (d) the potential economic and organizational benefits and risks to TA and ECA respectively of a sale of the ECA Facilities.

- (iv) Advisory Committee. For a period of five (5) years following the Closing insofar as the following commitments relate to or affect the Mercy Operator or the Mercy SNF, and otherwise for a period of two (2) years following the Closing (provided, that, with the written approval of the Attorney-General of California as required, the following commitments may be terminated or amended insofar as they relate to the Mercy Operator or the Mercy SNF prior to the expiration of the foregoing five-year period, and if required as approved by the Attorney General), an advisory committee (consisting of the former ECA board of trustees) shall be formed, having a Charter in the form attached hereto as Exhibit D. The Advisory Committee shall have the status of an unincorporated association under Title 3 of the California Corporations Code. The Advisory Committee shall be a third-party beneficiary of the obligations of TA under this Agreement, with the right to enforce the same in the name and at the expense of ECA. The purpose of the Advisory Committee is to monitor and enforce compliance by TA with its obligations under this Agreement; to ensure historical continuity, be a community advocate in support of the Agreement, and build goodwill within the local community for Transforming Age and ECA. Specifically, the Advisory Committee shall meet with TA management not less frequently than quarterly for two years and semi-annually for years 3 through 5, for the period during which the commitments of TA under Section c) are required to remain in effect. At each meeting the Advisory Committee shall: (a) report on the sufficiency of ongoing co-messaging regarding the Affiliation (b) report any resident or community concerns to TA and ECA management; (c) receive at each meeting a report of TA’s compliance with its obligations under this Agreement, and such other updates or reports from TA management regarding other matters that TA management determines is necessary, prudent or desirable to share with or seek input from the Advisory Committee, or that the Advisory Committee requests in order to monitor compliance by TA with its obligations under this Agreement; and (d) engage in a question and answer session with TA management.

7. Expenses. Except as otherwise provided in this Agreement, each of ECA and TA, and their respective Affiliates, shall bear their own expenses incurred in connection with the negotiation and execution of this Agreement and the Affiliation Documents (“Expenses”), it being understood that TA shall authorize ECA to pay all such ECA Expenses.

8. Representations and Warranties of ECA. ECA hereby represents and warrants to TA as follows:

- a) Organization and Good Standing. ECA is a nonprofit corporation duly organized, validly existing and in good standing and has all requisite corporate power and authority to own, lease and operate its properties and to carry on its business as now conducted.
- b) Authorization of Agreement. ECA has all requisite power, authority and legal capacity to execute and deliver, and has taken all corporate action, and has obtained all required corporate approvals, necessary for it to validly execute and deliver, this Agreement and each agreement, document, or instrument or certificate contemplated by this Agreement to be executed and delivered by ECA in connection with the consummation of the Affiliation (collectively, the “ECA Affiliation Documents”) and to perform its obligations hereunder and thereunder and to consummate the Affiliation. This Agreement has been, and each ECA Affiliation Document shall be duly and validly executed and delivered by ECA and (assuming the due authorization, execution and delivery by the other parties hereto and thereto) this Agreement constitutes, and each of the ECA Affiliation Documents when so executed and delivered shall constitute, legal, valid and binding obligations of ECA and the ECA Affiliates enforceable against ECA and the ECA Affiliates in accordance with their respective terms.
- c) Consents of Third Parties; Contractual Consents. Except for any consent expressly contemplated by or referenced in this Agreement (including the consents referred to on Schedule 8.c) ECA is not required to obtain any consent, approval, authorization, waiver, Order, license or Permit of or from, or to make any declaration or filing with, or to give any notification to, any Person (including any Governmental Body) in connection with the execution and delivery of this Agreement or the ECA Affiliation Documents by ECA, the compliance by ECA with any of the provisions hereof or thereof, the consummation of the Affiliation by ECA and the ECA Affiliates, or the taking by ECA or any of the ECA Affiliates of any other action contemplated hereby or thereby, except for such other consents, waivers, approvals, Orders, Permits, authorizations, declarations, filings and notifications of which the failure to have obtained or made same would not have a Material Adverse Effect.
- d) Tax Status; California Public Charity Status. ECA is a public charity that is tax exempt pursuant to Section 501(c)(3) of the Internal Revenue Code. ECA is registered with the California Secretary of State as a nonprofit. ECA has filed in a timely matter all annual reports and other filings it is required to file with the Secretary of State.
- e) Litigation. There are no Legal Proceedings pending or, to the knowledge of ECA, threatened against ECA or an ECA Affiliate, or to which ECA or an ECA Affiliate is otherwise a party before any Governmental Body, that, if adversely determined, would reasonably be expected to have a material adverse effect on

the ability of ECA to perform its obligations under this Agreement or to consummate the Affiliation. Neither ECA nor any ECA Affiliate is subject to any Order of any Governmental Body directed specifically to it except to the extent the same would not reasonably be expected to materially adversely affect the ability of ECA to perform its obligations under this Agreement or to consummate the Affiliation.

Nothing contained in this Section 5 shall impose or create a liability to or obligation of the pre-closing officers and directors of ECA.

EXCEPT AS EXPRESSLY SET FORTH ABOVE, ECA MAKES NO REPRESENTATIONS OR WARRANTIES WHATEVER, EXPRESS OR IMPLIED, CONCERNING ECA, ANY ECA SUBSIDIARY, OR ANY ECA FACILITY.

9. Representations and Warranties of TA. TA hereby represents and warrants to ECA as follows:

- a) Organization and Good Standing. TA is a nonprofit corporation duly organized, validly existing and in good standing under RCW 24.03 et. seq., and has all requisite corporate power and authority to own, lease and operate its properties and to carry on its business as now conducted.
- b) Authorization of Agreement. TA has all requisite power, authority and legal capacity to execute and deliver, and has taken all corporate action, and has obtained all required corporate approvals, necessary for it to validly execute and deliver, this Agreement and each agreement, document, or instrument or certificate contemplated by this Agreement to be executed and delivered by TA in connection with the consummation of the Affiliation (collectively, the "TA Affiliation Documents") and to perform its obligations hereunder and thereunder and to consummate the Affiliation. This Agreement has been, and each TA Affiliation Document shall be at or prior to the signing of the affiliation agreement, duly executed and delivered by TA and (assuming the due authorization, execution and delivery by the other parties hereto and thereto) this Agreement constitutes, and each of the TA Affiliation Documents when so executed and delivered shall constitute, legal, valid and binding obligations of TA and the TA Affiliates enforceable against TA and the TA Affiliates in accordance with their respective terms.
- c) Consents of Third Parties; Conflicts.
  - (i) TA is not required to obtain any consent, approval, authorization, waiver, Order, license or Permit of or from, or to make any declaration or filing with, or to give any notification to, any Person (including any Governmental Body) in connection with the execution and delivery of this Agreement or the TA Affiliation Documents by TA, the compliance by TA with any of the provisions hereof or thereof, the consummation of the Affiliation TA and the TA Affiliates, or the taking by TA or any of the TA Affiliates of

any action contemplated hereby or thereby, except for the Healthcare Regulatory Consents.

- (ii) To TA's knowledge, none of the execution and delivery by TA of this Agreement or any of the TA Affiliation Documents, the consummation of the Affiliation by TA, or compliance by TA with any of the provisions hereof or thereof will conflict with, or result in any violation of or a default (with or without notice or lapse of time, or both) under, or give rise to a right of termination or cancellation under any provision of, any Contract or Permit to which TA or an TA Affiliate is a party or by which any of the properties or assets of TA or an TA Affiliate is bound, other than any such conflicts, violations, defaults, terminations or cancellations that would not materially adversely affect the ability of TA to consummate the Affiliation.
- d) Tax Status; Washington Public Charity Status. TA is a public charity that is tax exempt pursuant to Section 501(c)(3) of the Internal Revenue Code. TA is registered with the Washington Secretary of State as a nonprofit. TA has filed in a timely matter all annual reports and other filings it is required to file with the Secretary of State.
- e) Litigation. There are no Legal Proceedings pending or, to the knowledge of TA, threatened against TA or an TA Affiliate, or to which TA or an TA Affiliate is otherwise a party before any Governmental Body, that, if adversely determined, would reasonably be expected to have a material adverse effect on the ability of TA to perform its obligations under this Agreement or to consummate the Affiliation. Neither TA nor any TA Affiliate is subject to any Order of any Governmental Body except to the extent the same would not reasonably be expected to materially adversely affect the ability of TA to perform its obligations under this Agreement or to consummate the Affiliation.

10. Miscellaneous Provisions

- a) Dispute Resolution. In the event any disputes arise regarding the interpretation or enforcement of this Agreement, such disputes shall be resolved as follows:
  - (i) The parties shall first attempt to resolve a dispute by negotiating directly and in good faith. If any disputes cannot be resolved by direct negotiations within sixty (60) days or such longer time as is mutually agreed by the parties, then the parties shall submit such disputes to mediation, which shall focus on the needs of all the parties and seek to solve problems cooperatively, with an emphasis on dialogue and accommodation. The goal of the mediation shall be to fairly resolve each dispute in a manner which preserves and enhances the parties' relationships with an emphasis on carrying out the provisions of this Agreement. Any party desiring mediation may begin the process by giving the other party a written request to mediate which describes the issues involved and invites the other party to join in naming a mutually agreeable mediator and setting a timeframe for

the mediation. The parties and the mediator may adopt any procedural format that seems appropriate for the particular dispute. The contents of all discussions during the mediation shall be confidential and non-discoverable in subsequent arbitration or litigation, if any. If the parties can agree upon a mutually acceptable resolution to the disagreement, it shall be reduced to writing, signed by the parties, and the dispute shall be deemed resolved. The costs of mediation shall be divided equally among the parties to the dispute.

- (ii) If any dispute cannot be resolved through mediation, or if any party refuses to mediate or to name a mutually acceptable mediator or establish a timeframe for mediation within a period of time that is reasonable considering the urgency of the disputed matter, or fails to agree to procedures for the mediation, then any party who desires dispute resolution may seek binding arbitration to resolve the dispute as hereinafter provided.
  - (iii) All disputes among the parties arising out of or related to this Agreement which have not been settled by mediation shall be resolved by binding arbitration within the State of California. The arbitration shall be administered by JAMS pursuant to its Comprehensive Arbitration Rules and Procedures and in accordance with the Expedited Procedures in those Rules. This clause shall not preclude parties from seeking provisional remedies in aid of arbitration from a court of appropriate jurisdiction. Any arbitration award may be enforced by judgment entered in the Superior Court of the State of California for Alameda County.
  - (iv) The Advisory Committee shall have standing to proceed as the proper party on behalf of ECA if following the Affiliation Effective Date it is necessary for the parties to address any dispute under this Section 10. The parties acknowledge that the Advisory Committee will have no independent funding or resources to enforce this Agreement. Accordingly, ECA (or if it fails to do so, TA) shall be responsible for and shall promptly pay or reimburse the reasonable costs and expenses of the Advisory Committee, including reasonable attorneys' fees, incurred in connection with the enforcement of this Agreement (including the costs of consultation and mediation prior to the commencement of arbitration), whether or not arbitration is demanded and, if it is demanded, whether or not ECA (acting by and through the Advisory Committee) prevails; and, the provisions of clause (iii) notwithstanding, the Advisory Committee may apply to any court of competent jurisdiction for an order directing ECA or TA to provide the funding necessary to enable it to pursue enforcement of this Agreement.
- b) Indemnity. TA shall indemnify and hold harmless the officers and directors of ECA existing prior to Affiliation Closing from any and all liability arising out of the conduct of TA, ECA, or their officers and directors after Affiliation Closing, including the cost of attorney's fees incurred in the defense of such claims.

- c) Insurance. TA and ECA shall continue the presently existing policies of insurance relating to general liability and directors and officers liability for a period of five (5) years following Affiliation Closing.
- d) Tax Obligations. TA shall assume and hold ECA harmless from all tax obligations of any kind or nature arising out of or relating in any manner to this Affiliation Agreement.
- e) Entire Agreement: Amendments and Waivers. This Agreement (including the exhibits attached hereto), and the Affiliation Documents (collectively, the "Affiliation Agreements") represent the entire understanding and agreement between the parties hereto with respect to the subject matter hereof. This Agreement can be amended, supplemented or changed, and any provision hereof can be waived, only by written instrument making specific reference to this Agreement signed by the parties. No action taken pursuant to this Agreement, including without limitation, any investigation by or on behalf of any party, shall be deemed to constitute a waiver by the party taking such action of compliance with any representation, covenant or agreement contained herein. The waiver by any party hereto of a breach of any provision of this Agreement shall not operate or be construed as a further or continuing waiver of such breach or as a waiver of any other or subsequent breach. No failure on the part of any party to exercise, and no delay in exercising, any right, power or remedy hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of such right, power or remedy by such party preclude any other or further exercise thereof or the exercise of any other right, power or remedy. All remedies hereunder are cumulative and are not exclusive of any other remedies provided by law.
- f) Legal Counsel. Each party hereby acknowledges that it has read this Agreement, understands its contents, and has had an opportunity to obtain separate and independent counsel of its own choosing prior to signing this Agreement, and either obtained such independent counsel, or waived such right, and is therefore executing this Agreement voluntarily.
- g) Governing Law. This Agreement shall be governed by, and construed and enforced in accordance with, the laws of California applicable to contracts made and performed in such California, without giving effect to of application of its principles of conflicts of laws.
- h) Notices. All notices, requests, claims, demands and other communications hereunder shall be in writing, shall be addressed to the receiving party's address set forth below or to such other address as a party may designate by notice hereunder, and shall be either (i) delivered by hand (ii) made by facsimile transmission, (iii) sent by overnight courier, or (iv) sent by certified mail, return receipt requested, postage prepaid, or such other address as either party will advise the other party by notice delivered in accordance with the foregoing. All notices and other communications hereunder shall be deemed to have been given (i) if by hand, at the time of the delivery thereof to the receiving party at the

address of such party set forth above, (ii) if made by facsimile transmission, at the time that receipt thereof has been acknowledged by electronic confirmation or otherwise, (iii) if sent by courier, on the next Business Day; or (iv) if sent by certified mail, on the fifth (5th) Business Day following the day such mailing is made.

- i) Severability. If any term or other provision of this Agreement is invalid, illegal, or incapable of being enforced by any law or public policy, all other terms or provisions of this Agreement shall nevertheless remain in full force and effect so long as the economic or legal substance of the Affiliation is not affected in any manner materially adverse to any party. Upon such determination that any term or other provision is invalid, illegal, or incapable of being enforced, the parties hereto shall negotiate in good faith to modify this Agreement so as to effect the original intent of the parties as closely as possible in an acceptable manner in order that the Affiliation is consummated as originally contemplated to the greatest extent possible.
- j) Binding Effect: Assignment. This Agreement shall be binding upon and inure to the benefit of the parties and their respective successors and permitted assigns. No assignment of this Agreement or of any rights or obligations hereunder may be made by either party (by operation of law or otherwise) without the prior written consent of the other party hereto and any attempted assignment without the required consents shall be void.
- k) No Personal Liability. In entering into this Agreement, the parties understand, agree and acknowledge that no director, trustee, officer, member, employee, attorney, accountant, advisor or agent of any party hereto shall be personally liable or responsible to any other party or its Affiliates, directors, trustees, officers, members, employees, attorneys, accountants, advisors or agents for the performance of any obligation under this Agreement of any party to this Agreement or the truth, completeness or accuracy of any representation contained in this Agreement or any of the Affiliation Documents.
- l) No Third Party Beneficiaries. Nothing in this Agreement is intended to confer upon any person other than the parties any rights, benefits or remedies.
- m) Counterparts: Facsimiles. This Agreement may be executed in one or more counterparts, each of which will be deemed to be an original copy of this Agreement and all of which, when taken together, shall be deemed to constitute one and the same agreement. Facsimile or other electronic transmission of any signed original document and/or retransmission of any signed facsimile or other electronic transmission will be deemed the same as delivery of an original.

IN WITNESS WHEREOF, the parties hereto have caused this Master Affiliation Agreement to be executed and delivered as a sealed instrument by their respective officers thereunto duly authorized, as of the date first written above.

Elder Care Alliance

By:   
Name/Title: Adriene Iverson, President/CEO

By: \_\_\_\_\_  
Name/Title: Joy Moore, Board Chair

Transforming Age

By:   
Name/Title: Torsten Hirche, President/CEO

Elder Care Alliance

By: Adriene Iverson  
Name/Title: Adriene Iverson, President/CEO

By: Joy Moore  
Name/Title: Joy Moore, Board Chair

Transforming Age

By: \_\_\_\_\_  
Name/Title: Torsten Hirche, President/CEO

Exhibit A  
Restated ECA Bylaws

Approved by ECA Board: \_\_\_\_\_  
\_\_\_\_\_

TO BE EFFECTIVE ONLY UPON APPROVAL OF THE CORPORATE MEMBER, AND  
THE CLOSING OF THE TRANSACTIONS CONTEMPLATED BY  
THE AFFILIATION AGREEMENT DATED JULY 28, 2023  
BETWEEN ELDER CARE ALLIANCE AND  
TRANSFORMING AGE, A WASHINGTON NONPROFIT CORPORATION

SEVENTH AMENDED AND RESTATED BYLAWS  
OF  
ELDER CARE ALLIANCE

ARTICLE I. NAME AND PRINCIPAL OFFICE

1.1 Name. The name of this corporation shall be Elder Care Alliance.

1.2 Principal Office. The principal office for the transaction of the business of the corporation shall be at a location determined from time to time by the board of directors; provided, that the officers of the corporation may relocate the principal office, or designate alternative principal offices, as necessary to continue the orderly conduct of the corporation's business in the event of an emergency as defined in Section 5140(n)(5) of the California Nonprofit Corporation Law.

ARTICLE II. PURPOSE

2.1 Purpose. The corporation is a nonprofit organization dedicated to supporting the provision of quality long term care and social services for older adults in a spiritually centered environment that emphasizes dignity and respect for the life and spirit of each individual, carried out by a system of organizations supported by the corporation (the "System"). The corporation strives to promote wellness in the surrounding communities through education and advocacy. The corporation conducts its activities in accordance with its mission and philosophy statement and its core values of dignity, caring, excellence, prudent stewardship and collaboration. The corporation shall conduct its activities in furtherance of the social ministries of its Corporate Members, which shall retain oversight to assure the maintenance of the corporation's Christian mission and service to the poor.

ARTICLE III. SOLE CORPORATE MEMBER

3.1 Corporate Members. The sole member of the Corporation is Transforming Age, a Washington Nonprofit Corporation (the "Member").

7368284.1

ECA Seventh Amended & Restated Bylaws 2023-07-20 v3 CleanDRAFT

#### ARTICLE IV. BOARD OF DIRECTORS

4.1 Powers. Subject to the rights of the Member set forth in these Bylaws or under law, the activities and affairs of the corporation shall be conducted and all corporate powers shall be exercised by or under the direction of its board of directors (hereafter, "board" or "directors"). Certain actions set forth in Exhibit 4.1 regarding Mercy Retirement and Care Center ("MRCC") shall require the approval of the Institute of the Sisters of Mercy of the Americas.

4.2 Number. The number of directors of the corporation shall be not less than seven (7) or greater than fourteen (14) individuals, the exact number to be fixed, within the limits specified, by the Member. Until the Member fixes a different number, the number shall be nine (9).

4.3 Elected Directors.

(a) The directors shall be elected by the Member, and shall serve for the terms specified in Section 4.5 hereof.

(b) Each director of the corporation shall take office at the annual meeting of the board held in November of the year in which such director's term is to commence.

4.4 Nomination of Directors. The corporation shall have a Board Development Committee which shall assist the Member in identifying and evaluating qualified individuals to serve as directors of the corporation and recommend them to the Member for election.

4.5 Term of Directors: Etc.

(a) Length of Term Year. Each director's term begins upon adjournment of the annual meeting of the board held in November of the first year for which he or she is appointed and continues until adjournment of the annual meeting of the board held in November in the last year of such term or until his or her replacement is appointed.

(b) Permissible Number of Consecutive Years. Except as otherwise provided in this Article IV, the following shall apply. Any director elected to the board for the first time or after having been off the board for the Hiatus Period defined below shall serve for a term of three (3) years. Thereafter, a director will be eligible for appointment for up to two (2) additional consecutive three-year terms; provided, however, that, at the election of the Member, any such term may be for less than three (3) years, to allow for the staggering of terms or to permit a director to serve the maximum number of consecutive years allowed hereunder; and provided, further, that if a director has served one or more terms of less than three years, he or she may be elected to a fourth consecutive term; provided, further, however, that no director may serve more than nine (9) consecutive years on the board; however, he or she will again be eligible for appointment under the provisions hereof one (1)

7368284.1

ECA Seventh Amended & Restated Bylaws 2023-07-20 v3 CleanDRAFT

year after the conclusion of such a nine-year period (“Hiatus Period”).

(c) Performance Review. The board will review its own performance as a board, in accordance with policy as established by the Corporate Governance Committee, and the board will take such action to improve or correct its performance as the results of the review indicate. The board will also establish its own policies and procedures for the review of individual board members’ performances, with assistance from the Corporate Governance Committee.

#### 4.6 Vacancies.

(a) Any vacancy occurring on the board shall be filled as soon as practicable by election by the Member, with advice and consultation from the Board Development Committee.

(b) Any individual appointed to fill a vacancy on the board in accordance with subsection (a) hereof shall serve until the end of the term of the director so replaced, and such service shall count towards the limit set forth in Section 4.5(b).

4.7 Removal. A director or directors may be removed at any time with or without cause by the Member.

4.8 Annual Meeting. The annual meeting of the board shall be held in November of each year at such time and place as the Chairperson may determine in consultation with the Member.

4.9 Regular Meetings. Regular meetings of the board shall be at the times fixed by resolution of the board and shall not require prior notice.

4.10 Special Meetings. Special meetings of the board for any purpose whatsoever may be called at any time by the Chairperson of the board, by the President/Chief Executive Officer, by any four (4) directors, or by the Member. Notice of any special meeting of the board shall be sufficient if: (a) mailed first class four (4) days prior to the meeting; or (b) delivered personally or by telephone or by electronic transmission by the corporation no less than forty-eight (48) hours prior to the meeting. A notice, or waiver of notice, need not specify the purpose of any regular or special meeting of the board. In the event of an emergency as defined in Section 5140(n)(5) of the California Nonprofit Corporation Law, notice of meetings may be delivered in any manner practicable under the circumstances, including by publication or website posting, that may reasonably be expected to inform the directors of the time, date and manner of holding the meeting.

4.11 Quorum. A majority of the directors then in office shall constitute a quorum for the transaction of business at any meeting of the board; provided that the number shall not be less than the greater of (i) one-fifth the number of directors fixed pursuant to Section 4.2, and (ii) two. During an emergency as defined in Section 5140(n)(5) of the California Nonprofit Corporation Law the Board may deem that one or more officers of the corporation present at a board meeting is a director, in order of rank and within the same rank in order of seniority, as necessary to achieve a quorum for

7368284.1

ECA Seventh Amended & Restated Bylaws 2023-07-20 v3 CleanDRAFT

that meeting.

4.12 Voting. Unless the vote of a greater number is required by these Bylaws, the articles of incorporation or the California Nonprofit Corporation Law, the following will constitute the act of the board of directors: (a) if a quorum is present, the affirmative vote of at least a majority of the directors present; or (b) if a quorum was initially present but enough directors then withdraw to leave less than a quorum, the affirmative vote of at least a majority of the original quorum. Voting by proxy is prohibited.

4.13 Action Without Meeting by Written Consent. Any action required or permitted to be taken by the board may be taken without a meeting, if all directors shall individually or collectively consent in writing to such action. The written consent shall be filed with the minutes of the proceedings of the board. Action by written consent shall have the same force and effect as the unanimous vote of the board.

4.14 Telephonic Meetings. Directors may participate in a meeting through use of a conference telephone, electronic video screen communication or electronic transmission by and to the corporation. Participation in a meeting through use of conference telephone or electronic video screen communication pursuant to this section constitutes presence in person at that meeting as long as all directors participating in the meeting are able to hear one another. Participation in a meeting through use of electronic transmission by and to the corporation, other than conference telephone and electronic video screen communication, constitutes presence in person at that meeting if both of the following apply:

(a) Each director participating in the meeting can communicate with all of the other directors concurrently.

(b) Each director is provided the means of participating in all matters before the board, including, without limitation, the capacity to propose, or to interpose an objection to, a specific action to be taken by the corporation.

Meetings held in accordance with this section 4.14 shall constitute the valid action of the board, provided that the other requirements of this Article IV are met with respect to such meetings.

4.15 Duty to Support Mission. Each director of the corporation shall adhere to the highest standards of ethical and moral conduct in carrying out his or her duties for the corporation, shall act, in all respects, in the best interests of the corporation and shall fully support its mission and philosophy. Failure of any director to adhere to such standards or support such mission and philosophy may be grounds for his or her removal or termination in accordance with these Bylaws.

## ARTICLE V. THE MEMBER

5.1 Manner of Acting. The member shall act through the Member's board of directors or a duly authorized committee thereof, or through a designated representative as and to the extent

7368284.1

BCA Seventh Amended & Restated Bylaws 2023-07-20 v3 CleanDRAFT

authorized from time to time by resolution adopted by the Member's board of directors or a duly authorized committee thereof.

5.2 Annual Meeting. The annual meeting of the Member for election of Board directors to succeed those whose terms expire, and for the transaction of such other business as may properly come before the meeting, shall be held each year during the month of October on the date and at the time each year as determined by the Member. If the date fixed for the annual meeting is a legal holiday, the meeting shall be held on the next succeeding business day. If the annual meeting is not held on the date designated therefor, the Member's board of directors shall cause the meeting to be held as soon thereafter as may be convenient.

5.3 Special Meetings. The President, the Board, or the Member may call special meetings of the Member for any purpose.

5.4 Action by Member Without a Meeting. Any action that could be taken at a meeting of the Member may be taken without a meeting if a consent, in the form of a record setting forth the action so taken, is executed by the Member. Such consent shall be inserted in the minute book as if it were the minutes of a meeting of the Member.

5.5 Place of Meetings. All meetings of the Member shall be held at the principal office of the Member or at such other place within or outside the State of Washington designated by the President, by the Member, or by a waiver of notice executed by the member.

5.6 Notice of Meetings. The President, the Secretary, or the Board shall cause to be delivered to the Member, in a tangible medium (e.g., a letter or facsimile) or by an electronic transmission (e.g., email) (as provided in Section 4.10), not less than three (3) nor more than thirty (30) days before the meeting, a notice stating the place, date and time of the meeting and, in the case of a special meeting, the purpose or purposes for which the meeting is called. At any time, upon the request, in a tangible medium or by electronic transmission, of the Member calling for a special meeting pursuant to Section 5.3, it shall be the duty of the Secretary to give notice of the special meeting of the Member to be held at a date, time, and place fixed by the Secretary, such date not to be less than one (1) nor more than ten (10) days after receipt of such request. If the Secretary neglects or refuses to issue such notice, the person or persons making the request may do so and may fix the date, time, and place for such meeting. If notice is delivered in a tangible medium, it may be transmitted by mail, private carrier, or personal delivery; telegraph or teletype; or telephone, wire or wireless equipment that transmits a facsimile of the notice. If mailed, the notice shall be deemed delivered when deposited in the United States mail addressed to the Member at its address as it appears on the records of the Corporation with postage thereon prepaid. Other forms of notice in a tangible medium described in this paragraph are effective when received.

5.7 Notice by Electronic Transmission. If notice is provided in an electronic transmission, it must satisfy the requirements of Section 4.10 of these Bylaws.

7368284 1

ECA Seventh Amended & Restated Bylaws 2023-07-20 v3 CleanDRAFT

5.8 Waiver of Notice.

(a) Waiver. Whenever any notice is required to be given to the Member under the provisions of these Bylaws, the Articles of Incorporation, or applicable Washington law, a waiver thereof in the form of a record executed by the member shall be deemed equivalent to the giving of such notice. Neither the business to be transacted at, nor the purpose of, any regular or special meeting of the member need be specified in the waiver of notice of such meeting.

(b) Waiver by Attendance. The attendance of the Member at a meeting shall constitute a waiver of notice of such meeting, except where the Member attends a meeting for the express purpose of objecting to the transaction of any business because the meeting is not properly called or convened.

5.9 Quorum. The presence of the Member is necessary and sufficient to constitute a quorum at a meeting of the Member.

5.10 Approval Rights. The provisions of Section 4.1 notwithstanding, the following actions on the part of the corporation shall require the approval of the Member:

- (a) The amendment of the corporation's articles of incorporation or bylaws;
- (b) The election or appointment and the removal of directors;
- (c) The sale, lease, conveyance, exchange, transfer or other disposition of all or substantially all of the assets of the corporation;
- (d) The merger or consolidation of the corporation with any other entity;
- (e) Adoption of a plan for the distribution of the assets of the Corporation; and
- (e) A voluntary election to wind up and dissolve the corporation.

ARTICLE VI. OFFICERS

6.1 Officers. The officers of the Corporation shall be the Chair, Vice-Chair, President, one or more Vice Presidents, Secretary, and Treasurer. The Chair and the Vice-Chair shall be the Chair and Vice-Chair, respectively, of the Transforming Age board of directors. The other officers (including the President) shall be the officers of Transforming Age, appointed by the Transforming Age board of directors. Any two or more offices may be held by the same person, except the offices of President and Secretary.

6.2 Nomination, Election, Terms of Office of Corporate Officers.

(a) Election and Terms of Office. The Corporate Officers shall be elected by the board. The term of office of the Chairperson, the Vice Chairperson shall be for one (1) year, beginning on the date of the board's annual meeting at which he or she is elected. The President shall not serve for any specific term of office, but rather at the discretion of the Board. The remaining officers will serve an indefinite term, subject to the discretion of the President.

6.3 Removal. Any Corporate Officer or subordinate officer may be removed by the board whenever, in its judgment, the best interests of the corporation will be served thereby; provided, however, that removal of a Corporate Officer shall be without prejudice to his or her contract rights, if any.

6.4 Vacancies in Corporate Offices. A vacancy in the office offices of Chair, Vice-Chair, or President created by the death, resignation, removal, disqualification, creation of a new office or any other cause may be filled by the member of the Corporation for the unexpired portion of the term or for a new term established by the member. A vacancy created in any of the offices appointed by the President shall be filled by the President.

6.5 Chairperson. The Chairperson must be a director. He or she shall direct the business of the board and shall preside at all meetings of the board. The Chairperson shall have such other powers and duties as may be prescribed by the board or these Bylaws.

6.6 Vice Chairperson. In the absence or disability of the Chairperson, the Vice Chairperson, who must be a director, shall perform all the duties of the Chairperson, and when so acting, shall have all of the powers of and be subject to all the restrictions upon the Chairperson. The Vice Chairperson shall have such other powers and perform such other duties from time to time as may be prescribed by the board or the Chairperson.

6.7 Secretary. The Secretary, who must be a director, shall (a) keep the minutes of all meetings of the board, (b) see that all notices are duly given in accordance with the provisions of these Bylaws or as required by law, (c) have charge of all the records of the board, (d) see that the execution of the foregoing on behalf of the corporation is duly authorized, and (e) in general, perform all of the duties incident to the office of Secretary, subject to the control of the board.

6.8 President/Chief Executive Officer. The President/Chief Executive Officer shall be the chief executive officer of the corporation. Subject to these Bylaws, corporate policy and control by the board, the President/Chief Executive Officer shall exercise executive supervision and control over the general business and affairs of the corporation and shall perform such other duties as may be prescribed from time to time by the board.

6.9 Treasurer. The Treasurer shall keep and maintain, or cause to be kept and maintained, adequate and comprehensive books and records of the assets of the corporation and of its transactions. Such books and records shall be open to inspection by any director at all reasonable times. In addition, the Treasurer shall have charge of the funds and liquid assets of the corporation and shall deposit and/or invest such funds and liquid assets in accordance with the overall mission, policies, and plans of the corporation and in accordance with the directives of the President/Chief Executive Officer and the board. In addition, the Treasurer shall be responsible for all necessary and appropriate reporting and accounting.

6.10 Vice Presidents. The Corporate Officers may recommend for appointment by the Board such Vice Presidents or other subordinate officers as they deem necessary from time to time. Unless appointed as such pursuant to these Bylaws, Vice Presidents shall not be Corporate Officers. They shall have such powers and perform such duties as may be delegated to them by the board or by the President/Chief Executive Officer in accordance with policies duly adopted by the board.

6.11 Multiple Corporate Offices. Any number of Corporate Offices may be held by the same person, except that neither the Secretary nor the Chief Financial Officer may serve concurrently as the President/Chief Executive Officer or the Chairperson.

6.12 Duty to Support Mission. Each Corporate Officer and each Vice President of the corporation shall adhere to the highest standards of ethical and moral conduct in carrying out his or her duties for the corporation, shall act, in all respects, in the best interest of the corporation and shall fully support its mission and philosophy. Failure of any Corporate Officer or Vice President to adhere to such standards or support such mission and philosophy may be grounds for his or her removal in accordance with these bylaws.

## ARTICLE VII. COMMITTEES

7.1 Standing or Temporary Committees. The Board, by resolution adopted by a majority of the directors in office, may designate and appoint from among its members one or more standing or temporary committees, each of which shall:

- (a) Consist of two (2) or more directors;
- (b) Be governed by the same rules regarding meetings, action without meetings, notice, and waiver of notice, and quorum and voting requirements as apply to the Board; and
- (c) To the extent provided in such resolution, have and may exercise the authority of the Board in the management of the Corporation; provided, however, that the Board may not delegate its authority to:
  - (i) approve any action for which the Code also requires approval of the

Member;

- (ii) amend, alter, or repeal these Bylaws;
- (iii) elect, appoint, or remove any member of any such committee or any director or officer of the Corporation;
- (iv) amend the Articles of Incorporation;
- (v) approve of any self-dealing transaction except as provided in paragraph (3) of subdivision (d) of Section 5233 of the Code;
- (vi) adopt a plan of merger or consolidation with another corporation;
- (vii) authorize the sale, lease, or exchange of all or substantially all of the property and assets of the Corporation, not in the ordinary course of business;
- (viii) authorize the voluntary dissolution of the Corporation or revoke proceedings therefor;
- (ix) adopt a plan for the distribution of the assets of the Corporation; or
- (x) amend, alter, or repeal any resolution of the Board which by its terms provides that it shall not be amended, altered or repealed by such committee.

The designation and appointment of any such committee and the delegation thereto of authority shall not operate to relieve the Board, or any individual director, of any responsibility imposed upon it by law. The Board shall have the power at any time to change the members of any such committee, to fill vacancies, and to discharge any such committee.

7.2 Attendance. Board members who are not appointed to a committee may attend by invitation.

7.3 Resignation of Committee Member. Any member of any committee may resign at any time by delivering notice thereof, in the form of a record, to the Chair, the President, the Secretary, or the chair of such committee, or by giving such notice at any meeting of such committee. Any such resignation shall take effect at the time specified therein or, if the time is not specified, upon delivery thereof and, unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

7.4 Audit Committee. The corporation shall have an Audit Committee appointed by the

board of directors of the corporation and may include persons who are not members of the board of directors. The Audit Committee shall not include any members of the staff, including the president or chief executive officer and the treasurer or chief financial officer. Members of the finance committee may serve on the audit committee; however, the chairperson of the audit committee may not be a member of the finance committee and members of the finance committee shall constitute less than one-half of the membership of the audit committee. Members of the audit committee shall not receive any compensation from the corporation in excess of the compensation, if any, received by members of the board of directors for service on the board and shall not have a material financial interest in any entity doing business with the corporation. The Audit Committee shall perform the duties and adhere to the guidelines set forth from time to time by the Board. The Audit Committee shall perform the duties and adhere to the guidelines set forth from time to time by the Board. These duties include, but are not limited to: (i) assisting the Board in choosing an independent auditor and recommending termination of the auditor, if necessary, (ii) negotiating the auditor's compensation, (iii) conferring with the auditor regarding the corporation's financial affairs, (iv) reviewing and accepting or rejecting the audit, and approving performance of non-audit services by the auditing firm.

7.5 Additional Committees of the Board. The board may, by resolution adopted by a majority of the directors, designate one or more additional committees to serve at the pleasure of the board. Committees of the board shall have such authority as is given them in the authorizing resolution or in these Bylaws and shall have a director as chairperson. Except as otherwise provided in these Bylaws, the members of the committee may, but need not be, directors.

7.6 Removal of Members of Committees. The board, by resolution adopted by a majority of the directors in office, may remove at any time, with or without cause, the chairperson or any member of any committee, except those individuals appointed ex-officio in accordance with these Bylaws.

7.7 Meetings and Quorum. Meetings of committees shall be conducted in accordance with Sections 4.9 through 4.14 hereof. A majority of members of a committee shall constitute a quorum and any transaction of a committee shall require a majority vote of the committee members present at a meeting at which a quorum is present. Except as otherwise provided in these Bylaws, each member of a committee, including the person presiding at the meeting, shall be entitled to one (1) vote.

## ARTICLE VIII. RECORDS, REPORTS AND FISCAL YEAR

8.1 Maintenance of Articles and Bylaws. The corporation shall keep at its principal executive office a copy of its articles of incorporation and these Bylaws, as amended to date.

8.2 Maintenance of Other Corporate Records. Minutes of proceedings of the board or committees of the board shall be kept in written or typed form, and the accounting books and records shall be kept either in written or typed form or in any other form capable of being converted into written, typed or printed form.

7368284.1

ECA Seventh Amended & Restated Bylaws 2023-07-20 v3 CleanDRAFT

8.3 Annual Report. The corporation shall provide to all of its directors, to the Member, and to Mercy Retirement and Care Center's Facility Sponsor, within one hundred twenty (120) days after the close of its fiscal year, a report accompanied by the independent accountants' report required under Section 8.4 hereof, which shall include, but not be limited to, the following information in reasonable detail:

(a) The manner in which the Corporation has implemented its mission and philosophy.

(b) The assets and liabilities, including the trust funds, of the corporation as of the end of the fiscal year.

(c) The principal changes in assets and liabilities, including trust funds, during the fiscal year.

(d) The revenue or receipts of the corporation, both unrestricted and restricted to particular purposes, for the fiscal year.

(e) The expenses or disbursements of the corporation, for both general and restricted purposes, during the fiscal year.

(f) Any information required by Section 6322 of the California Nonprofit Corporation Law relating to interested persons and to indemnification.

8.4 Auditor's Report. An audited financial statement of the corporation shall be prepared annually by a firm of independent public accountants approved by the board.

8.5 Confidentiality. Except as otherwise publicly disclosed, or in order to appropriately conduct the corporation's business, the records and reports of the corporation shall be held in confidence by those persons with access to them.

8.6 Fiscal Year. The fiscal year of the corporation shall begin on the 1st day of July each calendar year and end on the 30th day of June in the subsequent calendar year.

#### ARTICLE IX. INDEMNIFICATION

9.1 Right of Indemnity. To the fullest extent permitted by law, the corporation shall indemnify its Member, directors, officers, employees, and other persons described in section 5238(a) of the California Nonprofit Corporation Law, including persons formerly occupying such positions, against all expenses, including but not limited to court costs and attorney fees, judgments, fines, settlements and other amounts actually and reasonably incurred by them in connection with any

7368284.1

ECA Seventh Amended & Restated Bylaws 2023-07-20 v3 CleanDRAFT

“proceeding,” as that term is used in that section, and including an action by or in the right of the corporation, by reason of the fact that the person is or was a person described in that section. “Expenses,” as used in this section, shall have the same meaning as in section 5238(a) of the California Nonprofit Corporation Law.

9.2 Approval of Indemnity. On written request to the board by any person seeking indemnification under section 5238(b) or section 5238(c) of the California Nonprofit Corporation Law, the board shall promptly determine under section 5238(e) of the California Nonprofit Corporation Law whether the applicable standard of conduct set forth in section 5238(b) or section 5238(c) has been met and, if so, the board shall authorize indemnification. If the board cannot authorize indemnification because the number of directors who are parties to the proceeding with respect to which indemnification is sought prevents the formation of a quorum of directors who are not parties to that proceeding, the board or the attorney or other person rendering services in connection with the defense shall apply to the court in which such proceeding is or was pending to determine whether the applicable standard of conduct has been met. .

9.3 Advancement of Expenses. To the fullest extent permitted by law and except as otherwise determined by the board in a specific instance, expenses incurred by a person seeking indemnification under Sections 9.1 and 9.2 of this Article IX in defending any proceeding covered by those Sections shall be advanced by the corporation before final disposition of the proceeding, on receipt by the corporation of an undertaking by or on behalf of that person that the advance will be repaid unless it is ultimately determined that the person is entitled to be indemnified by the corporation for those expenses.

9.4 Insurance. The corporation shall have the right to purchase and maintain insurance to the fullest extent permitted by law on behalf of its officers, directors, employees, and other agents, against any liability asserted against or incurred by any officer, director, employee or agent in such capacity or arising out of the officer’s, director’s, employee’s, or agents’ status as such.

9.5 Indemnification-Excess. The indemnity provided herein shall be in excess of all valid and collectible insurance or indemnity policies.

## ARTICLE X. DISSOLUTION

10.1 Dissolution. In the event that, at any time, this corporation is wound up and dissolved in accordance with its Bylaws, including any special provisions regarding specific property of the corporation, all of the properties, monies and assets of this corporation remaining after provision has been made for payment of its known debts and liabilities, as provided by law, shall be distributed and transferred to such nonprofit funds, foundations or corporations, organized and operated for charitable, religious, or scientific purposes, as designated by the Member of this corporation, and approved by the Facility and Program Sponsor of Mercy Retirement and Care Center, a California nonprofit public benefit corporation, if any; provided,

7368284 |

ECA Seventh Amended & Restated Bylaws 2023-07-20 v3 CleanDRAFT

however, that any such funds, foundations, and/or corporations shall qualify as an exempt organization or organizations and meet the requirements for exemption under § 214 of the California Revenue and Taxation Code and as shall at the time qualify as an exempt organization under Internal Revenue Code § 501(c)(3) and §23701d of the California Revenue and Taxation Code.

Notwithstanding the foregoing, the particular assets described in Section 9.2 hereof shall be distributed in accordance therewith.

10.2 Property Originally Owned by MRCC. In the event that, upon its dissolution, any of the property identified in Exhibit 9.2(a) is owned by the corporation, such property, subject to all liabilities and encumbrances thereupon, will be distributed upon dissolution of the corporation as designated by the Member and approved by the Facility and Program Sponsor of Mercy Retirement and Care Center, a California nonprofit public benefit corporation, if any; , provided, however that any such distributee is then organized and operated exclusively for charitable or religious purposes and is then exempt from federal income taxation under Section 501(c)(3) of the Code.

#### ARTICLE XI. REVIEW AND REVISION: AMENDMENTS

11.1 Review and Revision. These Bylaws shall be reviewed no less often than once every three (3) years, for compliance with applicable law, the objectives of the System, this corporation's articles of incorporation and the common values statement of the corporation and the System. Any necessary revisions of these Bylaws shall be made in accordance with Section 11.2.

11.2 Amendments. These Bylaws may only be amended by action of the Member.

**EXHIBIT 4.1**  
**APPROVAL RIGHTS OF FACILITY AND PROGRAM SPONSOR**

The following actions regarding Mercy Retirement and Care Center ("MRCC") shall require the approval of the Facility and Program Sponsor, i.e. the individuals in their canonical capacity (or their designees), who constitute the Institute Leadership Team of the Sisters of Mercy of the Americas, a public juridic person of the Roman Catholic Church:

- (a) Final approval of the appointments to the Board of Directors of MRCC;
- (b) Approval of any material conflict-of-interest, affiliate or similar transaction between MRCC, on the one hand, and the corporation and/or an affiliate of the corporation, on the other hand; provided that approval of the Facility and Program Sponsor shall not be required for commercial transactions between MRCC and the corporation and/or its affiliates, if such transaction is entered into in the ordinary course of business and at arm's length terms and does not exceed monetary limits established from time to time by Elder Care Alliance and approved by the Facility and Program Sponsor;
- (c) Final approval of any deficit operating and/or capital budget of MRCC;
- (d) Approval of all unbudgeted operating and capital expenditures of MRCC in excess of monetary limits established from time to time in accordance with the policies and norms of the Facility and Program Sponsor;
- (e) Approval of the merger or reorganization of MRCC;
- (f) Approval of sale, transfer or disposition of all or any assets of MRCC in excess of monetary limits established from time to time by Facility and Program Sponsor and in accordance with the policies and norms of the Facility and Program Sponsor;
- (g) Approval of any debt or encumbrance of the corporate real estate of MRCC;
- (h) Approval of the dissolution of MRCC;
- (i) Approval of any amendments to the Articles of Incorporation or Bylaws of MRCC that would alter the corporate purpose, affiliation, reserved rights or any sponsor relationship of MRCC;
- (j) Approval of any changes to the mission and common values statement of MRCC;
- (k) Approval of any revision or amendment to the MRCC Statement of Catholic Identity;
- (l) Approval of all matters of MRCC impacting the Catholic Identity of MRCC and its programs and services, including , but not limited to, adherence to and compliance with the Ethical and Religious Directives for Catholic Health Care and the MRCC Statement of Catholic Identity;
- (m) Any other matters which may be required by civil or Roman Catholic canon law regarding MRCC to be submitted to the Institute of the Sisters of Mercy of the Americas, or which the MRCC board of directors may request be submitted.

**EXHIBIT 9.2(a)**

**MRCC PROPERTY (LEGAL DESCRIPTION)**

The Land referred to herein below is situated in the City of Oakland, County of Alameda, State of California, and is described as follows:

**PARCEL ONE:**

LOTS 34, 35, 36, 37 AND 38 OF BRAY TRACT IN THE TOWNSHIP OF BROOKLYN AS PER MAP THEREOF, FILED IN THE OFFICE OF THE COUNTY RECORDER OF ALAMEDA COUNTY, CALIFORNIA, ON JUNE 23, 1886.

EXCEPTING THEREFROM: THAT PORTION DESCRIBED IN THE DEED DATED SEPTEMBER 21, 1915, FROM THE ROMAN CATHOLIC ARCHBISHOP OF SAN FRANCISCO, A CORPORATION TO THE CITY OF OAKLAND, A MUNICIPAL CORPORATION RECORDED OCTOBER 6, 1915, BOOK 2398 OF DEEDS AT PAGE 22, SERIES NO. Q17496, ALAMEDA COUNTY RECORDS.

ALSO EXCEPTING THEREFROM: THE INTEREST CONVEYED BY DEED DATED SEPTEMBER 18, 1924, FROM OUR LADY'S HOME TO THE CITY OF OAKLAND, A MUNICIPAL CORPORATION. RECORDED DECEMBER 17, 1924, BOOK 869, PAGE 197, SERIES NO. T175159, OFFICIAL RECORDS. SAID DEED WAS RE-RECORDED ON MARCH 12, 1925, SERIES NO. U19992, BOOK 957 PAGE 130 OFFICIAL RECORDS.

ALSO EXCEPTING THEREFROM: THAT PORTION OF SAID LAND THAT LIES WITHIN THE LINES OF 35TH AVENUE, FORMERLY REDWOOD AVENUE.

**PARCEL TWO:**

LOTS 11 AND 12, AS DELINEATED AND DESIGNATED UPON THAT CERTAIN MAP ENTITLED, MAP OF LAMP TRACT, FILED IN THE OFFICE OF THE RECORDER OF ALAMEDA COUNTY, JUNE 13, 1893, A SUBDIVISION OF THE BRAY TRACT.

EXCEPTING THEREFROM THAT PORTION THEREOF MORE PARTICULARLY DESCRIBED AS FOLLOWS: BEGINNING AT A POINT ON THE NORTHERN LINE OF EAST 18TH STREET, FORMERLY TOBLER STREET, DISTANT THEREON EASTERLY 224 FEET FROM THE POINT OF INTERSECTION THEREOF WITH THE EASTERN LINE OF 34TH AVENUE, FORMERLY BRAY AVENUE, AS SAID STREET AND AVENUE ARE SHOWN ON THE MAP HEREINAFTER REFERRED TO; RUNNING THENCE NORTHERLY ALONG THE DIVIDING LINE OF LOTS NUMBERED 10 AND 11, NORTH 21 DEG 30' EAST 150 FEET; THENCE SOUTH 68 DEG 09' 42" EAST 69.37 FEET TO THE EASTERLY LINE OF LOT NUMBERED 12; THENCE SOUTH 25 DEG 43' WEST 150 FEET PARALLEL WITH THE WESTERN LINE OF 35TH AVENUE, FORMERLY REDWOOD AVENUE, AS SHOWN ON SAID MAP TO THE NORTHERLY LINE OF EAST 18TH STREET AND THENCE ALONG

7368284.1

ECA Seventh Amended & Restated Bylaws 2023-07-20 v3 CleanDRAFT

SAID LINE OF EAST 18TH STREET, NORTH 68 DEG 30' WEST 58.34 TO THE POINT OF COMMENCEMENT. BEING THE SOUTHWESTERN PORTION OF LOTS NUMBERED 11 AND 12, AS SAID LOTS ARE SHOWN ON THAT CERTAIN MAP ENTITLED, MAP OF THE LAMP TRACT, BROOKLYN TOWNSHIP, ALAMEDA COUNTY, CALIFORNIA, FILED JUNE 13, 1893 IN THE OFFICE OF THE COUNTY RECORDER OF SAID ALAMEDA COUNTY.

PARCEL THREE:

LOTS 1 AND 2, MAP OF THE LAMP TRACT, FILED JUNE 13, 1893, MAP BOOK 14, PAGE 13, ALAMEDA COUNTY RECORDS.

PARCEL FOUR:

LOT 8, MAP OF THE LAMP TRACT, FILED JUNE 13, 1893, MAP BOOK 14, PAGE 13, ALAMEDA COUNTY RECORDS.

PARCEL FIVE:

LOTS 9 AND 10, AS SAID LOTS ARE SHOWN ON THE "MAP OF THE LAMP TRACT", FILED JUNE 13, 1893, IN BOOK 14 OF MAPS, PAGE 13, IN THE OFFICE OF THE COUNTY RECORDER OF ALAMEDA COUNTY.

PARCEL SIX:

LOT 3, MAP OF THE LAMP TRACT, FILED JUNE 13, 1893, MAP BOOK 14, PAGE 13, ALAMEDA COUNTY RECORDS.

## **CERTIFICATE OF SECRETARY**

I, the undersigned, certify that I am presently the elected and acting Secretary of Elder Care Alliance, and that the foregoing Seventh Amended and Restated Bylaws are the current bylaws of Elder Care Alliance were duly approved by the Board of Directors on \_\_\_\_\_, 2023. The Resolution of the Board approving these Bylaws resolved that they would be effective only upon the consummation of the transactions contemplated by that certain Affiliation Agreement, dated July 28, 2023 between the corporation and the Member; and I further certify that the consummation of those transactions occurred, and the foregoing Bylaws became effective, on \_\_\_\_\_.

Executed on this \_\_\_\_\_ day of \_\_\_\_\_, at \_\_\_\_\_, California.

\_\_\_\_\_  
\_\_\_\_\_  
Secretary

Exhibit B

Directors of ECA and Affiliates upon Closing

## TRANSFORMING AGE: ANTICIPATED BOARD MEMBERS AT CLOSING

BOARD MEMBERS		Terms
Mary Wagner Chair	Retired Senior Vice President, Starbucks	2018-2021, 2021-2024
Jesse Bond Vice Chair	Owner, Bond Financial, LLC	2017-2020, 2020-2023 2023-2026
Scott Lumsden Immediate Past Chair	Executive Presbyter, Seattle Presbytery	2015-2018 2021-2024
Barb Bennett	Retired President & COO of Vulcan Inc	2022-2025
Cathy Danigelis	Western Region Manager,	2020-2023 2023-2026
Joy Moore	CPO, OnLok	2023-2026
Torsten Hirche	President & CEO, Transforming Age	ex officio
Lisa Nelson	Finance Executive/Startup Advisor	2020-2023 2023-2026
Jim Melhorn	Retired President/CEO, Episcopal Ministries to the Aging	2018-2021, 2021-2024
Greg Russell	Partner, Peterson Russell Kelly PLLC	2019-2022 2022-2025

OFFICERS		Terms
Torsten Hirche	President & CEO	
Michael Connell	Treasurer & CFO	
Michele Luke	Secretary	

Exhibit C

MRCC Statement of Catholic Identity of the Facility and Program Sponsor

## STATEMENT OF CATHOLIC IDENTITY

### MERCY RETIREMENT AND CARE CENTER (“MRCC”)

---

Mercy Retirement and Care Center is a Catholic institution founded in 1872 in San Francisco by the Sisters of Mercy. MRCC was relocated to Oakland shortly after the 1906 San Francisco earthquake and fire. MRCC currently accommodates 166 residents in its assisted living, memory care and skilled nursing programs. Elder Care Alliance (“ECA”) is the sole corporate member of MRCC, and MRCC is sponsored by the Institute of the Sisters of Mercy of the Americas, West Midwest Community, a religious congregation of women in the Roman Catholic Church, or its successor congregation.

As members of the world-wide network of Mercy, the Sisters of Mercy believe:

- In the healing ministry of Jesus as an essential part of their mission in contemporary society.
- In the uniqueness and richness of the tradition of the foundress, Catherine McAuley, and in the collaborative efforts of the Institute of the Sisters of Mercy of the Americas to strengthen their ministry.
- In the sacredness of all life and, therefore, in the dignity of the human person and the promotion of human wholeness.
- In a spirit of compassion that care for the suffering and the dying.
- In the right to quality senior living services for each individual and their responsibility to act as advocates for the poor and for those with special needs.
- In the stewardship of resources for the enhancement of all life and for the common good.
- In a climate of mutual support, compassion, care and justice for those serving and being served within their ministry.
- In collaboration with others who support Judeo-Christian values in developing a creative response to need.
- In the values and principles of the *Ethical and Religious Directives for Catholic Health Care Services* as it pertains to senior living.

ECA's and MRCC's mission statement is:

*“Expressing our faith heritage, Elder Care Alliance is an integrated system committed to serving and enriching the holistic wellness of older adults and those who care for them through education, innovation and a network of professionals, care communities and partners.”*

ECA and MRCC's Vision is: *“Engaging hearts, Transforming lives, Erasing boundaries.”* This Vision statement came out of four statements that speak to the kind of communities ECA and MRCC want to create and impact they strive to achieve. They will be revealed further in this Statement.

The following elements are illustrative of some of the important ways in which MRCC lives out what they believe:

## **SENIOR LIVING - A LIFE-GIVING MINISTRY**

### *Engaging hearts, Transforming lives, Erasing boundaries*

- “We strive to transform ourselves, the lives we touch, the field of aging, and society’s view and value of older adults.”

The provision of senior living services is always a value-driven enterprise, and MRCC strives to sustain a live-giving community that provides dignity and quality of life for the frailest of their elders. All programs and activities must be seen as ministry. The beliefs stated above as well as the values of MRCC provide the framework for decision-making.

Mission and Values Integration is an important aspect of their ministry work. This is supported in their hiring processes, general orientation and onboarding, and in leadership development programs. MRCC’s core values of Dignity, Caring, Collaboration, Excellence, Learning and Prudent Stewardship have been translated into distinct behaviors to ensure a common definition, and these are measured annually.

An important contribution to note is that of ecumenism. MRCC, both as a co-founder of ECA and as an integral part of the ECA ministry, has profound influence beyond the campus of MRCC. The Mission, Vision and Values of ECA are the same as for MRCC, and how those get lived out are greatly informed by the history and legacy of MRCC and the charism and heritage of the Sisters of Mercy.

The name “Mercy” will be retained as long as the Sisters of Mercy are sponsors of this ministry or until they deem otherwise. The Sisters of Mercy shall be included in the social life of MRCC. The richness of the history of MRCC and that of the Sisters of Mercy who dedicated their lives to its ministry should be visible within the institution and should be celebrated appropriately, including:

- Mercy Day
- Foundation Day

Women religious continue to serve at MRCC and opportunities will be made available for future employment of women religious in appropriate positions.

An important component of their ministry is a commitment to care for those less fortunate. MRCC’s charitable care program aims to support MRCC residents who exhaust their savings and are no longer able to afford all of their care required. Fundraising for charitable care and the charitable care endowment funds is done every year.

As a ministry of the Catholic Church, MRCC will ensure that care is taken in all policies and communications to ensure alignment with Catholic teachings. This includes marketing, advertising, public relations, website, and other public communications. As appropriate, there will be intentional communication with the Oakland Diocese and the wider Catholic community regarding issues related to MRCC.

## **LIFE-GIVING COMMUNITY AND ENVIRONMENT**

### *Engaging hearts, Transforming lives, Erasing boundaries*

- “Partnering to create communities where people are empowered, engaged, and have a voice and a vocation.”

This is the type of community MRCC strives to create for their residents and their families, staff, the board of directors, benefactors and volunteers. They can help each other live life to its fullest, and this includes elders who are frail, suffering with chronic conditions, and who have cognitive impairment.

The things that bring a sense of well-being remain constant across the life span: love and belonging, honoring of one's dignity, self-determination, and a sense of purpose. In particular, their core values of Dignity and Caring are instrumental here.

**Dignity**: "We honor and celebrate the inherent worth of each person. We respect others regardless of cognitive ability, cultural background, religious affiliation, sexual orientation or economic means."

**Caring**: "We respond to each person with compassion and create an environment that fosters holistic wellness and empowerment."

Senior living communities are sacred places because elders are cared for here, live here, pray here, rejoice here, grieve here, and oftentimes die here. This is home – where new relationships are formed. Therefore, it is important that residents, families, friends, staff, and visitors experience a welcoming, attractive, and comfortable environment.

This also reflects their core value of **Prudent Stewardship**: "We recognize the responsibility we hold for all resources entrusted to the organization, and exercise good judgment when making decisions that may affect these resources – all in support of our mission."

This commitment extends to the external community as well. MRCC has run the Brown Bag since the early 1990's, serving low income seniors throughout Alameda County two bags of groceries a month. This is an important ministry of MRCC, providing not just food but emotional connection, volunteering opportunities which support vocational wellness, and social engagement.

## **LIFE-GIVING CARE**

### ***Engaging hearts, Transforming lives, Erasing boundaries***

- "Enriching human relationships, connecting people and community, providing environments that foster independence, allowing people to flourish and where there is joy."

Workers in Catholic senior living participate in a noble profession and ministry. It is a calling to care for the intimate care needs of a person. Many of the elders rely on workers at MRCC to assist them with activities of daily living which they used to perform for themselves. Many of the residents have led rich lives that the workers may never fully know or appreciate.

Every person cared for deserves competent, compassionate care and assistance which honors them as individuals with unique needs and preferences. When workers at MRCC provide care that is life-giving, it addresses the whole person – body, mind and spirit. It fully reflects MRCC's core values of:

- ***Dignity***: "honoring and celebrating the inherent worth of each person."
- ***Caring***: "responding to each person with compassion and creating an environment that fosters holistic wellness and empowerment."

- **Excellence:** “demonstrating a commitment and personal accountability to a high standard of quality, delivered through teams of dedicated sponsors, board members, employees, and volunteers.”

Spiritual care is central to the care MRCC provides. The workers at MRCC try to know and respect the religious affiliations and traditions of those served and make every effort to maintain residents’ connections with their faith communities. The MRCC spiritual care team provides pastoral care, daily chapel, weekly mass, and regular programming across assisted living, memory care and skilled nursing. Grief support and memorial services are another integral part of their ministry – for residents, families, friends and staff.

The MRCC’s skilled nursing is Eden Alternative – a philosophy founded on a belief that no matter how old one is or what challenges one lives with, life is about continuing to grow. It affirms that care is a collaborative partnership, focusing on supporting person-directed care. Additionally, the Compassionate Care for the dying program supports the training of care staff throughout MRCC, enabling them to shepherd residents and their families through the dying process with empathy, dignity, compassion.

MRCC is committed to continuous quality improvement and supports that work through interdisciplinary team meetings, clinical quality audits, quarterly Resident Care Committee meetings and other efforts.

## **LIFE-GIVING WORKPLACE**

### ***Engaging hearts, Transforming lives, Erasing boundaries***

- “A key contribution we make to the field of aging is in developing leaders with a calling to deliver person-centered, high quality services in support of holistic wellness.”

The ministry of MRCC extends to the staff. All human life is sacred and good, so MRCC strives to:

- Develop a work environment that promotes trust, collaboration, learning and innovation.
- Encourage people to reach their God-given potential and to find meaning in their work.
- Give people a substantive voice to shape their work.
- Endeavor to treat everyone fairly in all aspects of employment.
- Recruit and hire individuals who are “mission” ready as well as technically competent.
- Ensure MRCC workplaces embody their core values, especially:
  - **Collaboration:** “Teamwork is critical to all we do. We are attentive to the voices of stakeholders. We actively seek out other innovative organizations that are aligned with our values to better benefit those whom we serve.”
  - **Learning:** “We are empowered through a culture of learning and growth, committed to providing opportunities for our employees and those we serve to grow in their vocations.”

MRCC will continue to express Catholic values in its policies and procedures and in the evaluations of employees. Evaluation programs such as *ECA’s Employee Engagement Survey* should include assessments of not only engagement but how well their core values are lived out in the workplace. Where opportunities for growth of a leader is in order, professional development action plans will be developed.

Best efforts will be exercised to assure that managers and supervisors have the skills and means to instill MRCC's core values into the daily operations of their departments.

Exhibit D

Advisory Committee Charter

BYLAWS OF THE ECA ADVISORY COMMITTEE,  
a California Unincorporated Association

1. *Name of Committee.* The name of this committee is The ECA Advisory Committee. This committee is a nonprofit association organized under the provisions of Title 3 of the California Corporations Code (the "Code"), having all of the rights and privileges provided for therein.
2. *Principal Office.* The principal office for the transaction of the activities and affairs of this committee is located at 1301 Marina Village Pkwy Suite #210 Alameda, CA 94501. The members may later approve a new location of the principal office and this Section may be amended to state the new location.
3. *Purpose.* The purpose of this committee is to serve as the Advisory Committee established pursuant to the Affiliation Agreement dated as of July 28, 2023 by and between Transforming Age, a Washington nonprofit committee, and Elder Care Alliance, a California nonprofit public benefit corporation (the "Affiliation Agreement"), and in particular to monitor and enforce compliance by Transforming Age with its obligations under the Affiliation Agreement; and to ensure historical continuity, be a community advocate in support of the Affiliation Agreement, and build goodwill within the local community for Transforming Age and Elder Care Alliance. The Committee shall not act in a manner contrary to the Affiliation Agreement, and nothing in these bylaws shall be construed in a manner that is contradictory to the Affiliation Agreement.
4. *Not for Profit.* This committee is not to be operated for profit, and none of the earnings or assets of this committee shall inure or be distributed to any of its members. The assets of this committee shall be used solely for the purposes described above. Any assets of this committee remaining upon dissolution shall be contributed to Elder Care Alliance, or if Elder Care Alliance is no longer an organization described in Section 501(c)(3) of the Internal Revenue Code, to Transforming Age, or if Transforming Age is no longer an organization described in Section 501(c)(3) of the Internal Revenue Code, to an organization selected by the members that is an organization described in Section 501(c)(3) of the Internal Revenue Code, and that is dedicated to supporting the provision of quality long term care and social services for older adults.
5. *General Powers of Members.* Subject to the provisions and limitations of the Code and any other applicable laws, the committee's activities and affairs shall be managed, and all corporate powers shall be exercised, by or under the direction of the members.
6. *Membership.*
  - (a) *Eligibility.* This committee shall have two classes of members, voting members and a single non-voting member. The voting members shall be those persons who were members of the Board of Directors of Elder Care Alliance immediately prior to the consummation of the transactions contemplated by the Affiliation Agreement. The non-voting member shall be a person from time to time designated by Transforming Age. No other person shall be eligible for membership of this committee.

(b) *Dues, Fees, and Assessments.* The committee shall not levy any dues, fees, or assessments except with the unanimous approval of the members.

(c) *Termination of Membership.* A membership shall terminate on occurrence of either of the following events:

(i) Resignation of the member;

(ii) Termination of membership under Section (c) of these bylaws based on the good faith determination by the other members that the member has failed in a material and serious degree to observe the rules of conduct of the committee, or has engaged in conduct materially and seriously prejudicial to the committee's purposes and interests;

(iii) With respect to the non-voting member, his or her removal by Transforming Age.

(d) *Suspension of Membership.* A member may be suspended, under Section (e) of these bylaws, based on the good faith determination by the other members that the member has failed in a material and serious degree to observe the committee's rules of conduct, or has engaged in conduct materially and seriously prejudicial to the committee's purposes and interests.

A person whose membership is suspended shall not be a member during the period of suspension.

(e) *Procedure for Termination or Suspension.* If grounds appear to exist for suspending or terminating a member under Section (c) or Section (d) of these bylaws, the following procedure shall be followed:

(i) The committee shall give the member at least 15 days' prior notice of the proposed suspension or termination and the reasons for the proposed suspension or termination. Notice shall be given by any method reasonably calculated to provide actual notice. Notice given by mail shall be sent by first-class or registered mail to the member's last address as shown on the committee's records.

(ii) The member shall be given an opportunity to be heard, either orally or in writing, at least 5 days before the effective date of the proposed suspension or termination. The hearing shall be held, or the written statement considered, by the other members, or by a committee or person authorized by the other members to determine whether the suspension or termination should occur.

(iii) The members, committee, or person shall decide whether the member should be suspended, expelled, or sanctioned in any way. The decision of the members, committee, or person shall be final.

(iv) Any action challenging an expulsion, suspension, or termination of membership, including a claim alleging defective notice, must be commenced within 1 year after the date of the expulsion, suspension, or termination.

(f) *Memberships as Not Transferable.* No membership or right arising from membership shall be transferred. All membership rights cease on the member's resignation, expulsion or death.

(g) *No Liability.* As provided in Section 18605 of the Code, no member, director, or agent of the committee shall be liable for a debt, obligation, or liability of the committee solely by reason of being a member, director, officer, or agent of the committee.

## 7. *Meetings of the Committee*

(a) *Quarterly/Semi-Annual Meetings.* The committee shall meet quarterly for the first two years following Closing and semi-annually thereafter on dates to be determined by arrangement between the committee and Transforming Age, and more frequently as the committee may determine.

(b) *Location of Meetings.* Meetings of the members shall be held at any place within or outside California designated by the chairperson of the committee or by the written consent of all members entitled to vote at the meeting, given before or after the meeting. In the absence of any such designation, members' meetings shall be held at the committee's principal office. Meetings may be held by electronic transmission or electronic video communication. The chair of the committee may authorize members who are not present in person to participate by electronic transmission or electronic video communication.

(c) *Remote Participation in Meetings.* Participation by a member in a meeting by telephone or video communication shall constitute the presence of the member at the meeting, provided that all members participating in the meeting can hear one another, and the member participating by telephone or video communication has a reasonable opportunity to address the meeting. The committee may adopt guidelines and procedures for other means of participation by members not present physically or by proxy to participate in a meeting by other means of remote communication.

(d) *Special Meetings.* Special meetings of the committee may be called at any time by any of the following:

- (i) The chairperson, the treasurer or the secretary of the of the committee;
- (ii) 5 percent or more of the members;
- (iii) The president or chief executive officer of Elder Care Alliance or Transforming Age.

A special meeting called by any person entitled to call a meeting of the members shall be called by written request, specifying the general nature of the business proposed to be transacted,

and addressed to the attention of and submitted to the chairperson of the committee or any vice chairperson or the secretary of the committee. The officer receiving the request shall cause notice to be given promptly to the members stating that a meeting will be held at a specified time and date fixed by the board. If the notice is not given within 20 days after the request is received, the person or persons requesting the meeting may give the notice. No business, other than the business that was set forth in the notice of the meeting, may be transacted at a special meeting.

(e) *Written Notice Required.* Whenever members are required or permitted to take any action at a meeting, a written notice of the meeting shall be given to each member entitled to vote at the meeting. The notice shall specify the place, date, and hour of the meeting, and the means of electronic transmission by and to the committee, electronic video screen communication, conference telephone, or other means of remote communication, if any, by which members may participate in the meeting. For each quarterly meeting, the notice shall state the matters that the chairperson, at the time notice is given, intends to present for action by the members. For a special meeting, the notice shall state the general nature of the business to be transacted and shall state that no other business may be transacted.

(f) *Notice of Certain Agenda Items.* Approval by the members of any of the following proposals, other than by unanimous approval by those entitled to vote, is valid only if the notice or written waiver of notice states the general nature of the proposal or proposals:

- (i) Removing or suspending a member;
- (ii) Amending these Bylaws; or
- (iii) Electing to dissolve the committee.

(g) *Notice Requirements.* Notice of any meeting of members shall be in writing and shall be given at least two but no more than 90 days before the meeting date. The notice shall be given either personally, by electronic transmission by the committee, or by first-class, registered, or certified mail, or by other means of written communication, charges prepaid, and shall be addressed to each member entitled to vote, at the address of that member as it appears on the books of the committee or at the address given by the member to the committee for purposes of notice. If no address appears on the committee's books and no address has been so given, notice shall be deemed to have been given if either (1) notice is sent to that member by first-class mail or electronic or other written communication to the committee's principal office or (2) notice is published at least once in a newspaper of general circulation in the county in which the principal office is located.

(h) *Electronic Notice.* Notice given by electronic transmission by the committee shall be valid only if--

(i) Delivered by (a) facsimile telecommunication or electronic mail when directed to the facsimile number or electronic mail address, respectively, for that recipient on record with the committee; (b) posting on an electronic message board or network that the committee has designated for those communications, together with a separate notice to the

recipient of the posting, which transmission shall be validly delivered on the later of the posting or delivery of the separate notice of it; or (c) other means of electronic communication;

(ii) To a recipient who has provided an unrevoked consent to the use of those means of transmission for communications; and

(iii) That creates a record that is capable of retention, retrieval, and review, and that may thereafter be rendered into clearly legible tangible form.

Notwithstanding the foregoing, notice shall not be given by electronic transmission by the committee after either of the following: (a) the committee is unable to deliver two consecutive notices to the member by that means or (b) the inability so to deliver the notices to the member becomes known to the secretary, any assistant secretary, or any other person responsible for the giving of the notice.

(i) *Quorum.* A majority of the voting members shall constitute a quorum for the transaction of business at any meeting of members. The voting members present at a duly called or held meeting at which a quorum is present may continue to transact business until adjournment, even if enough members have withdrawn to leave less than a quorum, if any action taken (other than adjournment) is approved by at least a majority of the voting members required to constitute a quorum.

(j) *Voting.* Each voting member entitled to vote may cast one vote on each matter submitted to a vote of the members. If a quorum is present, the affirmative vote of a majority of the voting power represented at the meeting, entitled to vote and voting on any matter, shall be deemed the act of the members. The non-voting member shall have not voting rights.

(k) *Waiver of Notice or Consent.* The transactions of any meeting of members, however called or noticed and wherever held, shall be as valid as though taken at a meeting duly held after standard call and notice, if (1) a quorum is present either in person or by proxy, and (2) either before or after the meeting, each member entitled to vote, not present in person or by proxy, signs a written waiver of notice, a consent to the holding of the meeting, or an approval of the minutes of the meeting. The waiver of notice, consent, or approval need not specify either the business to be transacted or the purpose of the meeting except that, if action is taken or proposed to be taken for approval of any matter specified in Section 7(f) of these bylaws, the waiver of notice, consent, or approval shall state the general nature of the proposal. All such waivers, consents, or approvals shall be filed with the committee's records or made a part of the minutes of the meeting.

A member's attendance at a meeting shall also constitute a waiver of notice of and presence at that meeting unless the member objects at the beginning of the meeting to the transaction of any business because the meeting was not lawfully called or convened. Also, attendance at a meeting is not a waiver of any right to object to the consideration of matters required to be included in the notice of the meeting but not so included, if that objection is expressly made at the meeting.

(l) *Action by Unanimous Written Consent.* Any action required or permitted to be taken by the members may be taken without a meeting, if all voting members consent in writing to the action. The written consent or consents shall be filed with the minutes of the meeting. The action by written consent shall have the same force and effect as a unanimous vote of the members.

(m) *Proxies.* Each member entitled to vote shall have the right to do so either in person or by an agent authorized by a written proxy, signed by the member and filed with the secretary of the committee; provided that no person who is not a member may serve as agent or proxy for a member. A proxy shall be deemed signed if the member's name is placed on the proxy by the member or the member's attorney-in-fact, whether by manual signature, typewriting, electronic signature, or otherwise. A proxy shall be valid for a single meeting only.

(n) *Adjournment; Notice.* Any members' meeting, whether or not a quorum is present, may be adjourned from time to time by the vote of the majority of the members represented at the meeting, either in person or by proxy.

(o) *Exclusion of the Non-Voting Member.* The voting members may, by vote of a majority of the voting members, exclude the non-voting member from any discussion, deliberation or vote with respect to which the voting members determine that the non-voting member has a conflict of interest by reason of his or appointment by Transforming Age, and the inspection rights of the members set forth in Section 11(d) shall not be construed to permit the non-voting member to inspect or copy records of the committee relating to any such matter.

## 8. *Officers.*

(a) The officers of this committee shall be a chairperson, a secretary, and a treasurer. Any number of offices may be held by the same person, except that the secretary and the treasurer may not serve concurrently as the chair of the committee.

(b) *Election of Officers.* The officers of this committee shall be chosen by the members annually the first quarterly meeting of the committee, and thereafter at a the quarterly – and later semi-annual - meetings held most closely to the anniversary of the first meeting, and shall serve at the pleasure of the board, subject to the rights of any officer under any employment contract. The members may appoint and authorize the chair of the board or another officer to appoint any other officers that the committee may require. Each appointed officer shall have the title and authority, hold office for the period, and perform the duties specified in the bylaws or established by the members.

(c) *Removal of Officers.* Without prejudice to the rights of any officer under an employment contract, the members may remove any officer with or without cause. An officer who was not chosen by the members may be removed by any other officer on whom the board confers the power of removal.

(d) *Resignation of Officers.* Any officer may resign at any time by giving written notice to members or to the chairperson, or if the chairperson is resigning, to the members or to the secretary. The resignation shall take effect on the date the notice is received or at any later time specified in the notice. Unless otherwise specified in the notice, the resignation need not be

accepted to be effective. Any resignation shall be without prejudice to any rights of the committee under any contract to which the officer is a party.

(e) *Responsibilities of the Chairperson.* The chairperson shall preside at meetings of the committee and shall exercise and perform such other powers and duties as the members may assign from time to time. If there is no president or chief executive officer, the chairperson shall be the chief executive officer of the committee.

(f) *Responsibilities of Secretary.*

(i) The secretary shall keep or cause to be kept, at the committee's principal office or such other place as the members may direct, a book of minutes of all meetings, proceedings, and actions of the committee, of subcommittees, and of members' meetings. The minutes of meetings shall include the time and place that the meeting was held; whether the meeting was annual, general, or special, and, if special, how authorized; the notice given; the names of persons present at committee and subcommittee meetings; and the number of members present or represented at members' meetings.

(ii) The secretary shall keep or cause to be kept, at the principal California office, a copy of these bylaws, as amended to date.

(iii) The secretary shall keep or cause to be kept, at the committee's principal office or at a place determined by resolution of the committee, a record of the committee's members, showing each member's name and address.

(iv) The secretary shall give, or cause to be given, notice of all meetings of members and of subcommittees that these bylaws require to be given. The secretary shall have such other powers and perform such other duties as the board or the bylaws may require.

(g) *Responsibilities of the Treasurer.*

(i) The treasurer shall keep and maintain, or cause to be kept and maintained, adequate and correct books and accounts of the committee's properties and transactions. The treasurer shall send or cause to be given to the members such financial statements and reports as are required to be given by law, by these bylaws, or by the board. The books of account shall be open to inspection by any member at all reasonable times.

(ii) The treasurer shall (1) deposit, or cause to be deposited, all money and other valuables in the name and to the credit of the committee with such depositories as the members may designate; (2) disburse the committee's funds as the members may order; (3) render to the members, when requested, an account of all transactions as treasurer and of the financial condition of the committee; and (4) have such other powers and perform such other duties as the members or the bylaws may require.

9. *Indemnification.* To the fullest extent permitted by law, this committee shall indemnify its members, and may indemnify employees and other agents, including persons formerly occupying any such positions, against all expenses, judgments, fines, settlements, and other amounts actually and reasonably incurred by them in connection with any proceeding, and including an action by or in the right of the committee, by reason of the fact that the person is or was a person described in that section.

10. *Insurance.* The committee shall have the right to purchase and maintain insurance to the full extent permitted by law on behalf of its members, officers employees, and other agents, to cover any liability asserted against or incurred by any member, officer, employee, or agent in such capacity or arising from the member's officer's, employee's, or agent's status as such.

11. *Committee Records.* This committee shall keep the following:

- (a) Adequate and correct books and records of account;
- (b) Minutes of the proceedings of its members and subcommittees; and
- (c) A record of each member's name and address.

The minutes and other books and records shall be kept either in written form or in any other form capable of being converted into clearly legible tangible form or in any combination of the two.

(d) *Members' Inspection Rights.* Any member may upon not less than ten (10) business days' advance written notice, and for a purpose reasonably related to the member's interest as a member:

- (i) Obtain from the committee a copy of these bylaws, as amended to date;
- (ii) Obtain from the committee a list of names and addresses of members;
- (iii) Inspect, copy, and make extracts of the accounting books and records and the minutes of the proceedings of the members and committees.

If the committee reasonably believes that the information will be used for a purpose other than one reasonably related to a person's interest as a member, it may deny the member access to the membership list.

Any inspection and copying under this Section shall be made by the member in person. The right of inspection includes the right to copy and make extracts.

12. *Dissolution.* The committee shall dissolve upon the expiration of all of the commitments of Transforming Age set forth in Section 6 of the Affiliation Agreement; provided that it shall nevertheless continue to exist for the purpose of enforcing any commitment of Transforming Age that arose prior to such time.

13. *Amendment.* These bylaws may be amended by a vote of the members, but only with the approval of Transforming Age.

CERTIFICATION

The undersigned, Secretary of The ECA Advisory Committee, certifies that the foregoing Bylaws were duly approved by the members of the committee at a meeting duly held on \_\_\_\_\_, 2023.

\_\_\_\_\_  
Print name: \_\_\_\_\_

Date: \_\_\_\_\_

Schedule 8.c)

Required ECA Consents

Exhibit 3-B

Consulting and Shared Services Agreement



## **Agreement for Consulting and Support Services**

This AGREEMENT is made between **Gerontological Services, LLC dba GSI Research & Consulting**, a Washington limited liability company (**GSI**) of Bellevue, Washington and **Elder Care Alliance**, a California nonprofit public benefit corporation (**ECA**) of Alameda, California (The “Parties”).

### **ARTICLE 1: SCOPE OF WORK**

GSI will provide the following consulting and support services (the “Services”) to ECA and its subsidiaries for the duration of the engagement. All Services shall be provided in a competent and professional manner, and to the reasonable satisfaction of ECA, acting through its Chief Executive Officer. ECA shall retain full governance and management authority of its assets and operations, and all Services shall be provided in accordance with the policies, procedures and directives from time to time adopted or issued by the Board of Directors of ECA; provided that ECA shall not direct the manner or means by which Consultant is to provide the Services. ECA retains the right to make an independent evaluation of the Services, and to adopt or implement them, or refrain from adopting or implementing them, in its sole discretion.

#### **1.1. Operations Support Services:**

- **Sales Team Guidance and Support:** Support includes sales system and tools, KPI and metrics sharing and measurement, ongoing support, training and coaching; team accountability.
- **Philanthropy:** Support includes strategic support and guidance from Executive Director of TA Foundation with over 35 years of experience, philanthropic opportunity assessment, support with donor database, and related services.
- **Facility and Project Management:** Support includes guidance from SVP of Operations with over 30 years in strategy, development, operations and construction experience, CTIO and GSI facilities and asset management resources.
- **Risk Management:** Support includes risk management and compliance program assessment and support from General Counsel with over 15 years of legal strategy, compliance, risk management, and litigation experience.
- **Culinary:** Support includes menu cycle consultation, training, and program evaluation.

#### **1.2. IT Support Services:**

- **IT Strategy and Leadership:** High level strategic support and guidance from very experienced Chief Technology & Information Officer with over 20 years of information technology, consumer technology and digital transformation experience.
- **IT Consultation and Project Input:** participates in Project Governance as IT subject matter expert to assist in proper project planning, implementation, and adoption.

- **Troubleshooting and Issue Resolution:** IT support provides assistance in diagnosing and resolving technical problems that users encounter with their computers, software applications, networks, or other IT infrastructure. This includes addressing hardware or software failures, connectivity issues, and system crashes.
- **User Account Management:** IT support manages user accounts, including creating new accounts, granting or revoking access privileges, resetting passwords, and ensuring proper user authentication and authorization for various systems and applications.
- **Software Installation and Configuration:** IT support helps users with installing, configuring, and updating software applications, ensuring they are properly set up and compatible with the user's system. They also assist in resolving any conflicts or errors that may arise during the installation or configuration process.
- **Hardware Maintenance, Upgrades and Purchases:** IT support assists with hardware maintenance tasks such as replacing faulty components, upgrading system memory or storage capacity, and ensuring the overall health and functionality of computer systems, servers, and networking equipment as well as any necessary technology purchases.
- **Data Backup and Recovery:** IT support helps users with data backup solutions, ensuring that critical files and information are regularly backed up to prevent loss in the event of hardware failure, accidental deletion, or other data disasters.

### 1.3. Mercy Market Assessment:

- **Assessment Phase**

The purpose of this phase will be for GSI to analyze the work that has completed thus far regarding the campus enhancements and to gain an understanding and view of the Community and its current situation in the market. This will include assessment of the current plant, market, programming strengths and weaknesses, site limitations or opportunities, and regulatory issues. The assessment phase will include GSI:

**Step 1:** Obtaining and reviewing all relevant studies and plans completed to date.

**Step 2:** Assessing the site, building constraints and programs currently in place.

**Step 3:** Preparing a Preliminary Market Assessment to study the demographic and competitive characteristics of the Community's market area by calculating a market penetration rate and demand analysis.

**Step 4:** Conducting a conference call with ECA's team in order to review progress, documents, findings and assessment meeting preparation.

Once the assessment work is complete, GSI will schedule a meeting to present the assessment findings. During this meeting, GSI will provide recommendations for Mercy's pricing and positioning in the market, focused on driving fill-up of assisted living.

- **Delivery Phase**

The final stage of the Market Assessment culminates with the creation of the Market Assessment report and recommendations. This document is intended to serve as the cornerstone for directing the strategic marketing of the Community.

## ARTICLE 2: FEES

2.1 Please refer to Appendix A for fees.

2.2 Fee does not include reimbursable expenses (i.e. travel time, mileage, meals).

2.3. If additional services beyond the scope of this Agreement are required, time will be billed at \$200.00 per hour. Any additional time will be agreed to in writing, in advance.

## ARTICLE 3: TERM AND TERMINATION

3.1. The term of this Agreement is for 6 months, beginning August 1, 2023 until January 31, 2024. This Agreement will renew automatically for six (6) month terms, until such time as written notice of termination is provided as outlined in 3.3.2.

### 3.3. Termination

3.3.1. This Agreement may be terminated by ECA, without cause on 30 days written notice to GSI.

3.3.2. This Agreement may be terminated by GSI upon 30 days written notice to ECA should ECA fail to substantially meet its financial obligation in accordance with the terms hereto through no fault of GSI.

3.3.3. In the event of termination under above paragraphs, GSI shall receive compensation for services performed to the date of termination and reimbursable expenses incurred and return to ECA all documents provided by ECA as set forth herein.

## ARTICLE 4: OTHER TERMS AND CONDITIONS

4.1. Neither party will directly or indirectly recruit any employee from the other.

4.2. GSI's role is as an advisory consultant, and its role is limited to scope and subject to indemnification as outlined in this Agreement.

4.3. The Parties agree that information provided by ECA or GSI under this Agreement to GSI or ECA is confidential and will not be shared by GSI or ECA with another party.

4.4. Ownership of Deliverables. All materials produced by GSI in the course of providing the Services shall be owned by and be the exclusive property of ECA, and GSI hereby assigns all rights therein to ECA; provided that GSI shall retain the ownership of the templates, forms and know-how used to create such materials. GSI represents and warrants to ECA that GSI has all necessary

licenses and consents to deliver services to ECA; that ECA shall have full and unrestricted rights to use and exploit the same, and that they will not violate or infringe upon the intellectual or other property rights of third parties.

- 4.5. Independent Contractor. GSI shall at all times be an independent contractor of ECA, and ECA shall not assume any liability for the withholding or payment of any federal, state or local taxes in connection with its payments to GSI for the Services. GSI shall be responsible for the payment of all wages, payroll taxes, fringe benefits and any other expenses that may become owing to or on behalf of all persons employed by GSI in providing the Services. Prior to commencing the Services, GSI shall provide ECA with a duly executed IRS Form W 9 and provide GSI's Employer Identification Number to ECA.
- 4.6. No Agency. GSI is not the agent of ECA, and has no authority to enter into contracts or make commitments on behalf of ECA.
- 4.7. Protected Health Information. GSI shall execute and deliver to ECA a Business Associate Agreement in the form attached hereto as Appendix B (the "Business Associate Agreement"). The provisions of the Business Associate Agreement shall survive termination of this Agreement.

#### ARTICLE 5: INDEMNIFICATION

Each party (the "Indemnifying Party" agrees to indemnify and hold harmless the other (the "Indemnified Party") from and against any and all losses, claims, damages, liabilities, judgments, charges and expenses (including all legal or other expenses reasonably incurred by the Indemnified Party) in connection with investigating or defending against or providing evidence in any litigation, whether commenced or threatened, in connection with any claim, action or proceeding to which the Indemnified Party becomes subject, resulting in any liability, caused by, or arising out of the failure of the Indemnifying Party to comply with applicable law or regulation, or with any term of this Agreement; provided, however, that the Indemnifying Party shall not be liable in any such case to the extent that any such loss, claim, damage or liability is found to have resulted from the negligence, bad faith, fraud or misconduct of the Indemnifying Party.

#### ARTICLE 6: DISPUTE RESOLUTION

Parties agree to negotiate in good faith any dispute claimed by one party arising from or relating to the performance, breach, termination, enforcement, interpretation or validity of this Agreement. The Parties agree to meet by phone or in person within twenty-four hours of notice of dispute to negotiate settlement. In the event a mutually agreed settlement is not reached, the dispute (including the determination of the scope or applicability of this agreement to arbitrate), shall be determined by arbitration in Oakland, California before a single arbitrator. The arbitration shall be administered by JAMS pursuant to its Comprehensive Arbitration Rules and Procedures and in accordance with the Expedited Procedures in those Rules. Judgment on the Award may be entered in any court having jurisdiction. This clause shall not preclude parties from seeking provisional remedies in aid of arbitration from a court of appropriate jurisdiction.

Article VII: ENTIRETY OF AGREEMENT

This Agreement sets forth the entire agreement and understanding of the Parties relating to the subject matter contained herein and merges all prior discussions and agreements between them, and no Party shall be bound by any representation other than as expressly stated in this Agreement or a written amendment to this Agreement signed by authorized representatives of each of the Parties.

This Agreement is executed the day and year written below and effective in accordance with its terms and conditions.

Accepted by:

Name: Adriene Iverson

Title: President & CEO

Company: Elder Care Alliance

Signature: 

Date: 7/28/23

Name: David Knight

Title: President

Company: GSI Research & Consulting

Signature: 

Date: 07/28/23

We would appreciate the appropriate contact information for billing purposes. Thank you.

Attention: Adriene Iverson Ph: 510-769-2700 Email: aiverson@eldercarealliance.org

Mailing Address: Elder Care Alliance

1301 Marina Village Pkwy., Suite 210, Alameda, CA 94501

Appendix A – Pricing

Operations Support Services: \$10,000 flat fee per month

IT Services Support: Per user fee of \$110 per user

Mercy Market Assessment:

Upon execution of Engagement Letter	\$2,500
Upon delivery of final Market Assessment	\$2,500
<b>Total</b>	<b>\$5,000</b>

## **Appendix B Business Associate Agreement**

This Business Associate Agreement is entered into by and between is entered into as of August 1, 2023 (the "**Effective Date**"), by and between Gerontological Services, LLC dba GSI Research & Consulting, a Washington limited liability company (GSI) of Bellevue, Washington ("**Business Associate**") and Elder Care Alliance, a California nonprofit public benefit corporation (ECA) of Alameda, California, acting on behalf of its affiliate Mercy Retirement and Care Center, a California nonprofit public bene ("**Covered Entity**").

### **Recitals**

Covered Entity is a covered entity under the Health Insurance Portability and Accountability Act of 1996 ("**HIPAA**"). The parties are entering into a Consulting Agreement (the "**Consulting Agreement**") for the provision of certain services by Consultant (the "**Services**"). In the performance of the Services, Business Associate may obtain or have access to individually identifiable health information of Covered Entity.

The parties are entering into this agreement to assist the Covered Entity in complying with HIPAA, and to set forth Business Associate's obligations under the Health Information Technology for Economic and Clinical Health Act of 2009 (the "**HITECH Act**"), and 45 CFR Parts 160 and 164, Subpart C (the "**Security Rule**"), Subpart D (the "**Data Breach Notification Rule**"), and Subpart E (the "**Privacy Rule**") (collectively, the "**HIPAA Regulations**"). Terms used in this Agreement have the meanings given them in the HIPAA Regulations. This agreement applies to any protected health information Business Associate receives from Covered Entity, or creates, receives or maintains on behalf of Covered Entity, under the Consulting Agreement.

For good and valuable consideration, the receipt and sufficiency of which is hereby acknowledges, the parties agree as follows:

### **Agreement**

1. Business Associate may use and disclose Covered Entity's protected health information to provide Covered Entity with the goods and services contemplated by the Consulting Agreement. Except as expressly provided below, this agreement does not authorize Business Associate make any use or disclosure of protected health information that Covered Entity would not be permitted to make.
2. Business Associate will:
  - (a) Not use or further disclose Covered Entity's protected health information except as permitted by the Consulting Agreement or this Agreement, or as required by law;
  - (b) Use appropriate safeguards, and comply, where applicable, with the HIPAA Security Rule with respect to electronic protected health information, to prevent use or disclosure of Covered Entity's protected health information other than as provided for by the Consulting Agreement or this Agreement;
  - (c) Report to Covered Entity within two business days of discovery any use or disclosure of Covered Entity's protected health information not provided for by the Consulting Agreement or this Agreement of which it becomes aware, including breaches of unsecured protected health information as required by the Data Breach Notification Rule (45 CFR § 164.410), and any security incident of which Business Associate becomes aware.
  - (d) Mitigate, to the extent practicable, any harmful effect that is known to Business Associate of a use or disclosure of protected health information by Business Associate in violation of this Agreement or the HIPAA Regulations.
  - (e) Ensure that any of Business Associate's subcontractors that create, receive, maintain, or transmit protected health information on behalf of the Business Associate agree in writing to the same restrictions and conditions that apply to Business Associate with respect to such information, including compliance with the HIPAA Security Rule with respect to electronic protected health information;

(f) Make any protected health information in a designated record set available to Covered Entity to enable Covered Entity to meet its obligation to provide access to the information in accordance with 45 CFR § 164.524;

(g) Make any protected health information in a designated record set available for amendment and incorporate any amendments to protected health information as directed by Covered Entity pursuant to 45 CFR § 164.526;

(h) Make available to Covered Entity the information concerning disclosures that Business Associate makes of Covered Entity's protected health information required to enable Covered Entity to provide an accounting of disclosures in accordance with 45 CFR § 164.528;

(i) To the extent that Business Associate carries out Covered Entity's obligations under the Privacy Rule, comply with the requirements of the Privacy Rule that apply to Covered Entity in the performance of such obligations;

(j) Make Business Associate's internal practices, books, and records relating to Business Associate's use and disclosure of protected health information received from Covered Entity, or created or received by Business Associate on behalf of Covered Entity, available to the Secretary of the United States Department of Health and Human Services for purposes of determining Covered Entity's compliance with the HIPAA Regulations, and to the Covered Entity for purposes of determining Business Associate's compliance with this Agreement;

(k) Limit its requests for and uses and disclosures of Covered Entity's protected health information to the minimum necessary, and comply with any minimum necessary policies and procedures that covered entity provides to Business Associate;

(l) Upon termination of the Consulting Agreement, return or destroy all Covered Entity's protected health information that Business Associate still maintains in any form and retain no copies of such information or, if return or destruction is not feasible, extend the protections of this agreement to that information and limit further use and disclosure to those purposes that make the return or destruction of the information infeasible.

3. Business Associate may use Covered Entity's protected health information for the management and administration of Business Associate's company and to carry out Business Associate's own legal responsibilities, and Business Associate may disclose the information for these purposes if Business Associate is required to do so by law, or if Business Associate obtains reasonable written assurances from the recipient of the information (1) that it will be held confidentially, and used or further disclosed only as required by law or for the purpose for which it was disclosed to the recipient, and (2) that the recipient will notify Business Associate of any instances of which the recipient is aware in which the confidentiality of the information is breached.

4. If ECA determines that Business Associate has violated a material term of this agreement, ECA may immediately terminate the Consulting Agreements. However, this Agreement shall remain in effect as long as Business Associate maintains or has access to Covered Entity's protected health information, regardless of the termination of the Consulting Agreement.

5. Each party to this agreement shall defend, indemnify and hold the other harmless against any claim, cost or liability arising from the negligence or willful misconduct of the indemnifying party in connection with the performance of its obligations under this Agreement, or its breach of any provision of this Agreement.

6. The provisions of Section 2(l) and Section 5 shall survive termination of this Agreement.

7. This agreement is to be interpreted in accordance with HIPAA, the HITECH Act, and the regulations promulgated thereunder, as amended from time to time.

For Elder Care Alliance:

For Gerontological Services, LLC  
dba GSI Research & Consulting

Name: Adriene Iverson

Title: President & CEO

Company: Elder Care Alliance

Signature: 

Date: 7/28/23

Name: David Knight

Title: President

Company: GSI Research & Consulting

Signature: 

Date: 07/28/23

Title 11, California Code of Regulations, § 999.5(d)(1)(C)

*A statement of all of the reasons the board of directors of applicant believes that the proposed agreement or transaction is either necessary or desirable*

ECA is a multi-site senior living organization that operates an integrated system committed to serving and enriching the holistic wellness of older adults and those who care for them through education, innovation, and a network of professionals, care communities and partners. ECA has been engaged in its charitable mission since 1997. The ECA system includes MRCC, which has operated at the Oakland location since 1907. The current operations of MRCC include 85 assisted living apartment homes, 22 memory care beds and a 59-bed skilled nursing facility.

MRCC recently completed a repositioning project that had an assisted living floor (about 23 apartments) out of service for over two years. That coupled with the pressures of the pandemic have significantly impacted financial performance at MRCC. MRCC is finally making progress in refilling the assisted living vacancies, which is improving MRCC's financial performance. However, its long-term financial stability is not assured.

Elder Care Alliance (ECA) began a robust strategic planning process starting in Fall of 2020. It included evaluating the current and future needs of seniors in our communities, increases in the aging population, and opportunities to serve in both traditional (bricks and mortar) and other ways. One key strategic focus emerging from that process was developing a robust culture of wellness, encompassing not only the resident experience but how the wellness experience might be delivered through technology and at home services.

Three key priorities for ECA's Board were and are to: exponentially grow mission impact; obtain mission impact growth in a more socio-economically diverse way; and achieve that growth in a financially sustainable way. The downward pressure on margins in senior living due to inflation, rising insurance and benefit costs, and workforce shortage pressures was only exacerbated by the pandemic. It is not part of a short term cycle but a long term impact that has to be addressed.

Additionally, delivering the mission in new ways requires different strategic core competencies. ECA believes the pursuit of innovation and demands of the future may be optimally tackled as part of a larger entity better able to assemble the required core competencies. Thus, the ECA Board came to the conclusion that pursuing a strategic affiliation was the best way to achieve the key priorities. Goals for the strategic affiliation were:

- Advance innovation to move into new, emerging markets for non-traditional services.
- Seek opportunities for better economies of scale to enhance current resident and team member experiences.
- Join an organization with a record for growth and execution of strategies.
- Continue ECA's focus on a faith-rooted, holistic wellness approach to care and services.
- Gain access to expanded leadership and administrative resources along with strategic core competencies.

- Ensure alignment with charitable mission, culture, values and strategic vision.

ECA engaged CliftonLarsonAllen (“CLA”) in May of 2022 to provide consulting services to assist in leading the process. CLA has deep experience in mergers and affiliations in the nonprofit senior living space. The scope of services included: governance interviews around key drivers of affiliation; financial modeling; board retreat presentation of findings; solicitation collateral development; affiliation candidate identification; solicitation of interest; assisting in evaluation; and, final selection.

Following the determination to pursue a strategic affiliation, the ECA Board delegated authority to its Strategic Planning Taskforce to explore strategic affiliation with key targets (“Interested Parties”) and charged the Strategic Planning Taskforce with making reports and recommendations to the ECA Board concerning its findings. CLA worked closely with the Strategic Planning Taskforce throughout the months-long process in identifying and evaluating optimal candidates whose missions, values and strategic vision provided a reasonable basis to believe that an affiliation with one such Interested Party could help ECA meet its objectives.

In October 2022, CLA presented an initial list of 15 prospects. The list was refined to seven prospects, and CLA then made blind outreach with each organization to gather initial information regarding such topics as leadership, program excellence, financial stability, growth strategy, and affiliation experience. Through CLA in January of 2023, ECA approached the seven Interested Parties to gauge their level of interest in a potential affiliation with ECA. Nondisclosure agreements were executed with the Interested Parties, and a Request for Information (“RFI”) and solicitation materials were sent.

Five Interested Parties did not respond to the RFI, citing either a lack of strategic fit or other internal rebuilding priorities that precluded consideration of a strategic affiliation at that time. Preliminary due diligence information was exchanged and confidential discussions were held with the remaining two Interested Parties, which included ECA’s CEO and two ECA board members. CLA also prepared a financial analysis of both Interested Parties. The Strategic Planning Taskforce received all RFI and due diligence materials.

At a meeting of the ECA Board duly held in May 2023 with CLA in attendance, the Strategic Planning Task Force’s assessment of each Interested Party using established affiliation criteria was presented in light of ECA’s objectives, and questions were raised about each Interested Party. At this meeting, Transforming Age was identified by the ECA Board as its top Interested Party, and the ECA Board decided to focus due diligence on TA in order to get to a final decision at the July 2023 board meeting.

After the May 2023 ECA Board meeting, ECA’s management, Strategic Planning Taskforce members, and CLA held discussions with TA concerning financial projections, risk framework for new growth, validation of shared services delivery, and board connection to mission and strategic vision. This included a meeting that included the CEOs and board member representatives from both organizations; a section of the meeting was board to board only.

At a meeting of the ECA Board duly held in July 2023 with CLA participating, the ECA Board determined that the Affiliation in which ECA would become part of TA through a member substitution was in the best interests of ECA and its affiliates and in furtherance of its charitable purposes. The ECA Board’s decision in this regard was informed by its determination that the TA

Affiliation would enhance ECA's ability to fulfill its mission and vision and position ECA to be a leader in senior living in California.

Throughout the process, TA demonstrated strong culture alignment and true belief that "we are stronger together," exhibiting collaboration, learning, and a commitment to excellence. TA has built robust shared services in areas such as IT, legal, finance, human resources and operations that would greatly benefit ECA's desire to continue to deliver high quality services.

ECA and TA have an aligned strategic vision and belief that the Affiliation will strengthen and grow mission impact and position the organizations to better address the evolving needs of older adults, across the economic spectrum. TA has a desire to grow in California and views ECA and its California expertise as a platform for that growth. Additionally, TA has experience in and a track record of successful affiliations.

The Affiliation Agreement was signed by ECA and July 28, 2023. In short, the parties believe the Affiliation will improve the quality of services provided in ECA affiliates, which includes MRCC, strengthening them with the resources and support of TA, while better positioning ECA to grow its mission impact in a more socio-economically diverse way.

#5

Title 11, California Code of Regulations, § 999.5(d)(2)(A)

*The estimated market value of all cash, property, stock, notes, assumption or forgiveness of debt, and any other thing of value that the applicant would receive for each health facility covered by the proposed transaction*

The Affiliation will result in TA becoming the sole corporate member of ECA. ECA will remain the sole corporate member of MRCC. The affiliation does not involve the sale, transfer, merger or other disposition of any assets of MRCC. Immediately after the Affiliation, ECA will remain the manager of MRCC under the existing management agreement. The Affiliation is a mission-driven affiliation, which ECA believes will provide substantial benefits to ECA and its affiliates, including MRCC.

#6

Title 11, California Code of Regulations, § 999.5(d)(2)(B)

*The estimated market value of each health facility or other asset to be sold or transferred by the applicant under the proposed transaction*

The Affiliation does not involve a sale, transfer, merger or other disposition of any of ECA's (or its affiliates', including MRCC's) assets. Instead, pursuant to the Affiliation Agreement, TA will become the sole corporate member of ECA, and ECA will remain the sole corporate member of MRCC. MRCC retains its assets and liabilities. The Affiliation will, however, help strengthen ECA and its affiliates as further described in response to Section 999.5(d)(2)(A).

For information regarding MRCC's assets, liabilities, and other financial matters, see the response to Section 999.5(d)(1)(F) and related exhibits.

#7

Title 11, California Code of Regulations, § 999.5(d)(2)(C)

*A description of the methods used by the applicant to determine the market value of any assets involved in the proposed transaction, including a description of the efforts made by the applicant to sell or transfer each health facility that is the subject of the proposed agreement or transaction*

The Affiliation provides for TA to become the sole corporate member of ECA. ECA remains the sole corporate member of MRCC. The Affiliation does not involve a sale, transfer merger or other disposition of any of ECA's (or any of its affiliates, including MRCC) assets. Therefore, the parties did not obtain an appraisal in connection with the proposed Affiliation.

For information regarding MRCC's assets, liabilities, and other financial matters, see the response to Section 999.5(d)(1)(F) and related exhibits.

For a description of the deliberate and extensive process that ECA engaged in to determine that this Affiliation is the best course of action for ECA and its affiliates, and the reports, analyses, requests for proposals, and other documents that informed this deliberative process, see the responses to Section 999.5(d)(1)(C) and Section 999.5(d)(1)(A).

Title 11, California Code of Regulations, § 999.5(d)(2)(D)

*Reports, analysis, Requests for Proposal, and any other documents that refer or relate to the valuation of any asset involved in the agreement or transaction*

The Affiliation provides for TA to become the sole corporate member of ECA. ECA remains the sole corporate member of MRCC. The Affiliation does not involve a sale, transfer merger or other disposition of any of ECA's (or any of its affiliates, including MRCC) assets. Therefore, the parties did not obtain an appraisal in connection with the proposed Affiliation.

ECA did, however, engage in a deliberate and extensive process in exploring potential transactions that could help preserve and strengthen the quality and scope of services that ECA and its affiliates, including MRCC, provide as well as help achieve its strategic vision of expanding its mission reach with more socio-economic diversity. After considering the proposals it received, the ECA Board ultimately chose the affiliation partner it felt would maximize these objectives.

For more information regarding ECA's deliberative process in selecting TA as an affiliation partner, see the responses to Section 999.5(d)(1)(C) and Section 999.5(d)(1)(A).

For more information regarding the value of MRCC's assets as of June 2023, see the response to Section 999.5(d)(1)(F).

#9

Title 11, California Code of Regulations, § 999.5(d)(2)(E)

*Joint Venture Transactions*

The proposed transaction is not a joint venture.

#10

Title 11, California Code of Regulations, § 999.5(d)(3)(A)

*Copies of any documents or writings of any kind that relate or refer to any personal financial benefit that a proposed affiliation between applicant and the transferee would confer on any officer, director, employee, doctor, medical group or other entity affiliated with applicant or any family member of any such person as identified in Corporations Code section 5227(b)(2)*

Pursuant to the Affiliation Agreement, TA will become the sole corporate member of ECA, and ECA will remain the sole corporate member of MRCC, with MRCC retaining all of its assets and liabilities. These assets and liabilities include contractual arrangements MRCC has in place with a medical director and medical groups to provide professional and coverage services to MRCC, arrangements which MRCC does not intend the Affiliation to disrupt. For more information in this regard, see the response to Section 999.5(d)(5)(F).

ECA has entered into an employment agreement with its CEO, who is also the CEO of MRCC that will survive beyond the Closing of the Affiliation. Per the Affiliation Agreement, ECA's CEO will remain an employee for a period of two years. A copy of the employment agreement is being submitted under separate cover to the California Attorney General as a confidential document in accordance with Section 999.5(c)(3).

#11

Title 11, California Code of Regulations, § 999.5(d)(3)(B)

*The identity of each and every officer, trustee or director of applicant (or any family member of such persons as identified in Corporations Code section 5227(b)(2)) or any affiliate of applicant who or which has any personal financial interest in any company, firm, partnership, or business entity (other than salary and directors/trustees' fees) currently doing business with applicant, any affiliate of applicant, or the transferee or any affiliate of the transferee*

There are no such arrangements responsive to this Section 999.5(d)(3)(B).

Title 11, California Code of Regulations, § 999.5(d)(3)(C)

*A statement describing how the board of directors of the nonprofit corporations involved in the transaction are complying with the provisions of Health and Safety Code sections 1260 and 1260.1*

As further described in response to Section 999.5(d)(1)(C), the ECA Board delegated authority to the Strategic Planning Taskforce to explore strategic partnerships, engage in confidential discussions with Interested Parties, conduct due diligence, and negotiate letters of intent, all of which ultimately resulted in the ECA Board identifying TA as the best partner and approving ECA moving forward with this proposed Affiliation.

No ECA or MRCC Board members have received and will not receive, directly or indirectly, any salary, stipend, compensation or other form of remuneration from TA, directly or indirectly, following the closing of the proposed transaction.

In May of 2022 ECA engaged CliftonLarsonAllen (“CLA”), an independent consulting and audit firm, to provide consulting services to assist in leading the process. CLA has deep experience in mergers and affiliations in the nonprofit senior living space. The scope of services included: governance interviews around key drivers of affiliation; financial modeling; board retreat presentation of findings; solicitation collateral development; affiliation candidate identification; solicitation of interest; assisting in evaluation; and final selection.

CLA was present at all Strategic Planning Taskforce meetings as well as the ECA board meetings where the strategic affiliation was a key topic of discussion, including May 2023 and July 2023. CLA provided guidance based on deep experience in non-profit mergers, acquisitions and affiliations. Additionally, CLA performed a financial analysis of both Interested Parties, which was presented to the Strategic Planning Taskforce.

Representatives from the ECA Board who were on the Strategic Planning Taskforce were at both Interested Party site visits and provided their perspectives on the two Interested Parties to the Strategic Planning Taskforce. The Affiliation Criteria evaluations for each Interested Party were finalized reflecting the Strategic Planning Taskforce comments and discussion.

The Affiliation Agreement includes provisions to retain all ECA and ECA affiliate employees for a period of at least two years. It includes a provision to retain ECA’s CEO at the same or comparable terms of employment for a period of two years. These provisions were in the first draft of the Affiliation Agreement from TA and were not solicited by ECA.

In making decisions regarding the Affiliation at both the May 2023 and July 2023 board meetings, the ECA Board relied upon the information and counsel of the Strategic Planning Taskforce, its volunteer directors, and CLA. The ECA Board has relied on its Strategic Planning Taskforce and advisers to guide this process and has not substantially relied on any information from members of management who may work for ECA or TA in the future, except for factual information about ECA, MRCC, or the Interested Parties.

#13

Title 11, California Code of Regulations, § 999.5(d)(4)(A)

*Applicant's articles of incorporation and all amendments thereto and current bylaws, any charitable trust restrictions, and any other information necessary to define the charitable trust purpose of the Applicant's assets*

1. Attached to this Section 999.5(d)(4)(A) as Exhibit 13-A is a copy of the Applicant's Articles of Incorporation.
2. Attached to this Section 999.5(d)(4)(A) as Exhibit 13-B is a copy of the Applicant's Bylaws.

Exhibit 13-A

Applicant's Articles of Incorporation



RESTATED ARTICLES OF INCORPORATION  
MERCY RETIREMENT AND CARE CENTER

For Office Use Only

**-FILED-**

File No.: BA20231188817

Date Filed: 7/25/2023

The undersigned certify that:

1. They are the President and the Secretary, respectively, of Mercy Retirement and Care Center, a California nonprofit public benefit corporation, with California Entity Number (0023131).
2. Articles of Incorporation of this corporation are amended and restated to read as follows:

FIRST: The name of this nonprofit public benefit corporation is Mercy Retirement and Care Center.

SECOND: This corporation is a nonprofit public benefit corporation and is not organized for the private gain of any person. It is organized under the Nonprofit Corporation Law for public and charitable purposes.

A. The specific and primary purposes of this corporation are:

I. (a) To establish, equip and maintain one or more nonprofit homes for the care of the aging, ill and frail and to furnish therein to all such persons aid, attention and assistance; to provide services associated with the foregoing, including, without limitation, residential care for the elderly, skilled nursing care, outpatient care and home care;

(b) to promote and carry on educational and scientific research activities related to the care of the aging, ill, and frail or the well-being of such persons;

(c) to engage in other activities for the general health and welfare of the communities served;

(d) to support and benefit, from time to time, nonprofit organizations affiliated with this corporation, including, without limitation, Elder Care Alliance, as long as such affiliated organizations are exempt from taxation under Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, ("Code");

(e) to conduct all of the activities listed in (a) through (d) above in a manner consistent with and supportive of the Mission and Philosophy of the Institute of the Sisters of Mercy of the Americas, a public juridic person of the Roman Catholic Church; and any other religious congregations(s), associations and fellowships that may, from time to time, participate as religious sponsors of Elder Care Alliance;

(f) to support the religious and charitable mission of the Institute of the Sisters of Mercy of the Americas.

II. To engage in, sponsor, advance, encourage and promote charitable, healthcare, educational and scientific activities.

B. The general purposes and powers of this organization are to have and exercise all rights and powers conferred on nonprofit public benefit corporations under the laws of California, including the power to contract, rent, buy or sell personal or real property; provided, however, that this corporation shall not, except to an insubstantial degree, engage in any activities or exercise any powers that are not in furtherance of the primary purposes of this corporation.

C. This corporation shall conduct its activities in a manner which conforms to the Ethical and Religious Directives for Catholic Health Care Services as may, from time to time, be approved by the United States Conference of Catholic Bishops and promulgated by the Local Ordinary.

D. Except to the extent permitted by Section 501(h), this corporation shall not carry on propaganda or otherwise attempt to influence legislation to such extent as would result in the loss of exemption under Section 501(c)(3) of the Code. This corporation shall not participate in or intervene in (including the publication or distribution of statements) any political campaign on behalf of or in opposition to any candidate for public office.

E. This corporation shall not engage in any activity which is not permitted to be engaged in by: (1) a corporation exempt from federal income tax under the Code; (2) a corporation, contributions to which are deductible under Section 170 of the Code; or (3) a public charity described in Section 509(a)(1), (2) or (3) of the Code.

THIRD: Elder Care Alliance, a California nonprofit public benefit corporation, shall be the sole member of this corporation and shall have the rights of membership more particularly described in the Bylaws of this corporation.

FOURTH: All of the properties, monies and assets of this corporation are irrevocably dedicated to charitable purposes and shall not inure to the benefit of any private individual.

FIFTH: Upon dissolution of the corporation, the Board of Directors shall, after paying or making provision for the payment of all of the liabilities of the corporation, distribute all of the assets of the corporation as directed (a) by the facility and program sponsor, if any, or (b) by the Board of Directors if there is no facility and program sponsor, to one or more organizations that at such time (x) are described in Code Section 501(c)(3) and (y) has as one of its corporate purposes a charitable purpose that is substantially similar to, or consistent with, the charitable purpose of this corporation. Any of such assets not so disposed of shall be disposed of by a court of competent jurisdiction of the county or city in which the principal office of the corporation is then located exclusively for charitable purposes or to such organization

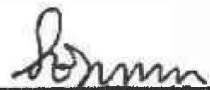
or organizations as said court shall determine that are at that time described in Code Section 501(c)(3) exclusively for charitable purposes.

SIXTH: Amendments to this corporation's Articles of Incorporation may only be adopted if approved in accordance with the Bylaws of this corporation.

3. The foregoing amendment and restatement of the Articles of Incorporation of the Corporation has been duly approved by the Board of Directors of the Corporation.
4. The foregoing amendment and restatement of Articles of Incorporation has been duly approved by the sole member of this corporation, Elder Care Alliance, and the Facility and Program Sponsor, the Institute of the Sisters of Mercy of the Americas, in accordance with the Bylaws of this corporation.

We further declare under penalty of perjury under the laws of the State of California that the matters set forth in this certificate are true and correct of our own knowledge.

Date: July 6, 2023

  
 Jackie Ejuwa  
 Secretary

Date: July 6, 2023


  
 Adriene Iverson  
 President

Exhibit 13-B

Applicant's Bylaws

# SECOND AMENDED AND RESTATED BYLAWS

## OF

## MERCY RETIREMENT AND CARE CENTER

### ARTICLE I

#### NAME, PRINCIPAL OFFICE, ETC.

1.1 Name. The name of this corporation is Mercy Retirement and Care Center.

1.2 Principal Office. The principal office for the transaction of the business of the corporation shall be at a location determined from time to time by the board of directors.

1.3 Purposes.

(a) The corporation is a nonprofit public benefit corporation within the definition of the California Nonprofit Corporation Law. Its property is irrevocably dedicated to religious, charitable and hospital purposes which meet the requirements of Section 501(c) (3) of the Internal Revenue Code of 1986, as amended ("IRC"), Section 23701d of the California Revenue and Taxation Code and Section 214 of the California Revenue and Taxation Code. Upon liquidation, dissolution or abandonment of this corporation, after providing for the debts and obligations thereof, the remaining assets will not inure to the benefit of any private person but shall be distributed to one or more nonprofit funds, foundations or corporations organized and operated for religious, hospital or charitable purposes, in accordance with the articles of incorporation of this corporation. The corporation shall not attempt to influence legislation, by propaganda or otherwise, to such extent as would result in the loss of exemption under Section 501(c)(3) of the IRC, nor shall it intervene in, or participate in, any political campaign (including publishing or distributing statements) on behalf of any candidate for public office, or take any other actions not permitted by the articles of incorporation of this corporation.

(b) Within the context of the foregoing general purposes, this corporation shall operate as part of a system of community-based programs and facilities providing quality health and social services to older adults, which is coordinated and managed by its sole corporate member, Elder Care Alliance, a California nonprofit public benefit corporation (the "Corporate Member").

SPONSORSHIP, AFFILIATION AND TRADITIONAL VALUES

2.1 Elder Care Alliance System. As a facility operating within the Corporate Member's system of community-based programs and facilities (the "Elder Care Alliance System"), the corporation is dedicated to supporting the provision of quality health and social services for older adults in a spiritually centered environment that emphasizes dignity and respect for the life and spirit of each individual. Each corporation within the Elder Care Alliance System strives to promote wellness in the surrounding communities through education and advocacy. The corporation conducts its activities in accordance with compassionate care, justice, charity and advocacy based on the prudent stewardship of its resources.

2.2 Sponsorship. The corporation supports the religious and charitable mission of its Facility and Program Sponsor, the Institute of the Sisters of Mercy of the Americas, a public juridic person of the Roman Catholic Church (the "Facility and Program Sponsor" or "Sisters of Mercy"). In furtherance of the foregoing mission and values, the corporation shall conduct its activities in a manner consistent with and supportive of the mission and philosophy stated in the MRCC Statement of Catholic Identity of the Facility and Program Sponsor, which entity shall retain stewardship over the corporation's property through: (i) the reserved rights specified in Section 4.2 of these bylaws and (ii) the ability to nominate an individual to the board of directors (who may or may not, in the discretion of the Facility and Program Sponsor, be a vowed member of the Sisters of Mercy) as set forth in section 5.4 of these bylaws (the "Sponsor Director").

2.3 Ethical and Values Statement. As an organization operating within the Elder Care Alliance System, the corporation shall conduct its business in accordance with the statement of common Christian values for elder care in service to the community, as adopted by the Corporate Member and modified from time to time. As a Catholic facility, the corporation shall also carry on its activities in accordance with the moral and ethical principles set forth in the Ethical and Religious Directives for Catholic Health Care Services approved by the United States Conference of Catholic Bishops (USCCB).

2.4 Charitable Care. In furtherance of the mission and values of the Elder Care Alliance System, the corporation shall provide charitable subsidies for service to indigent individuals, in accordance with policies established by the Corporate Member and prudent fiscal policy.

2.5 Corporate Liabilities. No aspect of this corporation's affiliation with or sponsorship by the Facility and Program Sponsor shall cause the Facility and Program Sponsor to incur or be subject to liabilities or debts of the corporation; nor shall the Facility and Program Sponsor participate in management or financial affairs of the corporation, other than to the extent of its exercise of the reserved powers specified in Section 4.2 and to nominate for appointment the Sponsor Director.

## ARTICLE III

### MEMBERSHIP

3.1 Corporate Membership. This corporation shall have Elder Care Alliance, a California nonprofit public benefit corporation (the "Corporate Member"), as its sole corporate member. The Corporate Member shall have and exercise certain reserved powers with respect to the corporation, as described in Sections 4.1 and 5.4 of these bylaws.

3.2 Meetings of the Member. The time, place and frequency of meetings of the Corporate Member and notice thereof shall be as provided from time to time in the Corporate Member's bylaws.

3.3 Action of the Member. As used in these bylaws, "action of the Corporate Member" means a resolution of the board of directors of the Corporate Member, adopted in accordance with and otherwise subject to the corporate bylaws of the Corporate Member.

## ARTICLE IV

### RESERVED POWERS

4.1 Rights Reserved to the Corporate Member. The Corporate Member reserves unto itself approval rights regarding certain corporate actions of the corporation and its affiliated organizations, as set forth in Exhibit 4.1 ("Reserved Rights of Corporate Member"), which is attached hereto and incorporated by this reference, and which may be amended from time to time with the approval of the Corporate Member.

4.2 Rights Reserved to the Facility and Program Sponsor. The Facility and Program Sponsor shall have and exercise approval rights regarding certain corporate actions of the corporation, as set forth in Section 5.4 and Exhibit 4.2 ("Reserved Rights of Facility and Program Sponsor"), which is attached hereto and incorporated by this reference, and which may be amended from time to time with the approval of the Corporate Member and the Facility and Program Sponsor.

4.3 No Action Without Approval. Neither the board nor any officer or employee of the corporation nor any subsidiary of the corporation shall take any action either in contradiction of any of the foregoing powers or without first having secured the necessary approvals as may be required by these bylaws. In the exercise of their approval powers, the Corporate Member and the Facility and Program Sponsor may grant or withhold approval in whole or in part, or after consultation with the board and the President/Chief Executive Officer of this corporation, they may, in their complete discretion, recommend such other or different actions as they may deem suitable for their approval.

## ARTICLE V

### BOARD OF DIRECTORS

5.1 Powers. Subject to the reserved approval powers specified in Article IV of these bylaws, the activities and affairs of this corporation shall be conducted, and all corporate powers shall be exercised by or under the direction of, its board of directors.

5.2 Number of Directors. The number of directors of this corporation shall be no greater than twelve (12) individuals, as established by resolution of the board of directors, who shall be appointed in accordance with Section 5.3.

5.3 Appointed Directors. The board of directors of the corporation shall be appointed by the Corporate Member, subject to final approval of the Facility and Program Sponsor.

5.4 Nomination of Directors. The Board Development and Corporate Governance Committee of the Corporate Member shall identify and evaluate qualified individuals to serve as directors of the corporation and shall recommend them to the Corporate Member for appointment, subject to final approval of the Facility and Program Sponsor. The Corporate Member shall include for appointment the Sponsor Director nominated for appointment by the Facility and Program Sponsor.

5.5 Term of Directors; Etc.

(a) Length of Term Year. Each director's term begins on December 1 of the first year for which he or she is appointed and continues until the last day of November in the last year of such term or until his or her replacement is appointed.

(b) Permissible Number of Consecutive Years. Except as otherwise provided in this Article V, the following shall apply:

(i) Any director appointed to the board for the first time or after having been off the board for the Hiatus Period defined in Section 5.5(b)(ii) shall serve for a term of three (3) years. Thereafter, a director will be eligible for appointment for up to two (2) consecutive three-year terms; provided, however, that, at the election of the Corporate Member, any such term may be for less than three (3) years, to allow for the staggering of terms or to permit a director to serve the maximum number of consecutive years allowed hereunder.

(ii) No director may serve more than a maximum of nine (9) consecutive years on the board; however, he or she will again be eligible for appointment under the provisions hereof one (1) year after the conclusion of such a nine-year period (the "Hiatus Period").

5.6 Vacancies. Any vacancy occurring on the board shall be filled as soon as practicable through the following process: The Board Development and Corporate Governance Committee of the Corporate Member shall review and recommend the appointment of a qualified

replacement, and the Corporate Member shall take action to appoint such nominee or such other person as the Corporate Member believes would be best suited to fill such vacancy, subject to final approval of the Facility and Program Sponsor.

5.7 Removal. A director or directors may be removed at any time with or without cause by the Corporate Member.

5.8 Annual Meeting. The annual meeting of the board of directors shall be held in sequence with the annual meetings of the other corporations within the Elder Care Alliance System.

5.9 Regular Meetings. Regular meetings of the board shall be at the times fixed by resolution of the board and shall not require prior notice.

5.10 Special Meetings. Special meetings of the board of directors for any purpose whatsoever may be called at any time by the Chairperson of the board, by any two directors or by the Corporate Member. Notice of any special meeting of the board of directors shall be sufficient if mailed first class four (4) days prior to the meeting or delivered personally or by telephone or by electronic transmission no less than forty-eight (48) hours prior to the meeting. A notice, or waiver of notice, need not specify the purpose of any regular or special meeting of the board. In the event of an emergency as defined in Section 5140(n)(5) of the California Nonprofit Corporation Law, notice of meetings may be delivered in any manner practicable under the circumstances, including by publication or website posting, that may reasonably be expected to inform the directors of the time, date and manner of holding the meeting.

5.11 Quorum. A majority of the directors then serving shall constitute a quorum for the transaction of business at any meeting of the board of directors.

5.12 Voting. Unless the vote of a greater number is required by these bylaws, the articles of incorporation or the California Nonprofit Corporation Law, the following will constitute the act of the board of directors: (i) if a quorum is present, the affirmative vote of at least a majority of the directors present; or (ii) if a quorum was initially present but enough directors then withdrew to leave less than a quorum, the affirmative vote of at least a majority of the original quorum.

5.13 Action without Meeting by Written Consent. Any action required or permitted to be taken by the board of directors may be taken without a meeting, if all directors shall individually or collectively consent in writing to such action. The written consent shall be filed with the minutes of the proceedings of the board. Action by written consent shall have the same force and effect as the unanimous vote of the board of directors.

5.14 Telephonic Meetings. Directors may participate in a meeting through use of a conference telephone electronic video screen communication or similar communications equipment, so long as all directors participating in such meeting can hear one another. Participation in a meeting pursuant to this Section constitutes presence in person at such meeting, and meetings so held shall constitute the valid action of the board of directors, provided that the other requirements of this Article V are met with respect to such meeting.

5.15 Conflict of Interest. This corporation and all of its officers and directors will comply with any policies of this corporation and any policies of the Corporate Member regarding conflicts of interest, as well as all requirements of California law regarding such conflicts.

5.16 Board Performance Review. The board will review its own performance as a board, in accordance with policy as established by the Board Development and Corporate Governance Committee of the Corporate Member, and the board will take such action to improve or correct its performance as the results of the review indicate. The board will also establish its own policies and procedures for the review of individual board members' performances, with assistance from the Board Development Committee of the Corporate Member.

5.17 Duty to Support Mission. Each director of the corporation shall adhere to the highest standards of ethical and moral conduct in carrying out his or her duties for the corporation, shall act, in all respects, in the best interests of the corporation and shall fully support its mission and philosophy. Failure of a director to adhere to such standards or support such mission and philosophy may be grounds for his or her removal in accordance with these bylaws.

5.18 Resident Representatives.

(a) The board shall accept one resident of Mercy Retirement and Care Center, the continuing care retirement community owned and operated by the corporation (the "CCRC"), to participate as a nonvoting resident representative to the board of directors (the "Nonvoting Participant"). The board shall also accept one resident of Mercy Retirement and Care Center to participate as a voting resident representative to the board of directors (the "Voting Resident Representative," together with the Nonvoting Participant, the "Resident Representatives").

(b) The Nonvoting Participant shall be elected by the Resident Council of the CCRC in any manner determined by the Resident Council that is reasonably calculated to encourage resident involvement in selecting and/or serving as the Nonvoting Participant. The Voting Resident Representative shall be nominated by the Resident Council using a selection process determined by the Resident Council to be reasonably calculated to encourage resident involvement in selecting or serving as the Voting Resident Representative. The Resident Council may nominate multiple nominees from which the board may approve one as the Voting Resident Representative. If the board disapproves of the nomination or nominations, the Resident Council shall nominate additional candidates for Voting Resident Representative for the board's approval until the vacancy is filled. The Resident Council shall convene meetings for the purpose of selecting a Nonvoting Participant or a Voting Resident Representative with no less than thirty (30) days' notice. Notice of the meeting shall be posted in a conspicuous place within the CCRC and shall state that the purpose of the meeting is to nominate Resident Representatives to the board of the corporation.

(c) The Resident Representatives shall have the same fiduciary duties to the corporation as have the members of the board of directors, including the duties of loyalty, care and confidentiality, and shall adhere to the standards of performance specified in Section 5.15 and 5.17 of these bylaws.

(d) The Resident Representatives shall serve a term of one (1) year and shall be eligible for reappointment for a total number of years consistent with Section 5.5(b). The board of directors may by resolution duly adopted make an exception to the term limit specified in Section 5.5(b) in a particular case.

(e) The Resident Representatives may be removed by the board of directors for good cause, upon notice to the CCRC Resident Council of the reasons for the action. Without limiting the foregoing, a failure by a Nonvoting Participant or Voting Resident Representative to carry out his or her duties consistent with Section 5.15 and Section 5.17 shall be deemed good cause for removal.

(f) A vacancy in the position of Nonvoting Participant or Voting Resident Representative resulting from death, resignation or removal shall be filled by vote of the CCRC Resident Council, announced and conducted in the manner specified in Section 5.18(b) above as soon as practicable after the vacancy occurs.

## ARTICLE VI

### OFFICERS

6.1 Officers. The officers of the corporation ("Corporate Officers") shall be the Chairperson of the board ("Chairperson"), a Vice Chairperson of the board ("Vice Chairperson"), a President/Chief Executive Officer, a Chief Financial Officer, a Secretary and an Assistant Secretary.

6.2 Election: Term of Office. The Corporate Officers shall be elected by the board; provided, the President/Chief Executive Officer of Elder Care Alliance shall serve ex officio as the President/Chief Executive Officer of this corporation. The President/Chief Executive Officer shall recommend the Chief Financial Officer for election by the board. The term of office of the Chairperson, the Vice Chairperson, the Secretary and the Assistant Secretary shall be one (1) year, beginning on the date of the board's annual meeting at which he or she is elected. Following the election of the President/Chief Executive Officer and the Chief Financial Officer in accordance with this Section 6.2, the individuals elected to those offices will serve for an indefinite term, subject to the provision of Sections 6.3 and 6.4 below.

6.3 Removal. Subject to the reserved powers set forth in Exhibit 4.1 and Exhibit 4.2, any Corporate Officer may be removed by the board of directors whenever, in the board's judgment, the best interests of the corporation will be served thereby; provided, however, that removal of a Corporate Officer shall be without prejudice to his or her contract rights, if any. The board may delegate to the President/Chief Executive Officer the authority, in his or her discretion, to remove the Chief Financial Officer.

6.4 Vacancies in Corporate Offices. All appointments to fill vacancies pursuant to this Article VI will be made in accordance with the applicable policies of the board and with the reserved powers specified in Exhibit 4.1.

(a) A vacancy in the office of Chairperson, Vice Chairperson, Secretary or Assistant Secretary may be filled by the board for the unexpired portion of the term of such office.

(b) A vacancy in the office of President/Chief Executive Officer shall only occur in the event of a vacancy in the office of President/Chief Executive Officer of the Corporate Member, and any such vacancy shall be filled by the individual succeeding to the office of President/Chief Executive Officer of the Corporate Member.

(c) A vacancy in the office of Chief Financial Officer may be filled by the board, based upon the recommendation of the President/Chief Executive Officer.

6.5 Chairperson. The Chairperson must be a director. The chairperson shall direct the business of the board of directors and shall preside at all meetings of the board. The Chairperson shall have such other powers and duties as may be prescribed by the board or these bylaws.

6.6 Vice Chairperson. The Vice Chairperson must be a director. In the absence or disability of the Chairperson of the board, the Vice Chairperson shall perform all the duties of the Chairperson and, when so acting, shall have all of the powers of and be subject to all the restrictions upon the Chairperson. The Vice Chairperson shall have such other powers and perform such other duties from time to time as may be prescribed by the board or the Chairperson.

6.7 Secretary and Assistant Secretary. The Secretary, who must be a director, shall (a) keep the minutes of all meetings of the board of directors, (b) see that all notices are duly given in accordance with the provisions of these bylaws or as required by law, (c) have charge of all the records of the board of directors and of the seal of the corporation, (d) see that the execution of the foregoing on behalf of the corporation under its seal is duly authorized and (e) in general perform all of the duties incident to the office of Secretary, subject to the control of the board. The Assistant Secretary, who may but need not be a director, shall perform the duties above at the behest of, or in the absence of, the Secretary.

6.8 President/Chief Executive Officer. The President/Chief Executive Officer shall be the chief executive officer of the corporation. Subject to these bylaws, corporate policy and the control of the board of directors, the President/Chief Executive Officer shall exercise executive supervision and control over the general business and affairs of the corporation and shall perform such other duties as may be prescribed from time to time by the board of directors.

6.9 Chief Financial Officer. The Chief Financial Officer shall keep and maintain, or cause to be kept and maintained, adequate and comprehensive books and records of the assets of the corporation and of its transactions. Such books and records shall be open to inspection by any director or the Corporate Member at all reasonable times. In addition, the Chief Financial Officer shall have charge of the funds and liquid assets of the corporation and shall deposit and/or invest such funds and liquid assets in accordance with the best interests of the corporation

and in accordance with the overall mission, policies and plans of the corporation and in accordance with the directives of the President/Chief Executive Officer, the board of directors and the Corporate Member. In addition, the Chief Financial Officer shall be responsible for all necessary and appropriate reporting and accounting, including the management of independent auditors.

6.10 Vice President and Other Officers. The President/Chief Executive Officer shall appoint such Senior Vice Presidents and Vice Presidents as he or she deems necessary from time to time. Unless appointed as such pursuant to these bylaws, Senior Vice Presidents and vice Presidents shall not be Corporate Officers and shall serve at the discretion of the President/Chief Executive Officer.

6.11 Multiple Offices. Any number of offices may be held by the same person, except that neither the Secretary nor the Chief Financial Officer may serve concurrently as the President/Chief Executive Officer or the Chairperson of the board.

6.12 Duty to Support Mission. Each officer of the corporation shall adhere to the highest standards of ethical and moral conduct in carrying out his or her duties for the corporation, shall act, in all respects, in the best interests of the corporation and shall fully support the mission and philosophy of the corporation. Failure of any Corporate Officer, Senior Vice President or Vice President to adhere to such standards or support such mission and philosophy may be grounds for his or her removal or termination in accordance with these bylaws.

## ARTICLES VII

### COMMITTEES

7.1 Executive Committee. The corporation shall have an Executive Committee consisting of the Chairperson, and any other director(s) of the Corporate Member who are concurrently serving on the Executive Committee of the Corporate Member; provided that only directors then serving on the board of the corporation shall serve on the Executive Committee. The Executive Committee shall have and exercise the authority of the board in the management of the corporation only in the intervals between meetings of the board, subject to such limitations imposed by resolutions of the board, the articles of incorporation, these bylaws and the applicable law.

7.2 Additional Committees of the Board. The board may, by resolution adopted by a majority of the directors, designate one or more additional committees to serve at the pleasure of the board. Committees of the board shall have such authority as is given them in the authorizing resolution or in these bylaws and shall have a director as chairperson. Except as otherwise provided in these bylaws, the members of the committee may but need not be directors.

7.3 Appointment. Subject to the requirements of this Article VII, the chairperson and members of any committee shall be nominated by the Chairperson of the board and appointed by the board.

7.4 Term of Office. The chairperson and each member of each committee shall serve until the next annual meeting of the board, or until such committee is sooner terminated, or until he or she is removed, resigns or otherwise ceases to qualify as a member of the committee.

7.5 Vacancies. Vacancies on any committee may be filled for the unexpired portion of the term by the Chairperson of the board.

7.6 Removal of Members of Committees. The board may remove at any time, with or without cause, the chairperson or any member of any committee.

7.7 Meetings and Quorum. Meetings of committees shall be conducted in accordance with Sections 5.6 to 5.11 hereof. A majority of members of a committee shall constitute a quorum and any transaction of a committee shall require a majority vote of the committee members present at a meeting at which a quorum is present. Except as otherwise provided in these bylaws, each member of a committee, including the person presiding at the meeting, shall be entitled to one (1) vote.

## ARTICLE VIII

### RECORDS AND REPORTS

8.1 Maintenance of Articles and Bylaws. The corporation shall keep at its principal office a copy of its articles of incorporation and these bylaws, as amended to date.

8.2 Maintenance of Other Corporate Records. Minutes of proceedings of the board and committees of the board shall be kept in written or typed form, and the accounting books and records shall be kept either in written or typed form or in any other form capable of being converted into written, typed or printed form.

8.3 Annual Report. The corporation shall provide to the Corporate Member, the Directors and to the Facility and Program Sponsor, within 120 days of the close of its fiscal year, a report which shall include, but not be limited to, the following information in reasonable detail:

(a) The manner in which the mission and philosophy of the Elder Care System and the Statement of Catholic Identity of Facility and Program Sponsor are being implemented by the corporation;

(b) The assets and liabilities, including the trust funds, of the corporation as of the end of the fiscal year;

(c) The principal changes in assets and liabilities, including trust funds, during the fiscal year;

(d) The revenue or receipts of the corporation, both unrestricted and restricted to particular purposes, for the fiscal year;

(e) The expenses or disbursements of the corporation, for both general and restricted purposes, during the fiscal year;

(f) A copy of the corporation's audited financial statement, with separate supplemental financial statements for the corporation and a copy of the corporation's annual Federal tax returns; and,

(g) Any information required by Section 6322 of the California Nonprofit Corporation law relating to insiders and to indemnification.

8.4 Auditor's Report. An audited financial statement of the corporation shall be prepared annually by a firm of certified public accountants approved by the Corporate Member; provided, that this requirement may be satisfied by the preparation of consolidated audited financial statements of the Corporate Member and its subsidiaries.

8.5 Confidentiality. Except as otherwise publicly disclosed, or in order to appropriately conduct the corporation's business, the records and reports of the corporation shall be held in confidence by those persons with access to them.

8.6 Fiscal Year. The fiscal year of the corporation shall begin on the 1<sup>st</sup> day of July each calendar year and end on the 30<sup>th</sup> day of June in the subsequent calendar year.

## ARTICLE IX

### INDEMNIFICATION

9.1 Rights of Indemnity. To the fullest extent permitted by law, the corporation shall indemnify its directors, officers, employees, Facility and Program Sponsor and other persons described in section 5238(a) of the California Nonprofit Corporation law, including persons formerly occupying such positions and the Facility Program Sponsor, against all expenses, including but not limited to court costs and attorney fees, judgments, fines, settlements and other amounts actually and reasonably incurred by them in connection with any "proceedings," as that term is used in that section, and including an action by or in the right of the corporation, by reasons of the fact that the person is or was a person described in that section. "Expenses," as used in this section, shall have the same meaning as in section 5238(a) of the California Nonprofit Corporation Law.

9.2 Approval of Indemnity. Upon written request to the board by any person seeking indemnification under section 5238(b) or section 5238(c) of the California Nonprofit Corporation Law, the board shall promptly determine under section 5238(e) of the California Nonprofit Corporation law whether the applicable standard of conduct set forth in section 5238(b) or section 5238(c) has been met and, if so, the board shall authorize indemnification. If the board cannot authorize indemnification because the number of directors who are parties to the proceeding with respect to which indemnification is sought prevents the formation of a quorum of directors who are not parties to that proceeding, the board shall promptly call a meeting of the Corporate Member. At the meeting, the Corporate Member shall determine under section 5238(e)(2) of the California Nonprofit Corporation law whether the applicable standards of conduct set forth in section 5238(b) or section 5238(c) has been met and, if so, the Corporate Member shall authorize indemnification.

9.3 Advancement of Expenses. To the fullest extent permitted by law and except as otherwise determined by the board in a specific instance, expenses incurred by a person seeking indemnification under Section 9.1 and 9.2 of this Article IX in defending any proceeding covered by those sections shall be advanced by the corporation before final disposition of the proceedings, on receipt by the corporation an undertaking by or on behalf of that person that the advance will be repaid unless it is ultimately determined that the person is entitled to be indemnified by the corporation for those expenses.

9.4 Insurance. The corporation shall have the right to purchase and maintain insurance to the fullest extent permitted by law on behalf of its officers, directors, employees, Facility and Program Sponsor and other agents, against any liability asserted against or incurred by any officer, director, employee or agent in such capacity or arising out of the officer's, director's, employee's or agents' status as such.

9.5 Indemnification-Excess. The indemnity provided herein shall be in excess of all valid and collectible insurance or indemnity policies.

## ARTICLE X

### DISSOLUTION

10.1 Dissolution. In the event that, at any time, this corporation is wound up and dissolved in accordance with its Bylaws, including any special provisions regarding specific property of the corporation, all of the properties, monies and assets of this corporation remaining after provision has been made for payment of its known debts and liabilities, as provided by law, shall be distributed and transferred to such nonprofit funds, foundations or corporations, organized and operated for charitable, religious, or scientific purposes, as directed (a) by the Facility and Program Sponsor of the corporation, if any; or (b) by the Board of Directors, if there is no Facility and Program Sponsor; provided, however, that any such funds, foundations, and/or corporations shall qualify as an exempt organization or organizations and meet the requirements for exemption under § 214 of the California Revenue and Taxation Code and as shall at the time

qualify as an exempt organization under Internal Revenue Code § 501(c)(3) and §23701d of the California Revenue and Taxation Code.

Notwithstanding the foregoing, the particular assets described in Exhibit 10.2(a) hereof shall be distributed in accordance therewith.

10.2 **Property Originally Owned by MRCC.** In the event that, upon its dissolution, any of the property identified in Exhibit 10.2(a) is owned by the corporation, such property, subject to all liabilities and encumbrances thereupon, will be distributed upon dissolution of the corporation (a) by the Facility and Program Sponsor of the corporation, if any; or (b) by the Board of Directors, if there is n Facility and Program Sponsor; provided that any such distributee is then organized and operated exclusively for charitable or religious purposes and is then exempt from federal income taxation under Section 501(c)(3) of the Code.

## ARTICLE XI REVIEW AND REVISION

11.1 **Review and Revision.** These bylaws shall be reviewed every three (3) years by the board of directors for compliance with this corporation's articles of incorporation, applicable law and licensing agency standards and the objectives of the Corporate Member and the Facility and Program Sponsor. Any necessary revisions of these bylaws shall be made in accordance with Section 10.2.

11.2 **Amendments.** These bylaws may only be amended by action of the board with approval of the Corporate Member and, with respect to certain amendments, with additional approval required by the reservation of approval power to the Facility and Program Sponsor.

## **EXHIBIT 4.1**

### **RESERVED RIGHTS OF THE CORPORATE MEMBER,**

### **ELDER CARE ALLIANCE**

The following actions of the Corporation shall not be implemented without the Approval of the Corporate Member:

- (a) Adoption or amendment of philosophy or mission of this corporation;
- (b) Adoption of amendment of strategic and long range plans of this corporation;
- (c) Merger of this corporation;
- (d) Any change in the Articles of Incorporation or Bylaws of this corporation;
- (e) Adoption of or any change in the mission statement or value statement of this corporation;
- (f) Adoption of or any changes in charity policies of this corporation;
- (g) Sale or disposition of all or substantially all of the assets of this corporation;
- (h) Dissolution of this corporation;
- (i) Adoption or approval of the operating and capital budgets of this corporation, and any capital expenditures or borrowings in excess of limits established by Elder Care Alliance policy;
- (j) Creation of a new corporation, or participation in a joint venture requiring capital commitments in excess of limits established by Elder Care Alliance policy; or
- (k) Any unbudgeted acquisition of assets with purchase price in excess of limits established by Elder Care Alliance policy.

**RESERVED RIGHTS OF THE FACILITY AND PROGRAM SPONSOR;**

**INSTITUTE OF THE SISTERS OF MERCY OF THE AMERICAS,  
A PUBLIC JURIDIC PERSON OF THE ROMAN CATHOLIC CHURCH , or its  
successor congregation**

The following actions of the corporation shall require the approval or ratification of the Facility and Program Sponsor i.e., the individuals in their canonical capacity (or their designees) who constitute the Institute Leadership Team ("ILT") of the Sisters of Mercy of the Americas, a public juridic person of the Roman Catholic Church.

- (a) Final approval of appointments to the board of directors of Mercy Retirement and Care Center;
- (b) Approval of any material conflict-of-interest, affiliate or similar transaction between the corporation, on the one hand, and the Corporate Member and/or an affiliate of the corporation or the Corporate Member, on the other hand; provided that approval of the Facility and Program Sponsor shall not be required for commercial transactions between the corporation and the Corporate Member and/or its affiliates, if such transaction is entered into in the ordinary course of business and on arm's length terms and does not exceed monetary limits established from time to time by Elder Care Alliance and approved by the Facility and Program Sponsor;
- (c) Final approval of any deficit operating and/or capital budget;
- (d) Approval of all unbudgeted operating and capital expenditures in excess of monetary limits established from time to time in accordance with the policies and norms of the Facility and Program Sponsor;
- (e) Approval of the merger or reorganization of this corporation;
- (f) Approval of sale, transfer or disposition of all or any assets in excess of monetary limits established from time to time by the Facility and Program Sponsor and in accordance with the policies and norms of the Facility and Program Sponsor;
- (g) Approval of debt or encumbrance of the corporate real estate of this corporation;
- (h) Approval of the dissolution of this corporation;
- (i) Approval of any amendments to the Articles of Incorporation or Bylaws of this corporation that would alter the corporate purpose, affiliation, reserved rights or any sponsor relationship of this corporation;

- (j) Approval of any changes to the mission and common values statement of this corporation;
- (k) Approval of any revision or amendment to the MRCC Statement of Catholic Identity;
- (l) Approval of all matters of the corporation impacting the Catholic Identity of the corporation and its programs and services including, but not limited to, adherence to and compliance with the Ethical and Religious Directives for Catholic Health Facilities and the MRCC Statement of Catholic Identity; or
- (m) Approval of any other matters which may be required by civil or Roman Catholic canon law to be submitted to the Institute of the Sisters of Mercy of the Americas, or which the board of directors may request be submitted.

**EXHIBIT 10.2(a)**  
**MRCC PROPERTY (LEGAL DESCRIPTION)**

The Land referred to herein below is situated in the City of Oakland, County of Alameda, State of California, and is described as follows:

**PARCEL ONE:**

LOTS 34, 35, 36, 37 AND 38 OF BRAY TRACT IN THE TOWNSHIP OF BROOKLYN AS PER MAP THEREOF, FILED IN THE OFFICE OF THE COUNTY RECORDER OF ALAMEDA COUNTY, CALIFORNIA, ON JUNE 23, 1886.

EXCEPTING THEREFROM: THAT PORTION DESCRIBED IN THE DEED DATED SEPTEMBER 21, 1915, FROM THE ROMAN CATHOLIC ARCHBISHOP OF SAN FRANCISCO, A CORPORATION TO THE CITY OF OAKLAND, A MUNICIPAL CORPORATION RECORDED OCTOBER 6, 1915, BOOK 2398 OF DEEDS AT PAGE 22, SERIES NO. Q17496, ALAMEDA COUNTY RECORDS.

ALSO EXCEPTING THEREFROM: THE INTEREST CONVEYED BY DEED DATED SEPTEMBER 18, 1924, FROM OUR LADY'S HOME TO THE CITY OF OAKLAND, A MUNICIPAL CORPORATION. RECORDED DECEMBER 17, 1924, BOOK 869, PAGE 197, SERIES NO. T175159, OFFICIAL RECORDS. SAID DEED WAS RE-RECORDED ON MARCH 12, 1925, SERIES NO. U19992, BOOK 957 PAGE 130 OFFICIAL RECORDS.

ALSO EXCEPTING THEREFROM: THAT PORTION OF SAID LAND THAT LIES WITHIN THE LINES OF 35TH AVENUE, FORMERLY REDWOOD AVENUE.

**PARCEL TWO:**

LOTS 11 AND 12, AS DELINEATED AND DESIGNATED UPON THAT CERTAIN MAP ENTITLED, MAP OF LAMP TRACT, FILED IN THE OFFICE OF THE RECORDER OF ALAMEDA COUNTY, JUNE 13, 1893, A SUBDIVISION OF THE BRAY TRACT.

EXCEPTING THEREFROM THAT PORTION THEREOF MORE PARTICULARLY DESCRIBED AS FOLLOWS: BEGINNING AT A POINT ON THE NORTHERN LINE OF EAST 18TH STREET, FORMERLY TOBLER STREET, DISTANT THEREON EASTERLY 224 FEET FROM THE POINT OF INTERSECTION THEREOF WITH THE EASTERN LINE OF 34TH

AVENUE, FORMERLY BRAY AVENUE, AS SAID STREET AND AVENUE ARE SHOWN ON THE MAP HEREINAFTER REFERRED TO; RUNNING THENCE NORTHERLY ALONG THE DIVIDING LINE OF LOTS NUMBERED 10 AND 11, NORTH 21 DEG 30' EAST 150 FEET; THENCE SOUTH 68 DEG 09' 42" EAST 69.37 FEET TO THE EASTERLY LINE OF LOT NUMBERED 12; THENCE SOUTH 25 DEG 43' WEST 150 FEET PARALLEL WITH THE WESTERN LINE OF 35TH AVENUE, FORMERLY REDWOOD AVENUE, AS SHOWN ON SAID MAP TO THE NORTHERLY LINE OF EAST 18TH STREET AND THENCE ALONG

SAID LINE OF EAST 18TH STREET, NORTH 68 DEG 30' WEST 58.34 TO THE POINT OF COMMENCEMENT. BEING THE SOUTHWESTERN PORTION OF LOTS NUMBERED 11 AND 12, AS

SAID LOTS ARE SHOWN ON THAT CERTAIN MAP ENTITLED, MAP OF THE LAMP TRACT, BROOKLYN TOWNSHIP, ALAMEDA COUNTY, CALIFORNIA, FILED JUNE 13, 1893 IN THE OFFICE OF THE COUNTY RECORDER OF SAID ALAMEDA COUNTY.

PARCEL THREE:

LOTS 1 AND 2, MAP OF THE LAMP TRACT, FILED JUNE 13, 1893, MAP BOOK 14, PAGE 13, ALAMEDA COUNTY RECORDS.

PARCEL FOUR:

LOT 8, MAP OF THE LAMP TRACT, FILED JUNE 13, 1893, MAP BOOK 14, PAGE 13, ALAMEDA COUNTY RECORDS.

PARCEL FIVE:

LOTS 9 AND 10, AS SAID LOTS ARE SHOWN ON THE "MAP OF THE LAMP TRACT", FILED JUNE 13, 1893, IN BOOK 14 OF MAPS, PAGE 13, IN THE OFFICE OF THE COUNTY RECORDER OF ALAMEDA COUNTY.

PARCEL SIX:

LOT 3, MAP OF THE LAMP TRACT, FILED JUNE 13, 1893, MAP BOOK 14, PAGE 13, ALAMEDA COUNTY RECORDS.

### **CERTIFICATE OF SECRETARY**

I, the undersigned, certify that I am presently the elected and acting Secretary of Mercy Retirement and Care Center, and that the foregoing Second Amended and Restated Bylaws are the current bylaws of Mercy Retirement and Care Center, as duly adopted by the Board of Directors on February 28, 2023 and May 23, 2023 and duly approved by the Corporate Member of Mercy Retirement and Care Center on February 28, 2023 and May 23, 2023 and the Facility and Program Sponsor on April 25, 2023.

Executed on this 5th day of June, 2023 at San Ramon, California.



Jackie Ejuwa

Secretary

#14

Title 11, California Code of Regulations, § 999.5(d)(4)(B)

*Applicant's plan for use of the net proceeds after the close of the proposed transaction together with a statement explaining how the proposed plan is as consistent as possible with existing charitable purposes and complies with all applicable charitable trusts that govern use of Applicant's assets*

The Applicant will not receive any proceeds from the transaction.

#15

Title 11, California Code of Regulations, § 999.5(d)(5)(A)

*A copy of the two most recent "community needs assessments" prepared by applicant for health facilities that are the subject of the agreement or transaction*

The Applicant is a skilled nursing facility and does not prepare community needs assessments.

Title 11, California Code of Regulations, § 999.5(d)(5)(B)

*A description of all charity care provided in the last five years by each health facility that is a subject of the agreement or transaction*

As set forth by ECA's Mission and Core Values, ECA recognizes the responsibility for all resources entrusted to the organization and exercises good judgment when making decisions that may affect these resources - all in support of ECA's mission. From time to time, residents of an affiliate such as MRCC who have exhausted their funds may seek financial assistance through the Charitable Care Policy by requesting a charitable care discount be applied to the cost of monthly fee and level of care fees incurred for services provided by the community.

All requests for Charitable Care are considered in a fair and transparent manner, taking into account the extent of each applying resident's needs, prior representations made of financial assets that were intended to be available for monthly fees and/or services provided by MRCC, the availability of other potential sources of support, and MRCC's ability to provide Charitable Care given current charitable care being provided to other residents and/or available funding.

For additional information regarding MRCC's charitable program, see the copies of the Charitable Care Policy and Charitable Care Application attached to this Section 999.5(d)(5)(B) as Exhibit 16-A and Exhibit 16-B respectively. For information regarding the amounts of charity care provided at MRCC in the last five years, see the chart below.

	<b>FY19</b>	<b>FY20</b>	<b>FY21</b>	<b>FY22</b>	<b>FY23</b>
<b>Charitable Care Discount Provided</b>	<b>\$218,813</b>	<b>\$149,102</b>	<b>\$136,964</b>	<b>\$94,517</b>	<b>\$51,764</b>
<b>Note:</b>	MRCC completed a repositioning project in fall of 2022. The project required that 23 assisted living apartments be placed out of service beginning early 2020. This impacted census and resulted in reduced charitable care the last few years. Additionally, charitable care fluctuates based upon resident need.				

Exhibit 16-A

Charitable Care Policy

**ELDER CARE ALLIANCE**  
**Charitable Care Policy for Current ECA Residents**

Elder Care Alliance is an integrated system committed to serving and enriching the holistic wellness of older adults and those who care for them through education, innovation and a network of professionals, care communities and partners.

**Purpose**

The purpose of this policy is to set forth the guiding principles and responsibilities necessary to carry out with compassion and prudent stewardship the procedures regarding determining eligibility for and administration of Charitable Care to current residents of ECA communities who might become unable to pay the full cost of their monthly fee and level of care fees incurred for services provided by the community.

**Policy**

As set forth by our Mission and Core Values, we recognize the responsibility we hold for all resources entrusted to the organization and exercise good judgment when making decisions that may affect these resources - all in support of our mission. From time to time, residents who have exhausted their funds may seek financial assistance through the Charitable Care policy by requesting a charitable care discount be applied to the cost of monthly fee and level of care fees incurred for services provided by the community.

It is the policy of Elder Care Alliance to evaluate all requests for Charitable Care in a fair and transparent manner, taking into account the extent of each applying resident's needs, prior representations made of financial assets that were intended to be available for monthly fees and/or services provided by the community, the availability of other potential sources of support, and the community's ability to provide Charitable Care given current charitable care being provided to other residents and/or available funding.

Given limited resources, ECA strives to be fair and responsible in the distribution of Charitable Care funds, hence each Charitable Care request shall be carefully considered. As stewards of limited resources, neither the community nor ECA can compromise itself financially due to provision of Charitable Care. Screening of residents and their resources upon admission or upon an anticipated change in level of care shall be an ongoing practice.

It is important to note that Charitable Care funding is not guaranteed. There is a formal application process for charitable care funding. Receipt of charitable care funding is not guaranteed, regardless of any oral statements made by ECA community staff to the contrary. Each community's charitable care fund is not guaranteed to have sufficient funding at any given point, so funding for some or all residents may not be available once a need develops, even if funding were previously available.

## Procedure

- The resident must have lived at the ECA community for at least twenty-four months.
- The resident or responsible party must complete and submit an application for Charitable Care to the Executive Director.
- The Executive Director will determine if the Community has charitable care funding available. If funding is not available, that will be communicated to the resident or responsible party in a timely manner.
- If charitable care funding is available, the Executive Director will review the application and discuss the need for Charitable Care with the resident and/or responsible party.
  - In consideration of granting Charitable Care, the applicant's family and/or other interested parties will be contacted and asked to contribute to the cost of care for the individual. Possibilities of other forms of contribution (e.g. volunteer work, pro bono, or other) shall be taken into consideration.
  - The applicant may be asked to consider a smaller living space than that in which he/she is currently living in order to receive financial assistance.
  - The applicant will be asked to demonstrate that the finances as indicated upon establishing residency at the community have been spent related to the resident's care needs.
  - The applicant must not have divested of significant assets, income, nor property which otherwise could have been used to meet the financial requirements of residency at the community after filing original application for residency.
- If it is determined by the Executive Director that the applicant is *not* eligible for Charitable Care, the Executive Director will not recommend assistance and will communicate that back to the resident or responsible party, informing them of the reasons for denial.
- The Executive Director's decision to approve or deny a request based on the criteria set forth in this policy may be appealed to the ECA Executive leadership team (the CEO, CFO, and VP of HR, or their designees).
- If it is determined by the Executive Director that the applicant is eligible for Charitable Care, the Executive Director will make a formal recommendation to the ECA Executive Leadership team. The name of the applicant will remain anonymous to the ECA Executive Leadership team. The amount of Charitable Care granted will be determined by both the ability of others to pay some or all of the support needed, as well as the financial ability of the community to support the Charitable Care request. The decision of the ECA Executive Leadership team to either approve or deny a request based on the criteria set forth in this policy can be appealed to the full ECA Board, whose decision is final.
- In alignment with ECA's Mission and Core Values, residents who receive Charitable Care will not be discriminated against and will receive all appropriate care that they

might otherwise receive if not receiving Charitable Care assistance.

- If the applicant has made a good faith effort to apply for Charitable Care assistance, and at no fault of the applicant, the approval process was delayed in the hands of ECA staff, any penalties on past due balances will be suspended pending Charitable Care review by the ECA Executive Leadership team. Such assistance may be retroactive to the date that the Executive Director received the completed application, at the discretion of the ECA Executive Leadership team.
- The recipient of Charitable Care and or/their responsible party shall update their application for Charitable Care annually and upon change in financial status or level of care. Charitable Care funding is not guaranteed to be available every year.
- The Executive Director reserves the right to review a recipient's need for Charitable Care at any time.
- A Charitable Care Report will be presented to the ECA Board of Directors /designee on a regular basis.

ECA reserves the right to change this policy from time to time with a 30 day written notice and/or due to budgetary constraints, to discontinue charitable care with a 90 day written notice.

Exhibit 16-B

Charitable Care Application

## Elder Care Alliance Charitable Care Application

Name of Applicant: \_\_\_\_\_

Date of Application: \_\_\_\_\_ Original Date of Admission: \_\_\_\_\_

## Income

### Liabilities (Debts)

Description		Surv %	Annual Amount
Social Security	Hers		
	His		
Pension	Hers		
	His		
Salary	Hers		
	His		
Insurance/Annuities			
Estates or Trusts			
Rentals(Net)			
Interest			
Dividends			
Other Income(List)			
Total Income			

Description	Annual Amount
Total Liabilities	

**Assets/Cash**

Institution	Type of Account	Current Value	Annual Income
	Total Cash:		

**Certificates of Deposit**

Institution	Maturity Date	% Return	Current Value	Annual Income
		Total CDs:		

**Mutual Funds**

Name of Fund	Number of Shares	% Return	Current Value	Annual Income
	Total Mutual Funds:			

**Real Estate**

Description and Address	Title Holder	Current Value	Unpaid Balance	Equity
	Total Equity:			

**Stocks and Bonds**

Description	Face Value	Current Value	Taxable Income	Annual Income
			yes no	
Total Stocks and Bonds:				

**Life Insurance**

Type of Policy and Number	Company	Face Value	Monthly Premium	Cash Surrender Value
Total Life Insurance:				

**Health Insurance**

Medicare No.(Hers) _____	Medicare No.(His) _____
Part A <input type="checkbox"/> yes <input type="checkbox"/> no   Part B <input type="checkbox"/> yes <input type="checkbox"/> no	Part A <input type="checkbox"/> yes <input type="checkbox"/> no   Part B <input type="checkbox"/> yes <input type="checkbox"/> no

**Other Health or Long Term Care Insurance**

Description	Company	Annual Premium

**Expenses**

*Elder Care Alliance*  
*Charitable Care Application*

Eligible Cost of Care Charges	Monthly Cost
Room and Board	
Pharmacy (avg last 5 months)	
Medical Supplies	
Supplemental Insurance	
Personal Allowance	
Total Monthly Expenses	

Is Family Able to Contribute?

☐ Yes

☐ No

If Family is unable to contribute, please explain:

---



---



---

Have any of your assets been transferred, conveyed, divested or otherwise assigned to family, friends, or others in the last five years?

☐ Yes

☐ No

Do you have any commitments for the full or partial support of any other person(s)?

☐ Yes

☐ No

If Yes, please explain:

---



---

### Summary

Total Monthly Income	
Total Expenses	
Difference (RESIDENT NEED)	
Amount of Family Contribution	
Total Monthly Amount of Charitable Care Requested	

**I warrant that all of the above information is true and correct. I understand that Salem Lutheran Home will rely on this and other information provided by me in determining my eligibility for charitable care.**

\_\_\_\_\_  
Signature

Date: \_\_\_\_\_

\_\_\_\_\_  
Spouse's Signature

Date: \_\_\_\_\_

Along with this completed form, please submit copies of the following:

- ☐ Form#1040(Federal Income Tax Return) and related schedules for the past year.
- ☐ Recent statements of holdings.
- ☐ Living/Family Trust
- ☐ Long Term Care Insurance Policy
- ☐ Durable Power of Attorney - Healthcare and Financial
- ☐ Copy of Medicare card
- ☐ Copy of Primary/Secondary Insurance cards

#17

Title 11, California Code of Regulations, § 999.5(d)(5)(C)

*A description of all services provided by each health facility that is the subject of the transaction in the past five years to Medi-Cal patients, county indigent patients, and other classes of patients*

MRCC is a licensed skilled nursing facility located in Oakland, California. MRCC's skilled nursing facility offers skilled nursing services, physical therapy, occupational therapy, and speech therapy.

For further information, please see the table below that details services provided by MRCC's skilled nursing facility by payor for the last five years, fiscal year ending June 30.

	HMO	Medi-Cal	Medicare	Private	Total
FY19	7%	46%	17%	30%	100%
FY20	7%	50%	17%	26%	100%
FY21	7%	52%	20%	21%	100%
FY22	6%	62%	16%	16%	100%
FY23	8%	59%	21%	12%	100%

#18

Title 11, California Code of Regulations, § 999.5(d)(5)(D)

*A description of any community benefit program provided by the health facilities that are the subject of the agreement or transaction during the past five years with an annual cost of at least \$10,000 and the annual cost of each program for the past five years*

The Applicant does not have any community benefit program within the past five years with an annual cost of at least \$10,000.

Title 11, California Code of Regulations, § 999.5(d)(5)(E)

*For each health facility that is the subject of the agreement or transaction, a description of the current policies and procedures regarding staffing for patient care areas; employee input on health quality and staffing issues; and employee wages, salaries, benefits, working conditions and employment protections*

*Staffing for Patient Care Areas*

MRCC has established policies and procedures to ensure that its patient care teams provide care to patients that is appropriate, individualized, and planned in accordance with the skilled nursing setting. The skilled nursing facility has a staffing plan, which is reviewed at least annually based on a variety of criteria, such as mandated staffing ratios and patient acuity. These policies also give MRCC's staff and other healthcare providers the opportunity to provide input on health quality and staffing issues through such mechanisms as department leadership meetings and staff meetings.

These policies are:

- 1010 Delegation of Administrative Responsibility
- 1015 Delegation of Responsibility for Nursing Services
- 1035 Licensing Qualifications of Staff
- 1085 Quality Assurance
- 4000 Resident Care

*Employee Wages, Salaries, Benefits, Working Conditions, and Employment Protections*

MRCC has the following established human resource policies and procedures that address employee wages, salaries, benefits, working conditions and employment protections:

- 1095 Disaster Planning
- 1098 OSHA Reporting
- 3000 Personnel
- 3005 Code of Conduct
- 3010 Disciplinary Action
- 3015 Employee Grievance
- 3020 Harassment
- Employee Handbook

- **Employee Benefit Plans Summary**

#20

Title 11, California Code of Regulations, § 999.5(d)(5)(F)

*For each health facility that is the subject of the agreement or transaction, all existing documents setting forth any guarantees made by any entity that would be taking over operation or control of the health facilities subject to the transaction relating to employee job security and retraining, or the continuation of current staffing levels and policies, employee wages, salaries, benefits, working conditions and employment protections*

Pursuant to the Affiliation Agreement, TA will become the sole corporate member of ECA, and ECA will remain the sole corporate member of MRCC. MRCC will retain all of its assets and liabilities. These assets and liabilities include arrangements MRCC has in place with a medical director and medical groups to provide professional services to MRCC. Pursuant to the Affiliation Agreement, the closing of the Affiliation will not result in changes to employment or to employees' wages, salaries or benefits:

- All employees of MRCC employed as of the Closing Date, including any such employees who are on an authorized leave of absence for any reason, shall remain employees of MRCC.

In addition, please see the response to Section 999.5(d)(3)(A) for information about executive employment agreements.

#21

Title 11, California Code of Regulations, § 999.5(d)(5)(G)

*If the transaction will have any impact on reproductive healthcare services provided by any facility that is the subject of transaction, or any impact on the availability or accessibility of reproductive healthcare services, a description of all reproductive healthcare services provided in the last five years by each health facility that is the subject of the transaction*

The Applicant does not provide any reproductive services.

Title 11, California Code of Regulations, § 999.5(d)(5)(H)

*Statement describing all effects that the proposed agreement or transaction may have on healthcare services provided by the facility including, but not limited to, any changes in the types or levels of medical services that may be provided at the facility and a statement of how the proposed transaction may affect the availability and accessibility of healthcare in the affected communities*

The proposed Affiliation provides for TA to become the sole corporate member of ECA, and ECA will remain the sole corporate member of MRCC. It is not intended to have any adverse impact on the availability or accessibility of skilled nursing services to the affected community. Additionally, under the Affiliation Agreement, TA commits to continuing important aspects of MRCC's skilled nursing operations for five years, unless otherwise approved by the Attorney General through a separate application:

- Maintain and operate the Mercy SNF as a licensed skilled nursing facility and maintain the same licensure, types, and or levels of services being provided as its current licensure and types and levels of service.
- Not place all or any portion of any MRCC's licensed bed capacity or services in voluntary suspension or surrender its license for any beds or services.
- Maintain the certification of the Mercy SNF to participate in the Medi-Cal program, and maintain a Medi-Cal Provider Number to provide the same types and levels of skilled nursing services at the Mercy SNF to Medi-Cal beneficiaries as required by this Agreement to be provided to its patients generally; and maintain the certification of the Mercy SNF to participate in the Medicare program and have a Medicare Provider Number to provide the same types and levels of skilled nursing services at Mercy SNF to Medicare beneficiaries (both traditional and managed care) as required by this Agreement to be provided to its patients generally.

#23

Title 11, California Code of Regulations, § 999.5(d)(5)(I)

*Description and copy of all current contracts between the applicant and the city in which the applicant is located and current contracts between the applicant and the county in which the applicant is located for each health facility subject to the transaction*

MRCC's skilled nursing facility has no contracts with the city of Oakland or Alameda County.

#24

Title 11, California Code of Regulations, § 999.5(d)(5)(J)

*Description of compliance with the Alfred E. Alquist Hospital Facilities Seismic Safety Act of 1983, as amended by the California Hospital Facilities Seismic Safety Act, for each health facility that is the subject of the affiliation*

The Applicant is a single story skilled nursing facility and is not subject to seismic regulations.

#25

Title 11, California Code of Regulations, § 999.5(d)(5)(K)

*A description of each measure proposed by the applicant to mitigate or eliminate any significant adverse effect on the availability or accessibility of healthcare services to the affected communities by the transaction*

The proposed Transaction is not expected to have any adverse effect on the availability or accessibility of healthcare services.

#26

Title 11, California Code of Regulations, § 999.5(d)(6)(A)

*If a Premerger Notification and Report Form is required to be submitted to the Federal Trade Commission under the Hart-Scott-Rodino Antitrust Improvement Act of 1976, a brief analysis of the possible effect of the transaction on each health facility that is subject to the transaction on competition and market share in any relevant product or geographic market*

A Premerger Notification and Report Form is not required to be submitted to the Federal Trade Commission under the Hart-Scott-Rodino Antitrust Improvement Act of 1976.

#27

Title 11, California Code of Regulations, § 999.5(d)(6)(B)

*Copy of the Premerger Notification and Report Form as filed with the Federal Trade Commission  
pursuant to the Hart-Scott-Rodino Antitrust Improvement Act of 1976*

A Premerger Notification and Report Form is not required to be submitted to the Federal Trade Commission under the Hart-Scott-Rodino Antitrust Improvement Act of 1976.

Title 11, California Code of Regulations, § 999.5(d)(7)

*Other Public Interest Factors*

The parties believe that ECA's affiliation with TA, another nonprofit senior living organization with a well-deserved reputation for excellence, positions ECA and its affiliates for greater stability, ability to achieve growth, and the resources required to continue to deliver high quality services and grow its mission impact. At a time when many senior living organizations are considering sales to for-profit counterparts, the Affiliation will allow ECA and its affiliates to continue delivering high quality services in partnership with another nonprofit organization that shares its values.

In addition, the opportunities for collaboration and sharing of resources throughout the TA network will strengthen ECA and MRCC's ability to serve its community and increase its mission impact throughout the region. The parties anticipate that the combined shared services of ECA and TA will benefit MRCC's patients, residents and staff.

In short, the parties expect the Affiliation to help maintain MRCC's 150-year legacy and its connection to the community it serves and to provide for an ongoing commitment to advancing ECA's existing mission.

Title 11, California Code of Regulations, § 999.5(d)(8)

*Resolution of the board of directors of the applicant authorizing the filing of the written notice and a statement by the chair of the board that the contents of the written notice are true, accurate and complete*

1. Attached to this Section 999.5(d)(8) as Exhibit 29-A are the resolutions of the Board of Directors of the sole corporate member of the Applicant that authorize the filing of this written notice.
2. Attached to this Section 999.5(d)(8) as Exhibit 29-B is a statement by the Chair of the Board of the sole corporate member of the Applicant, who is also the Chair of the Board of the Applicant, that the contents of this written notice are true, accurate and complete.

Exhibit 29-A

Resolutions

**RESOLUTIONS OF THE BOARD OF DIRECTORS OF  
ELDER CARE ALLIANCE**

**WHEREAS**, it is proposed that Elder Care Alliance, a California nonprofit public benefit corporation (the “Corporation”) affiliate with Transforming Age, a Washington nonprofit corporation, pursuant to the terms of an Affiliation Agreement (the “Affiliation Agreement”), a form of which has been presented to this Board and is attached to these Resolutions as Attachment A; and

**WHEREAS**, in order to effect the affiliation to be undertaken pursuant to the Affiliation Agreement (the “Affiliation”), it is proposed that the Corporation should adopt Seventh Amended and Restated Bylaws in the form attached to these Resolutions as Attachment B (the “Proposed Amended and Restated Bylaws”), which would become effective only if the Affiliation is successfully completed and the closing conditions contained in the Affiliation Agreement are all satisfied or waived; and

**WHEREAS**, it is proposed that, upon the approval of the Affiliation Agreement, the Corporation should enter into an Agreement for Consulting and Support Services with Gerontological Services, LLC dba GSI Research & Consulting, a Washington limited liability company, a form of which has been presented to this Board (the “Consulting Agreement”), to be effective only upon execution and delivery of the Affiliation Agreement by both parties thereto; and

**WHEREAS**, in order to implement certain enforcement mechanisms contemplated by the Affiliation Agreement and ensure a continued voice for the community served by the Corporation, the Affiliation Agreement contemplates the creation of a community Advisory Committee, and the Board has worked with Transforming Age to develop a proposed Charter for the Advisory Committee, which would become effective only if the Affiliation is successfully completed and the closing conditions contained in the Affiliation Agreement are all satisfied or waived (the “Proposed Advisory Committee Charter”), the form of which is attached as Attachment C; and

**WHEREAS**, the Board recognizes that the consummation of the Affiliation will require notice to, or the consent or approval of, various government agencies and private parties, including the Attorney General of the State of California (with respect to the change of control of the Corporation’s skilled nursing facility as contemplated by the Affiliation), the California Department of Public Health and Department of Social Services (with respect to the licensing of the Corporation’s facilities and operations), and the Institute of the Sisters of Mercy of the Americas, a public juridic person of the Roman Catholic Church (with respect to its sponsorship of the Corporation’s continuing care retirement community, Mercy Retirement and Care Center) (collectively, the “Required Consents”); and

**WHEREAS**, the Corporation has no members; and

**WHEREAS**, this Board believes the Affiliation is in the best interest of the Corporation, in furtherance of its nonprofit and charitable purposes and for the benefit of the

communities served by the Corporation, and desires to approve the Affiliation Agreement and the documents and transactions contemplated thereby;

**NOW, THEREFORE, BE IT RESOLVED**, that it is in the best interest of the Corporation, in furtherance of its nonprofit corporate and charitable purposes and for the benefit of the communities served by the Corporation and its subsidiaries, to enter into the Affiliation Agreement with Transforming Age, upon the material terms and conditions set forth in the Affiliation Agreement as presented to this Board;

**IT IS RESOLVED FURTHER**, that Affiliation and the form, material terms, and provisions of the Affiliation Agreement presented to this Board are hereby approved;

**IT IS RESOLVED FURTHER**, that the Proposed Amended and Restated Bylaws and the Proposed Advisory Committee Charter presented to this Board are hereby approved, to go into effect only upon the successful completion of the Affiliation and the satisfaction or waiver of all required closing conditions contained in the Affiliation Agreement;

**IT IS RESOLVED FURTHER**, that the form of the Consulting Agreement presented to this Board is hereby approved, and the Chair of the Board of the Directors and Chief Executive Officer of the Corporation, acting individually or together, are authorized to execute and deliver the same on behalf of the Corporation upon execution and delivery of the Affiliation Agreement by both parties thereto, which such changes, not affecting the material terms thereof as he or she may approve, his or her execution of the Consulting Agreement to be conclusive evidence of his or her approval of the same;

**IT IS RESOLVED FURTHER**, that the Chair of the Board of Directors and Chief Executive Officer of the Corporation, acting individually or together, or with the Secretary or any Assistant Secretary of the Corporation, are authorized, in the name and on behalf of the Corporation, to execute and deliver the Affiliation Agreement substantially in the form approved by this Board, with such changes, not affecting the material provisions thereof, as the officer executing the same may approve, his or her execution and delivery of the same to be conclusive evidence of the due approval of such changes and of the final form of such documents; and to execute, deliver, and where appropriate file or record, in the name and on behalf of the Corporation or any of its subsidiaries, any other documents, certificates, notices, applications or instruments that either of them deems necessary or desirable to be executed by the Corporation in order to give effect to these Resolutions and the Affiliation Agreement, including, without limitation, the documents and instruments listed as schedules and exhibits to the Affiliation Agreement (collectively, the “Related Documents”); and to do any and all other acts they deem necessary or desirable to consummate the transactions contemplated by the Affiliation Agreement and the Related Documents, and to complete the Affiliation and all matters related thereto;

**IT IS RESOLVED FURTHER**, that the Chair of the Board and the Chief Executive Officer of the Corporation, acting together or either of them, are hereby authorized to approve on behalf of the Corporation, modifications or amendments to the form of the Affiliation Agreement presented to this Board that do not alter the material terms thereof,

and the forms and content of all Related Documents, their approval of such changes or documents to be conclusively evidenced by the execution and delivery of such documents in accordance with these Resolutions;

**IT IS RESOLVED FURTHER**, the proper officers of the Corporation are authorized and instructed to seek all Required Consents, and to provide all necessary notices and make all necessary applications in connection therewith;

**IT IS RESOLVED FURTHER**, that all actions heretofore taken by the officers, agents, attorneys and employees of the Corporation in connection with the Affiliation Agreement are hereby ratified and confirmed; and

**IT IS RESOLVED FURTHER**, that the Board authorizes and directs all proper committees, officers, agents, attorneys and employees of the Corporation (a) to carry out, or cause to be carried out, all obligations of the Corporation under the Affiliation Agreement and the Related Documents, including without limitation the execution and delivery of the agreements and certificates required by the Affiliation Agreement and the payment of the expenses incurred or to be incurred by the Corporation in connection with the Affiliation; and (b) to perform, or cause to be performed, such other acts as they shall consider necessary or advisable in connection with the Affiliation.

See attached Affiliation Agreement.

Affiliation Agreement  
by and between  
Transforming Age  
and  
Elder Care Alliance

THIS AFFILIATION AGREEMENT (this "Agreement") is dated as of July 28, 2023 (the "Effective Date"), by and among Transforming Age, a Washington nonprofit corporation with a principal place of business at 1980 112<sup>th</sup> Avenue NE, Suite 210, Bellevue, WA 98004 ("TA") doing business as Transforming Age, on its behalf, and Elder Care Alliance ("ECA"), a California nonprofit public benefit corporation with a principal place of business at 1301 Marina Village Pkwy Suite #210, Alameda, CA, 94501 on its behalf, together the parties to this Agreement.

WHEREAS, ECA is a California non-profit public benefit corporation that is the sole corporate member of five corporations, each of which operates a senior community in California rooted in holistic wellness (collectively, the "ECA Subsidiaries"). The ECA Subsidiaries are: Elder Care Alliance of Camarillo, Elder Care Alliance of San Francisco, Elder Care Alliance of San Mateo and Elder Care Alliance of San Rafael (collectively, the "AlmaVia Operators"), and Mercy Retirement and Care Center (the "Mercy Operator," and with the AlmaVia Operators, the "ECA Operators"). Each of the ECA Operators except for Elder Care Alliance of San Mateo ("ECASM") operates a residential care facility for the elderly ("RCFE") licensed by the California Department of Social Services ("DSS"), and the Mercy Operator and ECA operate a continuing care retirement community under a Certificate of Authority issued by DSS, including a residential care facility, and a skilled nursing facility with a licensed bed capacity of 59 (the "Mercy SNF") licensed by the California Department of Public Health ("CDPH") (ECASM, the RCFEs and the Mercy SNF being referred to individually as an "ECA Facility," and collectively as the "ECA Facilities");

WHEREAS, ECA offers its residents independent living, assisted living, memory care, and a skilled nursing program and engages community services for the elderly such as the Mercy Brown Bag Program;

WHEREAS, ECA has concluded that it is in the best interests of its existing residents, staff, and the constituents it serves, and in the public interest, to enter into an Affiliation with TA for the purpose of: (i) enhancing the provision of high quality and cost-effective care for its existing and future residents; (ii) ensuring ECA's financial viability; and (iii) expanding ECA's holistic wellbeing beyond buildings;

WHEREAS, ECA desires that TA should be the sole member and corporate parent of its corporation;

WHEREAS, TA desires to become the sole member and corporate parent of ECA and to provide the support described below;

WHEREAS, this Agreement is intended to memorialize the actions that each of ECA and TA must take in order to effect the structure described above (the "Affiliation"); and

WHEREAS, the Boards of Directors of each of ECA and TA have approved, adopted and authorized this Agreement and the Affiliation of ECA with TA, upon the terms and subject to the conditions set forth in this Agreement;

NOW, THEREFORE, in consideration of the representations, warranties, promises and the mutual covenants and agreements hereinafter contained each of the parties hereto, intending to be legally bound, hereby agree as follows:

1. General Provisions.

- a) "Affiliation Documents" means and includes:
  - (i) This Agreement;
  - (ii) The Seventh Amended and Restated Bylaws of ECA in the form attached hereto as Exhibit A (the "Restated ECA Bylaws"); and
  - (iii) Any exhibit attached to this Agreement shall be deemed incorporated into this Agreement by reference.
- b) Any reference in this Agreement to the adoption of an Affiliation Document means the adoption or approval of such Document by the governing body or bodies of ECA or TA, as the case may be, validly authorized to take any such action.
- c) Each of ECA and TA agrees that it will take all requisite actions to authorize the filing or adoption, as the case may be, of each of the other documents described in Section 2 hereof as and when provided in this Agreement.

2. Conditions Precedent to the Affiliation.

- a) The obligation of the parties to consummate the transactions contemplated by this Agreement shall be subject to the satisfaction or waiver of the following conditions precedent (provided that a party may not waive its own satisfaction of any such condition):
  - (i) The boards of directors or trustees and, if their consent is required, the members of each of the parties shall have approved the Affiliation, and shall have approved or authorized the approval of the Transaction Documents, and any approval so authorized shall have been given. Without limiting the foregoing, the board of directors of ECA shall have approved the filing of the Restated ECA Articles of Incorporation upon the Closing (as defined below), and shall have approved and adopted the Restated ECA Bylaws, to be effective upon the Closing (and not otherwise).
  - (ii) The Institute of the Sisters of Mercy of the Americas, a public juridic person of the Roman Catholic Church (the "Sisters of Mercy"), shall have approved the Affiliation.
  - (iii) ECA shall have obtained the written consent of the Attorney-General of the State of California (the "Attorney-General") to the Affiliation pursuant to California Corporations Code section 5920(a), or the Attorney General shall have given ECA a written waiver as to the Affiliation pursuant to California Corporations Code section 5920(c).
  - (iv) The parties shall have applied for and received such approvals as may be necessary for the consummation of the Affiliation from the California

Department of Social Services, the California Department of Public Health, and any other government agency or private party whose approval or consent is necessary as a matter of law or contract for the consummation of the Affiliation.

- (v) No injunction or restraining order shall be in effect to forbid or enjoin the consummation of the transactions contemplated by this Agreement and no Federal, state, local or foreign statute, rule or regulation shall have been enacted which prohibits, restricts or unreasonably delays the consummation hereof.
  - (vi) The parties shall have executed and delivered each of the Transaction Documents, and where necessary, filed any such document with the appropriate authority.
- b) The obligation of TA to consummate the transactions contemplated by this Agreement shall be subject to the satisfaction by ECA or waiver by TA of the following conditions precedent:
  - (i) Each of the directors of ECA and each of the ECA Subsidiaries shall have submitted his or her resignation from the board of directors of ECA or such ECA Subsidiary, as the case may be, to be effective upon the Closing (and not otherwise).
  - (ii) The representations and warranties of ECA in this Agreement shall be true, complete and correct in all material respects on and as of the Closing Date, and TA shall have received a certificate to that effect dated the Closing Date and executed on behalf of ECA.
  - (iii) Each of the agreements and covenants of ECA to be performed under this Agreement at or prior to the Closing Date shall have been duly performed in all material respects and TA shall have received a certificate to that effect dated the Closing Date and executed on behalf of ECA.
- c) The obligation of ECA to consummate the transactions contemplated by this Agreement shall be subject to the satisfaction by TA or waiver by ECA of the following conditions precedent:
  - (i) The representations and warranties of TA in this Agreement shall be true, complete and correct in all material respects on and as of the Closing Date, and ECA shall have received a certificate to that effect dated the Closing Date and executed on behalf of TA.
  - (ii) Each of the agreements and covenants of the TA to be performed under this Agreement at or prior to the Closing Date shall have been duly performed in all material respects, and ECA shall have received a certificate to that effect dated the Closing Date and executed on behalf of TA.

3. Closing: Subject to the parties' termination rights in Section 4, the closing of the transactions contemplated by this Agreement (the "Closing") shall take place as soon as practicable after the conditions set forth in Section 2.c)(ii) are satisfied or waived (the date on which the Closing occurs being referred to as the "Closing Date"). The Closing shall be held on the Closing Date by the electronic exchange of documents or at such location as may be agreed to by the Purchaser and the Sellers. Upon the Closing:

- a) The Restated ECA Bylaws shall go into effect;
- b) The resignations of the members of the board of directors of ECA and the ECA Subsidiaries referred to in Section 2.b)(i) shall go into effect;
- c) TA, as sole corporate member under the ECA Bylaws, shall elect the persons listed on Exhibit B as directors of ECA; and, ECA, as the sole corporate member of each of the ECA Subsidiaries, shall elect the persons listed on Exhibit B as directors of each of the ECA Subsidiaries.

4. Termination. Prior to Closing, this Agreement shall terminate and the transactions contemplated hereby abandoned upon any one of the following:

- a) By the mutual written agreement of the Parties;
- b) By ECA if TA shall have materially breached its representations or warranties contained in this Agreement, or defaulted in the performance of its covenants contained in this Agreement, and such breach or noncompliance continues uncured through the date that is ten (10) days after delivery of written notice to Purchaser specifying such breach or noncompliance;
- c) By TA if ECA shall have materially breached its representations or warranties contained in this Agreement, or defaulted in the performance of their covenants contained in this Agreement, and such breach or noncompliance continues uncured through the date that is ten (10) days after delivery of written notice to Sellers specifying such breach or noncompliance;
- d) By either party on written notice to the other, if the Attorney General notifies ECA that he does not consent to the Affiliation as set forth in this Agreement;
- e) By either party, upon delivery of written notice of termination to the other, at any time after the date that is 180 days after the Effective Date (the "Outside Closing Date"), if the Closing has not occurred by that date; provided that a party may not give notice of termination under this subsection e) unless at the time of delivery of the notice it is in compliance with its obligations under this agreement; and provided, further, that if the breach by a party (the "Breaching Party") of its obligations under this Agreement has caused delay in the Closing, then, for purposes of the Breaching Party's right to give notice of termination under this subsection, the Outside Closing Date shall be extended by the period of such delay.

- f) Liability Upon Termination. Upon the termination of this Agreement in accordance with this Section 4, neither of the Parties shall have any further liability hereunder upon such termination, except that each Party shall remain liable to the other for any breach by it of this Agreement or of any representation, warranty or covenant contained herein.

5. Obligations Pending Closing.

- a) From the Effective Date through the Closing (but without prejudice to the right of a party to terminate this Agreement in accordance with Section 4) the parties shall use commercially reasonable efforts to take, or cause to be taken, all actions and do or cause to be done all things necessary to consummate the transactions contemplated by this Agreement, including, without limitation, to obtain all consents, approvals and authorizations of third parties and to make all filings with, and give all notices to, third parties which may be necessary or required in order to effectuate the transactions contemplated hereby; and each of the parties shall cooperate reasonably with the other in connection with the consummation of the Affiliation.
- b) TA and ECA acknowledge and agree that Torsten Hirche is hereby authorized to execute any and all documents necessary to facilitate the Affiliation on behalf of TA, and Adriene Iverson is hereby authorized to execute any and all documents necessary to facilitate the Affiliation on behalf of ECA, provided that the chair of the board of trustees of ECA shall countersign this Agreement.

6. Affiliation of ECA with TA.

- a) The Affiliation. The Affiliation notwithstanding, ECA shall continue its corporate existence under California state law with all of its rights, privileges, immunities, powers and franchises.
- b) Affiliation Closing. Subject to the satisfaction or waiver of the conditions set forth in Section 2, the Closing of the Affiliation shall occur on the date determined pursuant to Section 3 at the ECA offices – 1301 Marina Village Pkwy Suite #210, Alameda, CA, 94501, unless another date, time or place is mutually agreed to in writing by ECA and TA.
- c) Affiliation Provisions. TA and ECA acknowledge and agree to the following Affiliation Provisions which shall be binding on the parties hereto:
  - (i) Operational Commitments. TA shall comply with the following provisions for a period of five (5) years following the Closing insofar as the following commitments relate to or affect the Mercy Operator or the Mercy SNF, and otherwise for a period of two (2) years following the Closing (provided, that, with the written approval of the Attorney-General of California as required, the following commitments may be terminated or amended insofar as they relate to the Mercy Operator or the Mercy SNF prior to the

expiration of the foregoing five-year period, and if required, as approved by the Attorney General):

- 1) TA acknowledges that the Mercy Operator receives its nonprofit status as a sponsored Catholic ministry and its Catholic identity from its Facility and Program Sponsor, the Institute of the Sisters of Mercy of the Americas, a public juridic person of the Roman Catholic Church (the "Facility and Program Sponsor"). TA will support ECA in ensuring that the Mercy Operator supports the religious and charitable mission of its Facility and Program Sponsor and conducts its activities in a manner consistent with and supportive of the mission and philosophy stated in the MRCC Statement of Catholic Identity of the Facility and Program Sponsor, a copy of which is attached hereto as Exhibit C, and in adherence to and in compliance with the Ethical and Religious Directives for Catholic Healthcare Facilities.

In addition, TA acknowledges that the Facility and Program Sponsor has certain approval rights with respect to material actions that may impact MRCC, which are contained in a Governance and Affiliation Agreement, dated May 23, 2023, by and among ECA, MRCC and the Facility and Program Sponsor, as well as the governing documents of ECA and MRCC (together, the "Sponsorship Documents"), and TA and ECA agree that they will refrain from taking action, or causing MRCC from taking action, that could impact the Facility and Program Sponsor's sponsorship of MRCC or diminish their reserved authority and approval rights under the Sponsorship Documents."

- 2) TA shall sustain a robust spiritual care program in each of ECA's RCFC Facilities.
- 3) TA shall maintain and continue to employ staff at each ECA Facility who are in good standing as of the Closing Date, and shall maintain all staff wages and benefits at present levels subject to market adjustments, adjustments based on any law or regulation, or merit based increases. ECA acknowledges that no existing staff member is paid grossly above market under a special arrangement or employment contract.
- 4) TA shall—
  - a. Maintain and support the corporate existence, charitable mission and tax-exempt status of ECA and each of the ECA Subsidiaries, including:
    - i. Providing services at the ECA Facilities to a broad cross-section of the communities served by ECA and its subsidiaries, including Medicare and Medi-Cal beneficiaries in the Mercy SNF, without unlawful discrimination in services or programs on the basis of

any protected personal characteristic identified in state or federal civil rights laws, including section 51 of the California Civil Code and title 42, section 18116 of the United States Code;

- ii. Complying with the charity care policies of ECA and its subsidiaries as of the Closing, or with charity care policies no less favorable than ECA's charity care policy as of the Closing;
- b. Maintain and operate the Mercy SNF and each of the RCFEs as a licensed skilled nursing facility or residential care facility for the elderly, as applicable, and maintain the same licensure, types, and or levels of services being provided at each such facility as its current licensure and types and levels of service.
- c. Not place all or any portion of any ECA Facility's licensed bed or resident capacity or services in voluntary suspension or surrender its license for any beds or services.
- d. Maintain the certification of the Mercy SNF to participate in the Medi-Cal program, and maintain a Medi-Cal Provider Number to provide the same types and levels of skilled nursing services at the Mercy SNF to Medi-Cal beneficiaries as required by this Agreement to be provided to its patients generally; and maintain the certification of the Mercy SNF to participate in the Medicare program and have a Medicare Provider Number to provide the same types and levels of skilled nursing services at Mercy SNF to Medicare beneficiaries (both traditional and managed care) as required by this Agreement to be provided to its patients generally.
- e. If required as a condition of approval by the Attorney-General, for five (5) years from the closing date of the Purchase and Sale Agreement, consult on a quarterly basis with a community Advisory Board consisting of residents of the Mercy SNF and RCFE chosen by residents of the Mercy SNF and RCFE. The Community Advisory Board will provide advice and feedback on a quarterly basis on the quality of care and quality of life being provided to the residents and patients.
- f. Make commercially reasonable efforts to comply, or ensure compliance with, all applicable laws and regulations in the conduct of ECA and the ECA Subsidiaries, and the operation of the ECA Facilities.
- g. Abide by all resident admission agreements, leases, and other agreements relating to the occupancy of the ECA Facilities in place on the Closing Date.

- h. Continue to operate the ECA Facilities in a condition that is safe and inviting for its existing and future residents.
  - i. Maintain resident representation on the board of directors of the Mercy Operator, as required by applicable law and regulation.
  - j. To the extent that ECA is unable to fully fund its continuing operational expenses including payroll, service debt and liabilities, and/or make any necessary repairs or improvements to maintain ECA in a condition that is safe and inviting for its existing or future residents, or otherwise to comply with the undertakings set forth above, then TA agrees to provide the funding necessary to ensure those operational expenses are met through an intercompany loan.
  - k. Where commercially feasible and reasonable, new development or acquisition of licensed senior living facilities in California by TA or any of its subsidiaries will have ECA as its sole corporate member and be an affiliate of ECA.
- 5) ECA and TA shall work collaboratively to co-message the Affiliation to each organization's constituencies, including but not limited to: (a) making appropriate modifications to the ECA website to announce and highlight the Affiliation and related information; and (b) hosting one or more joint question and answer sessions with existing ECA residents.
- (ii) Employee Retention. TA acknowledges that ECA shall retain Adriene Iverson for a period of not less than two (2) years from the Affiliation Effective Date on the same or comparable terms of employment existing immediately prior to the Affiliation Effective Date in an at will employment relationship.
  - (iii) Retention of the Property. For a period of five (5) years following the Closing insofar as the following commitments relate to or affect the Mercy Operator or the Mercy SNF, and otherwise for a period of two (2) years following the Closing, (provided that, the written approval of the Attorney-General of California as required, the following commitments may be terminated or amended insofar as they relate to the Mercy Operator or the Mercy SNF prior to the expiration of the foregoing five-year period, and if required as approved by the Attorney General): TA agrees to retain the ECA Facilities as of the Affiliation Effective Date (the "Retention Period"), and not to transfer control or a material part of the assets of ECA, any ECA Subsidiary or any ECA Facility to any third party. The Retention Period shall be binding upon any successor to or affiliate of TA. A subsequent reorganization of ECA (including a merger or liquidation thereof) shall not reduce or eliminate the Retention Period. Following the Retention Period, TA shall use "best efforts" to retain the ECA Facilities indefinitely. "Best

efforts” means that when considering a sale of the ECA real property following the Retention Period TA shall: (a) act in good faith; (b) exercise reasonable commercial standards for the completion of relevant due diligence with regard to such potential sale; and balance (c) ECA’s desire that the ECA Facilities be retained indefinitely; with (d) the potential economic and organizational benefits and risks to TA and ECA respectively of a sale of the ECA Facilities.

- (iv) Advisory Committee. For a period of five (5) years following the Closing insofar as the following commitments relate to or affect the Mercy Operator or the Mercy SNF, and otherwise for a period of two (2) years following the Closing (provided, that, with the written approval of the Attorney-General of California as required, the following commitments may be terminated or amended insofar as they relate to the Mercy Operator or the Mercy SNF prior to the expiration of the foregoing five-year period, and if required as approved by the Attorney General), an advisory committee (consisting of the former ECA board of trustees) shall be formed, having a Charter in the form attached hereto as Exhibit D. The Advisory Committee shall have the status of an unincorporated association under Title 3 of the California Corporations Code. The Advisory Committee shall be a third-party beneficiary of the obligations of TA under this Agreement, with the right to enforce the same in the name and at the expense of ECA. The purpose of the Advisory Committee is to monitor and enforce compliance by TA with its obligations under this Agreement; to ensure historical continuity, be a community advocate in support of the Agreement, and build goodwill within the local community for Transforming Age and ECA. Specifically, the Advisory Committee shall meet with TA management not less frequently than quarterly for two years and semi-annually for years 3 through 5, for the period during which the commitments of TA under Section c) are required to remain in effect. At each meeting the Advisory Committee shall: (a) report on the sufficiency of ongoing co-messaging regarding the Affiliation (b) report any resident or community concerns to TA and ECA management; (c) receive at each meeting a report of TA’s compliance with its obligations under this Agreement, and such other updates or reports from TA management regarding other matters that TA management determines is necessary, prudent or desirable to share with or seek input from the Advisory Committee, or that the Advisory Committee requests in order to monitor compliance by TA with its obligations under this Agreement; and (d) engage in a question and answer session with TA management.

7. Expenses. Except as otherwise provided in this Agreement, each of ECA and TA, and their respective Affiliates, shall bear their own expenses incurred in connection with the negotiation and execution of this Agreement and the Affiliation Documents (“Expenses”), it being understood that TA shall authorize ECA to pay all such ECA Expenses.

8. Representations and Warranties of ECA. ECA hereby represents and warrants to TA as follows:

- a) Organization and Good Standing. ECA is a nonprofit corporation duly organized, validly existing and in good standing and has all requisite corporate power and authority to own, lease and operate its properties and to carry on its business as now conducted.
- b) Authorization of Agreement. ECA has all requisite power, authority and legal capacity to execute and deliver, and has taken all corporate action, and has obtained all required corporate approvals, necessary for it to validly execute and deliver, this Agreement and each agreement, document, or instrument or certificate contemplated by this Agreement to be executed and delivered by ECA in connection with the consummation of the Affiliation (collectively, the “ECA Affiliation Documents”) and to perform its obligations hereunder and thereunder and to consummate the Affiliation. This Agreement has been, and each ECA Affiliation Document shall be duly and validly executed and delivered by ECA and (assuming the due authorization, execution and delivery by the other parties hereto and thereto) this Agreement constitutes, and each of the ECA Affiliation Documents when so executed and delivered shall constitute, legal, valid and binding obligations of ECA and the ECA Affiliates enforceable against ECA and the ECA Affiliates in accordance with their respective terms.
- c) Consents of Third Parties; Contractual Consents. Except for any consent expressly contemplated by or referenced in this Agreement (including the consents referred to on Schedule 8.c) ECA is not required to obtain any consent, approval, authorization, waiver, Order, license or Permit of or from, or to make any declaration or filing with, or to give any notification to, any Person (including any Governmental Body) in connection with the execution and delivery of this Agreement or the ECA Affiliation Documents by ECA, the compliance by ECA with any of the provisions hereof or thereof, the consummation of the Affiliation by ECA and the ECA Affiliates, or the taking by ECA or any of the ECA Affiliates of any other action contemplated hereby or thereby, except for such other consents, waivers, approvals, Orders, Permits, authorizations, declarations, filings and notifications of which the failure to have obtained or made same would not have a Material Adverse Effect.
- d) Tax Status; California Public Charity Status. ECA is a public charity that is tax exempt pursuant to Section 501(c)(3) of the Internal Revenue Code. ECA is registered with the California Secretary of State as a nonprofit. ECA has filed in a timely matter all annual reports and other filings it is required to file with the Secretary of State.
- e) Litigation. There are no Legal Proceedings pending or, to the knowledge of ECA, threatened against ECA or an ECA Affiliate, or to which ECA or an ECA Affiliate is otherwise a party before any Governmental Body, that, if adversely determined, would reasonably be expected to have a material adverse effect on

the ability of ECA to perform its obligations under this Agreement or to consummate the Affiliation. Neither ECA nor any ECA Affiliate is subject to any Order of any Governmental Body directed specifically to it except to the extent the same would not reasonably be expected to materially adversely affect the ability of ECA to perform its obligations under this Agreement or to consummate the Affiliation.

Nothing contained in this Section 5 shall impose or create a liability to or obligation of the pre-closing officers and directors of ECA.

EXCEPT AS EXPRESSLY SET FORTH ABOVE, ECA MAKES NO REPRESENTATIONS OR WARRANTIES WHATEVER, EXPRESS OR IMPLIED, CONCERNING ECA, ANY ECA SUBSIDIARY, OR ANY ECA FACILITY.

9. Representations and Warranties of TA. TA hereby represents and warrants to ECA as follows:

- a) Organization and Good Standing. TA is a nonprofit corporation duly organized, validly existing and in good standing under RCW 24.03 et. seq., and has all requisite corporate power and authority to own, lease and operate its properties and to carry on its business as now conducted.
- b) Authorization of Agreement. TA has all requisite power, authority and legal capacity to execute and deliver, and has taken all corporate action, and has obtained all required corporate approvals, necessary for it to validly execute and deliver, this Agreement and each agreement, document, or instrument or certificate contemplated by this Agreement to be executed and delivered by TA in connection with the consummation of the Affiliation (collectively, the "TA Affiliation Documents") and to perform its obligations hereunder and thereunder and to consummate the Affiliation. This Agreement has been, and each TA Affiliation Document shall be at or prior to the signing of the affiliation agreement, duly executed and delivered by TA and (assuming the due authorization, execution and delivery by the other parties hereto and thereto) this Agreement constitutes, and each of the TA Affiliation Documents when so executed and delivered shall constitute, legal, valid and binding obligations of TA and the TA Affiliates enforceable against TA and the TA Affiliates in accordance with their respective terms.
- c) Consents of Third Parties; Conflicts.
  - (i) TA is not required to obtain any consent, approval, authorization, waiver, Order, license or Permit of or from, or to make any declaration or filing with, or to give any notification to, any Person (including any Governmental Body) in connection with the execution and delivery of this Agreement or the TA Affiliation Documents by TA, the compliance by TA with any of the provisions hereof or thereof, the consummation of the Affiliation TA and the TA Affiliates, or the taking by TA or any of the TA Affiliates of

any action contemplated hereby or thereby, except for the Healthcare Regulatory Consents.

- (ii) To TA's knowledge, none of the execution and delivery by TA of this Agreement or any of the TA Affiliation Documents, the consummation of the Affiliation by TA, or compliance by TA with any of the provisions hereof or thereof will conflict with, or result in any violation of or a default (with or without notice or lapse of time, or both) under, or give rise to a right of termination or cancellation under any provision of, any Contract or Permit to which TA or an TA Affiliate is a party or by which any of the properties or assets of TA or an TA Affiliate is bound, other than any such conflicts, violations, defaults, terminations or cancellations that would not materially adversely affect the ability of TA to consummate the Affiliation.
- d) Tax Status: Washington Public Charity Status. TA is a public charity that is tax exempt pursuant to Section 501(c)(3) of the Internal Revenue Code. TA is registered with the Washington Secretary of State as a nonprofit. TA has filed in a timely matter all annual reports and other filings it is required to file with the Secretary of State.
- e) Litigation. There are no Legal Proceedings pending or, to the knowledge of TA, threatened against TA or an TA Affiliate, or to which TA or an TA Affiliate is otherwise a party before any Governmental Body, that, if adversely determined, would reasonably be expected to have a material adverse effect on the ability of TA to perform its obligations under this Agreement or to consummate the Affiliation. Neither TA nor any TA Affiliate is subject to any Order of any Governmental Body except to the extent the same would not reasonably be expected to materially adversely affect the ability of TA to perform its obligations under this Agreement or to consummate the Affiliation.

10. Miscellaneous Provisions

- a) Dispute Resolution. In the event any disputes arise regarding the interpretation or enforcement of this Agreement, such disputes shall be resolved as follows:
  - (i) The parties shall first attempt to resolve a dispute by negotiating directly and in good faith. If any disputes cannot be resolved by direct negotiations within sixty (60) days or such longer time as is mutually agreed by the parties, then the parties shall submit such disputes to mediation, which shall focus on the needs of all the parties and seek to solve problems cooperatively, with an emphasis on dialogue and accommodation. The goal of the mediation shall be to fairly resolve each dispute in a manner which preserves and enhances the parties' relationships with an emphasis on carrying out the provisions of this Agreement. Any party desiring mediation may begin the process by giving the other party a written request to mediate which describes the issues involved and invites the other party to join in naming a mutually agreeable mediator and setting a timeframe for

the mediation. The parties and the mediator may adopt any procedural format that seems appropriate for the particular dispute. The contents of all discussions during the mediation shall be confidential and non-discoverable in subsequent arbitration or litigation, if any. If the parties can agree upon a mutually acceptable resolution to the disagreement, it shall be reduced to writing, signed by the parties, and the dispute shall be deemed resolved. The costs of mediation shall be divided equally among the parties to the dispute.

- (ii) If any dispute cannot be resolved through mediation, or if any party refuses to mediate or to name a mutually acceptable mediator or establish a timeframe for mediation within a period of time that is reasonable considering the urgency of the disputed matter, or fails to agree to procedures for the mediation, then any party who desires dispute resolution may seek binding arbitration to resolve the dispute as hereinafter provided.
  - (iii) All disputes among the parties arising out of or related to this Agreement which have not been settled by mediation shall be resolved by binding arbitration within the State of California. The arbitration shall be administered by JAMS pursuant to its Comprehensive Arbitration Rules and Procedures and in accordance with the Expedited Procedures in those Rules. This clause shall not preclude parties from seeking provisional remedies in aid of arbitration from a court of appropriate jurisdiction. Any arbitration award may be enforced by judgment entered in the Superior Court of the State of California for Alameda County.
  - (iv) The Advisory Committee shall have standing to proceed as the proper party on behalf of ECA if following the Affiliation Effective Date it is necessary for the parties to address any dispute under this Section 10. The parties acknowledge that the Advisory Committee will have no independent funding or resources to enforce this Agreement. Accordingly, ECA (or if it fails to do so, TA) shall be responsible for and shall promptly pay or reimburse the reasonable costs and expenses of the Advisory Committee, including reasonable attorneys' fees, incurred in connection with the enforcement of this Agreement (including the costs of consultation and mediation prior to the commencement of arbitration), whether or not arbitration is demanded and, if it is demanded, whether or not ECA (acting by and through the Advisory Committee) prevails; and, the provisions of clause (iii) notwithstanding, the Advisory Committee may apply to any court of competent jurisdiction for an order directing ECA or TA to provide the funding necessary to enable it to pursue enforcement of this Agreement.
- b) Indemnity. TA shall indemnify and hold harmless the officers and directors of ECA existing prior to Affiliation Closing from any and all liability arising out of the conduct of TA, ECA, or their officers and directors after Affiliation Closing, including the cost of attorney's fees incurred in the defense of such claims.


- c) Insurance. TA and ECA shall continue the presently existing policies of insurance relating to general liability and directors and officers liability for a period of five (5) years following Affiliation Closing.
- d) Tax Obligations. TA shall assume and hold ECA harmless from all tax obligations of any kind or nature arising out of or relating in any manner to this Affiliation Agreement.
- e) Entire Agreement; Amendments and Waivers. This Agreement (including the exhibits attached hereto), and the Affiliation Documents (collectively, the "Affiliation Agreements") represent the entire understanding and agreement between the parties hereto with respect to the subject matter hereof. This Agreement can be amended, supplemented or changed, and any provision hereof can be waived, only by written instrument making specific reference to this Agreement signed by the parties. No action taken pursuant to this Agreement, including without limitation, any investigation by or on behalf of any party, shall be deemed to constitute a waiver by the party taking such action of compliance with any representation, covenant or agreement contained herein. The waiver by any party hereto of a breach of any provision of this Agreement shall not operate or be construed as a further or continuing waiver of such breach or as a waiver of any other or subsequent breach. No failure on the part of any party to exercise, and no delay in exercising, any right, power or remedy hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of such right, power or remedy by such party preclude any other or further exercise thereof or the exercise of any other right, power or remedy. All remedies hereunder are cumulative and are not exclusive of any other remedies provided by law.
- f) Legal Counsel. Each party hereby acknowledges that it has read this Agreement, understands its contents, and has had an opportunity to obtain separate and independent counsel of its own choosing prior to signing this Agreement, and either obtained such independent counsel, or waived such right, and is therefore executing this Agreement voluntarily.
- g) Governing Law. This Agreement shall be governed by, and construed and enforced in accordance with, the laws of California applicable to contracts made and performed in such California, without giving effect to of application of its principles of conflicts of laws.
- h) Notices. All notices, requests, claims, demands and other communications hereunder shall be in writing, shall be addressed to the receiving party's address set forth below or to such other address as a party may designate by notice hereunder, and shall be either (i) delivered by hand (ii) made by facsimile transmission, (iii) sent by overnight courier, or (iv) sent by certified mail, return receipt requested, postage prepaid, or such other address as either party will advise the other party by notice delivered in accordance with the foregoing. All notices and other communications hereunder shall be deemed to have been given (i) if by hand, at the time of the delivery thereof to the receiving party at the

address of such party set forth above, (ii) if made by facsimile transmission, at the time that receipt thereof has been acknowledged by electronic confirmation or otherwise, (iii) if sent by courier, on the next Business Day; or (iv) if sent by certified mail, on the fifth (5th) Business Day following the day such mailing is made.

- i) Severability. If any term or other provision of this Agreement is invalid, illegal, or incapable of being enforced by any law or public policy, all other terms or provisions of this Agreement shall nevertheless remain in full force and effect so long as the economic or legal substance of the Affiliation is not affected in any manner materially adverse to any party. Upon such determination that any term or other provision is invalid, illegal, or incapable of being enforced, the parties hereto shall negotiate in good faith to modify this Agreement so as to effect the original intent of the parties as closely as possible in an acceptable manner in order that the Affiliation is consummated as originally contemplated to the greatest extent possible.
- j) Binding Effect; Assignment. This Agreement shall be binding upon and inure to the benefit of the parties and their respective successors and permitted assigns. No assignment of this Agreement or of any rights or obligations hereunder may be made by either party (by operation of law or otherwise) without the prior written consent of the other party hereto and any attempted assignment without the required consents shall be void.
- k) No Personal Liability. In entering into this Agreement, the parties understand, agree and acknowledge that no director, trustee, officer, member, employee, attorney, accountant, advisor or agent of any party hereto shall be personally liable or responsible to any other party or its Affiliates, directors, trustees, officers, members, employees, attorneys, accountants, advisors or agents for the performance of any obligation under this Agreement of any party to this Agreement or the truth, completeness or accuracy of any representation contained in this Agreement or any of the Affiliation Documents.
- l) No Third Party Beneficiaries. Nothing in this Agreement is intended to confer upon any person other than the parties any rights, benefits or remedies.
- m) Counterparts; Facsimiles. This Agreement may be executed in one or more counterparts, each of which will be deemed to be an original copy of this Agreement and all of which, when taken together, shall be deemed to constitute one and the same agreement. Facsimile or other electronic transmission of any signed original document and/or retransmission of any signed facsimile or other electronic transmission will be deemed the same as delivery of an original.

IN WITNESS WHEREOF, the parties hereto have caused this Master Affiliation Agreement to be executed and delivered as a sealed instrument by their respective officers thereunto duly authorized, as of the date first written above.

Elder Care Alliance

By:   
Name/Title: Adriene Iverson, President/CEO

By: \_\_\_\_\_  
Name/Title: Joy Moore, Board Chair

Transforming Age

By:   
Name/Title: Torsten Hirche, President/CEO

Elder Care Alliance

By: Adriene Iverson  
Name/Title: Adriene Iverson, President/CEO

By: Joy Moore  
Name/Title: Joy Moore, Board Chair

Transforming Age

By: \_\_\_\_\_  
Name/Title: Torsten Hirche, President/CEO

## **ATTACHMENT B**

See attached proposed Amended and Restated Bylaws for Corporation.

Exhibit A  
Restated ECA Bylaws

Approved by ECA Board: \_\_\_\_\_

TO BE EFFECTIVE ONLY UPON APPROVAL OF THE CORPORATE MEMBER, AND  
THE CLOSING OF THE TRANSACTIONS CONTEMPLATED BY  
THE AFFILIATION AGREEMENT DATED JULY 28, 2023  
BETWEEN ELDER CARE ALLIANCE AND  
TRANSFORMING AGE, A WASHINGTON NONPROFIT CORPORATION

SEVENTH AMENDED AND RESTATED BYLAWS  
OF  
ELDER CARE ALLIANCE

ARTICLE I. NAME AND PRINCIPAL OFFICE

1.1 Name. The name of this corporation shall be Elder Care Alliance.

1.2 Principal Office. The principal office for the transaction of the business of the corporation shall be at a location determined from time to time by the board of directors; provided, that the officers of the corporation may relocate the principal office, or designate alternative principal offices, as necessary to continue the orderly conduct of the corporation's business in the event of an emergency as defined in Section 5140(n)(5) of the California Nonprofit Corporation Law.

ARTICLE II. PURPOSE

2.1 Purpose. The corporation is a nonprofit organization dedicated to supporting the provision of quality long term care and social services for older adults in a spiritually centered environment that emphasizes dignity and respect for the life and spirit of each individual, carried out by a system of organizations supported by the corporation (the "System"). The corporation strives to promote wellness in the surrounding communities through education and advocacy. The corporation conducts its activities in accordance with its mission and philosophy statement and its core values of dignity, caring, excellence, prudent stewardship and collaboration. The corporation shall conduct its activities in furtherance of the social ministries of its Corporate Members, which shall retain oversight to assure the maintenance of the corporation's Christian mission and service to the poor.

ARTICLE III. SOLE CORPORATE MEMBER

3.1 Corporate Members. The sole member of the Corporation is Transforming Age, a Washington Nonprofit Corporation (the "Member").

7368284.1

ECA Seventh Amended & Restated Bylaws 2023-07-20 v3 CleanDRAFT

#### ARTICLE IV. BOARD OF DIRECTORS

4.1 Powers. Subject to the rights of the Member set forth in these Bylaws or under law, the activities and affairs of the corporation shall be conducted and all corporate powers shall be exercised by or under the direction of its board of directors (hereafter, "board" or "directors"). Certain actions set forth in Exhibit 4.1 regarding Mercy Retirement and Care Center ("MRCC") shall require the approval of the Institute of the Sisters of Mercy of the Americas.

4.2 Number. The number of directors of the corporation shall be not less than seven (7) or greater than fourteen (14) individuals, the exact number to be fixed, within the limits specified, by the Member. Until the Member fixes a different number, the number shall be nine (9).

4.3 Elected Directors.

(a) The directors shall be elected by the Member, and shall serve for the terms specified in Section 4.5 hereof.

(b) Each director of the corporation shall take office at the annual meeting of the board held in November of the year in which such director's term is to commence.

4.4 Nomination of Directors. The corporation shall have a Board Development Committee which shall assist the Member in identifying and evaluating qualified individuals to serve as directors of the corporation and recommend them to the Member for election.

4.5 Term of Directors: Etc.

(a) Length of Term Year. Each director's term begins upon adjournment of the annual meeting of the board held in November of the first year for which he or she is appointed and continues until adjournment of the annual meeting of the board held in November in the last year of such term or until his or her replacement is appointed.

(b) Permissible Number of Consecutive Years. Except as otherwise provided in this Article IV, the following shall apply. Any director elected to the board for the first time or after having been off the board for the Hiatus Period defined below shall serve for a term of three (3) years. Thereafter, a director will be eligible for appointment for up to two (2) additional consecutive three-year terms; provided, however, that, at the election of the Member, any such term may be for less than three (3) years, to allow for the staggering of terms or to permit a director to serve the maximum number of consecutive years allowed hereunder; and provided, further, that if a director has served one or more terms of less than three years, he or she may be elected to a fourth consecutive term; provided, further, however, that no director may serve more than nine (9) consecutive years on the board; however, he or she will again be eligible for appointment under the provisions hereof one (1)

7368284.1

ECA Seventh Amended & Restated Bylaws 2023-07-20 v3 CleanDRAFT

year after the conclusion of such a nine-year period ("Hiatus Period").

(c) Performance Review. The board will review its own performance as a board, in accordance with policy as established by the Corporate Governance Committee, and the board will take such action to improve or correct its performance as the results of the review indicate. The board will also establish its own policies and procedures for the review of individual board members' performances, with assistance from the Corporate Governance Committee.

4.6 Vacancies.

(a) Any vacancy occurring on the board shall be filled as soon as practicable by election by the Member, with advice and consultation from the Board Development Committee.

(b) Any individual appointed to fill a vacancy on the board in accordance with subsection (a) hereof shall serve until the end of the term of the director so replaced, and such service shall count towards the limit set forth in Section 4.5(b).

4.7 Removal. A director or directors may be removed at any time with or without cause by the Member.

4.8 Annual Meeting. The annual meeting of the board shall be held in November of each year at such time and place as the Chairperson may determine in consultation with the Member.

4.9 Regular Meetings. Regular meetings of the board shall be at the times fixed by resolution of the board and shall not require prior notice.

4.10 Special Meetings. Special meetings of the board for any purpose whatsoever may be called at any time by the Chairperson of the board, by the President/Chief Executive Officer, by any four (4) directors, or by the Member. Notice of any special meeting of the board shall be sufficient if: (a) mailed first class four (4) days prior to the meeting; or (b) delivered personally or by telephone or by electronic transmission by the corporation no less than forty-eight (48) hours prior to the meeting. A notice, or waiver of notice, need not specify the purpose of any regular or special meeting of the board. In the event of an emergency as defined in Section 5140(n)(5) of the California Nonprofit Corporation Law, notice of meetings may be delivered in any manner practicable under the circumstances, including by publication or website posting, that may reasonably be expected to inform the directors of the time, date and manner of holding the meeting.

4.11 Quorum. A majority of the directors then in office shall constitute a quorum for the transaction of business at any meeting of the board; provided that the number shall not be less than the greater of (i) one-fifth the number of directors fixed pursuant to Section 4.2, and (ii) two. During an emergency as defined in Section 5140(n)(5) of the California Nonprofit Corporation Law the Board may deem that one or more officers of the corporation present at a board meeting is a director, in order of rank and within the same rank in order of seniority, as necessary to achieve a quorum for

7368284.1

ECA Seventh Amended & Restated Bylaws 2023-07-20 v3 CleanDRAFT

that meeting.

4.12 Voting. Unless the vote of a greater number is required by these Bylaws, the articles of incorporation or the California Nonprofit Corporation Law, the following will constitute the act of the board of directors: (a) if a quorum is present, the affirmative vote of at least a majority of the directors present; or (b) if a quorum was initially present but enough directors then withdraw to leave less than a quorum, the affirmative vote of at least a majority of the original quorum. Voting by proxy is prohibited.

4.13 Action Without Meeting by Written Consent. Any action required or permitted to be taken by the board may be taken without a meeting, if all directors shall individually or collectively consent in writing to such action. The written consent shall be filed with the minutes of the proceedings of the board. Action by written consent shall have the same force and effect as the unanimous vote of the board.

4.14 Telephonic Meetings. Directors may participate in a meeting through use of a conference telephone, electronic video screen communication or electronic transmission by and to the corporation. Participation in a meeting through use of conference telephone or electronic video screen communication pursuant to this section constitutes presence in person at that meeting as long as all directors participating in the meeting are able to hear one another. Participation in a meeting through use of electronic transmission by and to the corporation, other than conference telephone and electronic video screen communication, constitutes presence in person at that meeting if both of the following apply:

(a) Each director participating in the meeting can communicate with all of the other directors concurrently.

(b) Each director is provided the means of participating in all matters before the board, including, without limitation, the capacity to propose, or to interpose an objection to, a specific action to be taken by the corporation.

Meetings held in accordance with this section 4.14 shall constitute the valid action of the board, provided that the other requirements of this Article IV are met with respect to such meetings.

4.15 Duty to Support Mission. Each director of the corporation shall adhere to the highest standards of ethical and moral conduct in carrying out his or her duties for the corporation, shall act, in all respects, in the best interests of the corporation and shall fully support its mission and philosophy. Failure of any director to adhere to such standards or support such mission and philosophy may be grounds for his or her removal or termination in accordance with these Bylaws.

## ARTICLE V. THE MEMBER

5.1 Manner of Acting. The member shall act through the Member's board of directors or a duly authorized committee thereof, or through a designated representative as and to the extent

7368284.1

ECA Seventh Amended & Restated Bylaws 2023-07-20 v3 CleanDRAFT

authorized from time to time by resolution adopted by the Member's board of directors or a duly authorized committee thereof.

5.2 Annual Meeting. The annual meeting of the Member for election of Board directors to succeed those whose terms expire, and for the transaction of such other business as may properly come before the meeting, shall be held each year during the month of October on the date and at the time each year as determined by the Member. If the date fixed for the annual meeting is a legal holiday, the meeting shall be held on the next succeeding business day. If the annual meeting is not held on the date designated therefor, the Member's board of directors shall cause the meeting to be held as soon thereafter as may be convenient.

5.3 Special Meetings. The President, the Board, or the Member may call special meetings of the Member for any purpose.

5.4 Action by Member Without a Meeting. Any action that could be taken at a meeting of the Member may be taken without a meeting if a consent, in the form of a record setting forth the action so taken, is executed by the Member. Such consent shall be inserted in the minute book as if it were the minutes of a meeting of the Member.

5.5 Place of Meetings. All meetings of the Member shall be held at the principal office of the Member or at such other place within or outside the State of Washington designated by the President, by the Member, or by a waiver of notice executed by the member.

5.6 Notice of Meetings. The President, the Secretary, or the Board shall cause to be delivered to the Member, in a tangible medium (e.g., a letter or facsimile) or by an electronic transmission (e.g., email) (as provided in Section 4.10), not less than three (3) nor more than thirty (30) days before the meeting, a notice stating the place, date and time of the meeting and, in the case of a special meeting, the purpose or purposes for which the meeting is called. At any time, upon the request, in a tangible medium or by electronic transmission, of the Member calling for a special meeting pursuant to Section 5.3, it shall be the duty of the Secretary to give notice of the special meeting of the Member to be held at a date, time, and place fixed by the Secretary, such date not to be less than one (1) nor more than ten (10) days after receipt of such request. If the Secretary neglects or refuses to issue such notice, the person or persons making the request may do so and may fix the date, time, and place for such meeting. If notice is delivered in a tangible medium, it may be transmitted by mail, private carrier, or personal delivery; telegraph or teletype; or telephone, wire or wireless equipment that transmits a facsimile of the notice. If mailed, the notice shall be deemed delivered when deposited in the United States mail addressed to the Member at its address as it appears on the records of the Corporation with postage thereon prepaid. Other forms of notice in a tangible medium described in this paragraph are effective when received.

5.7 Notice by Electronic Transmission. If notice is provided in an electronic transmission, it must satisfy the requirements of Section 4.10 of these Bylaws.

7368284.1

ECA Seventh Amended & Restated Bylaws 2023-07-20 v3 CleanDRAFT

5.8 Waiver of Notice.

(a) Waiver. Whenever any notice is required to be given to the Member under the provisions of these Bylaws, the Articles of Incorporation, or applicable Washington law, a waiver thereof in the form of a record executed by the member shall be deemed equivalent to the giving of such notice. Neither the business to be transacted at, nor the purpose of, any regular or special meeting of the member need be specified in the waiver of notice of such meeting.

(b) Waiver by Attendance. The attendance of the Member at a meeting shall constitute a waiver of notice of such meeting, except where the Member attends a meeting for the express purpose of objecting to the transaction of any business because the meeting is not properly called or convened.

5.9 Quorum. The presence of the Member is necessary and sufficient to constitute a quorum at a meeting of the Member.

5.10 Approval Rights. The provisions of Section 4.1 notwithstanding, the following actions on the part of the corporation shall require the approval of the Member:

- (a) The amendment of the corporation's articles of incorporation or bylaws;
- (b) The election or appointment and the removal of directors;
- (c) The sale, lease, conveyance, exchange, transfer or other disposition of all or substantially all of the assets of the corporation;
- (d) The merger or consolidation of the corporation with any other entity;
- (e) Adoption of a plan for the distribution of the assets of the Corporation; and
- (e) A voluntary election to wind up and dissolve the corporation.

ARTICLE VI. OFFICERS

6.1 Officers. The officers of the Corporation shall be the Chair, Vice-Chair, President, one or more Vice Presidents, Secretary, and Treasurer. The Chair and the Vice-Chair shall be the Chair and Vice-Chair, respectively, of the Transforming Age board of directors. The other officers (including the President) shall be the officers of Transforming Age, appointed by the Transforming Age board of directors. Any two or more offices may be held by the same person, except the offices of President and Secretary.

6.2 Nomination, Election, Terms of Office of Corporate Officers.

(a) Election and Terms of Office. The Corporate Officers shall be elected by the board. The term of office of the Chairperson, the Vice Chairperson shall be for one (1) year, beginning on the date of the board's annual meeting at which he or she is elected. The President shall not serve for any specific term of office, but rather at the discretion of the Board. The remaining officers will serve an indefinite term, subject to the discretion of the President.

6.3 Removal. Any Corporate Officer or subordinate officer may be removed by the board whenever, in its judgment, the best interests of the corporation will be served thereby; provided, however, that removal of a Corporate Officer shall be without prejudice to his or her contract rights, if any.

6.4 Vacancies in Corporate Offices. A vacancy in the office offices of Chair, Vice-Chair, or President created by the death, resignation, removal, disqualification, creation of a new office or any other cause may be filled by the member of the Corporation for the unexpired portion of the term or for a new term established by the member. A vacancy created in any of the offices appointed by the President shall be filled by the President.

6.5 Chairperson. The Chairperson must be a director. He or she shall direct the business of the board and shall preside at all meetings of the board. The Chairperson shall have such other powers and duties as may be prescribed by the board or these Bylaws.

6.6 Vice Chairperson. In the absence or disability of the Chairperson, the Vice Chairperson, who must be a director, shall perform all the duties of the Chairperson, and when so acting, shall have all of the powers of and be subject to all the restrictions upon the Chairperson. The Vice Chairperson shall have such other powers and perform such other duties from time to time as may be prescribed by the board or the Chairperson.

6.7 Secretary. The Secretary, who must be a director, shall (a) keep the minutes of all meetings of the board, (b) see that all notices are duly given in accordance with the provisions of these Bylaws or as required by law, (c) have charge of all the records of the board, (d) see that the execution of the foregoing on behalf of the corporation is duly authorized, and (e) in general, perform all of the duties incident to the office of Secretary, subject to the control of the board.

6.8 President/Chief Executive Officer. The President/Chief Executive Officer shall be the chief executive officer of the corporation. Subject to these Bylaws, corporate policy and control by the board, the President/Chief Executive Officer shall exercise executive supervision and control over the general business and affairs of the corporation and shall perform such other duties as may be prescribed from time to time by the board.

6.9 Treasurer. The Treasurer shall keep and maintain, or cause to be kept and maintained, adequate and comprehensive books and records of the assets of the corporation and of its transactions. Such books and records shall be open to inspection by any director at all reasonable times. In addition, the Treasurer shall have charge of the funds and liquid assets of the corporation and shall deposit and/or invest such funds and liquid assets in accordance with the overall mission, policies, and plans of the corporation and in accordance with the directives of the President/Chief Executive Officer and the board. In addition, the Treasurer shall be responsible for all necessary and appropriate reporting and accounting.

6.10 Vice Presidents. The Corporate Officers may recommend for appointment by the Board such Vice Presidents or other subordinate officers as they deem necessary from time to time. Unless appointed as such pursuant to these Bylaws, Vice Presidents shall not be Corporate Officers. They shall have such powers and perform such duties as may be delegated to them by the board or by the President/Chief Executive Officer in accordance with policies duly adopted by the board.

6.11 Multiple Corporate Offices. Any number of Corporate Offices may be held by the same person, except that neither the Secretary nor the Chief Financial Officer may serve concurrently as the President/Chief Executive Officer or the Chairperson.

6.12 Duty to Support Mission. Each Corporate Officer and each Vice President of the corporation shall adhere to the highest standards of ethical and moral conduct in carrying out his or her duties for the corporation, shall act, in all respects, in the best interest of the corporation and shall fully support its mission and philosophy. Failure of any Corporate Officer or Vice President to adhere to such standards or support such mission and philosophy may be grounds for his or her removal in accordance with these bylaws.

## ARTICLE VII. COMMITTEES

7.1 Standing or Temporary Committees. The Board, by resolution adopted by a majority of the directors in office, may designate and appoint from among its members one or more standing or temporary committees, each of which shall:

- (a) Consist of two (2) or more directors;
- (b) Be governed by the same rules regarding meetings, action without meetings, notice, and waiver of notice, and quorum and voting requirements as apply to the Board; and
- (c) To the extent provided in such resolution, have and may exercise the authority of the Board in the management of the Corporation; provided, however, that the Board may not delegate its authority to:
  - (i) approve any action for which the Code also requires approval of the

Member;

- (ii) amend, alter, or repeal these Bylaws;
- (iii) elect, appoint, or remove any member of any such committee or any director or officer of the Corporation;
- (iv) amend the Articles of Incorporation;
- (v) approve of any self-dealing transaction except as provided in paragraph (3) of subdivision (d) of Section 5233 of the Code;
- (vi) adopt a plan of merger or consolidation with another corporation;
- (vii) authorize the sale, lease, or exchange of all or substantially all of the property and assets of the Corporation, not in the ordinary course of business;
- (viii) authorize the voluntary dissolution of the Corporation or revoke proceedings therefor;
- (ix) adopt a plan for the distribution of the assets of the Corporation; or
- (x) amend, alter, or repeal any resolution of the Board which by its terms provides that it shall not be amended, altered or repealed by such committee.

The designation and appointment of any such committee and the delegation thereto of authority shall not operate to relieve the Board, or any individual director, of any responsibility imposed upon it by law. The Board shall have the power at any time to change the members of any such committee, to fill vacancies, and to discharge any such committee.

7.2 Attendance. Board members who are not appointed to a committee may attend by invitation.

7.3 Resignation of Committee Member. Any member of any committee may resign at any time by delivering notice thereof, in the form of a record, to the Chair, the President, the Secretary, or the chair of such committee, or by giving such notice at any meeting of such committee. Any such resignation shall take effect at the time specified therein or, if the time is not specified, upon delivery thereof and, unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

7.4 Audit Committee. The corporation shall have an Audit Committee appointed by the

7368284.1

ECA Seventh Amended & Restated Bylaws 2023-07-20 v3 CleanDRAFT

board of directors of the corporation and may include persons who are not members of the board of directors. The Audit Committee shall not include any members of the staff, including the president or chief executive officer and the treasurer or chief financial officer. Members of the finance committee may serve on the audit committee; however, the chairperson of the audit committee may not be a member of the finance committee and members of the finance committee shall constitute less than one-half of the membership of the audit committee. Members of the audit committee shall not receive any compensation from the corporation in excess of the compensation, if any, received by members of the board of directors for service on the board and shall not have a material financial interest in any entity doing business with the corporation. The Audit Committee shall perform the duties and adhere to the guidelines set forth from time to time by the Board. The Audit Committee shall perform the duties and adhere to the guidelines set forth from time to time by the Board. These duties include, but are not limited to: (i) assisting the Board in choosing an independent auditor and recommending termination of the auditor, if necessary, (ii) negotiating the auditor's compensation, (iii) conferring with the auditor regarding the corporation's financial affairs, (iv) reviewing and accepting or rejecting the audit, and approving performance of non-audit services by the auditing firm.

7.5 Additional Committees of the Board. The board may, by resolution adopted by a majority of the directors, designate one or more additional committees to serve at the pleasure of the board. Committees of the board shall have such authority as is given them in the authorizing resolution or in these Bylaws and shall have a director as chairperson. Except as otherwise provided in these Bylaws, the members of the committee may, but need not be, directors.

7.6 Removal of Members of Committees. The board, by resolution adopted by a majority of the directors in office, may remove at any time, with or without cause, the chairperson or any member of any committee, except those individuals appointed ex-officio in accordance with these Bylaws.

7.7 Meetings and Quorum. Meetings of committees shall be conducted in accordance with Sections 4.9 through 4.14 hereof. A majority of members of a committee shall constitute a quorum and any transaction of a committee shall require a majority vote of the committee members present at a meeting at which a quorum is present. Except as otherwise provided in these Bylaws, each member of a committee, including the person presiding at the meeting, shall be entitled to one (1) vote.

## ARTICLE VIII. RECORDS, REPORTS AND FISCAL YEAR

8.1 Maintenance of Articles and Bylaws. The corporation shall keep at its principal executive office a copy of its articles of incorporation and these Bylaws, as amended to date.

8.2 Maintenance of Other Corporate Records. Minutes of proceedings of the board or committees of the board shall be kept in written or typed form, and the accounting books and records shall be kept either in written or typed form or in any other form capable of being converted into written, typed or printed form.

7368284.1

ECA Seventh Amended & Restated Bylaws 2023-07-20 v3 CleanDRAFT

8.3 Annual Report. The corporation shall provide to all of its directors, to the Member, and to Mercy Retirement and Care Center's Facility Sponsor, within one hundred twenty (120) days after the close of its fiscal year, a report accompanied by the independent accountants' report required under Section 8.4 hereof, which shall include, but not be limited to, the following information in reasonable detail:

- (a) The manner in which the Corporation has implemented its mission and philosophy.
- (b) The assets and liabilities, including the trust funds, of the corporation as of the end of the fiscal year.
- (c) The principal changes in assets and liabilities, including trust funds, during the fiscal year.
- (d) The revenue or receipts of the corporation, both unrestricted and restricted to particular purposes, for the fiscal year.
- (e) The expenses or disbursements of the corporation, for both general and restricted purposes, during the fiscal year.
- (f) Any information required by Section 6322 of the California Nonprofit Corporation Law relating to interested persons and to indemnification.

8.4 Auditor's Report. An audited financial statement of the corporation shall be prepared annually by a firm of independent public accountants approved by the board.

8.5 Confidentiality. Except as otherwise publicly disclosed, or in order to appropriately conduct the corporation's business, the records and reports of the corporation shall be held in confidence by those persons with access to them.

8.6 Fiscal Year. The fiscal year of the corporation shall begin on the 1st day of July each calendar year and end on the 30th day of June in the subsequent calendar year.

#### ARTICLE IX. INDEMNIFICATION

9.1 Right of Indemnity. To the fullest extent permitted by law, the corporation shall indemnify its Member, directors, officers, employees, and other persons described in section 5238(a) of the California Nonprofit Corporation Law, including persons formerly occupying such positions, against all expenses, including but not limited to court costs and attorney fees, judgments, fines, settlements and other amounts actually and reasonably incurred by them in connection with any

7368284.1

ECA Seventh Amended & Restated Bylaws 2023-07-20 v3 CleanDRAFT

“proceeding,” as that term is used in that section, and including an action by or in the right of the corporation, by reason of the fact that the person is or was a person described in that section. “Expenses,” as used in this section, shall have the same meaning as in section 5238(a) of the California Nonprofit Corporation Law.

9.2 Approval of Indemnity. On written request to the board by any person seeking indemnification under section 5238(b) or section 5238(c) of the California Nonprofit Corporation Law, the board shall promptly determine under section 5238(e) of the California Nonprofit Corporation Law whether the applicable standard of conduct set forth in section 5238(b) or section 5238(c) has been met and, if so, the board shall authorize indemnification. If the board cannot authorize indemnification because the number of directors who are parties to the proceeding with respect to which indemnification is sought prevents the formation of a quorum of directors who are not parties to that proceeding, the board or the attorney or other person rendering services in connection with the defense shall apply to the court in which such proceeding is or was pending to determine whether the applicable standard of conduct has been met. .

9.3 Advancement of Expenses. To the fullest extent permitted by law and except as otherwise determined by the board in a specific instance, expenses incurred by a person seeking indemnification under Sections 9.1 and 9.2 of this Article IX in defending any proceeding covered by those Sections shall be advanced by the corporation before final disposition of the proceeding, on receipt by the corporation of an undertaking by or on behalf of that person that the advance will be repaid unless it is ultimately determined that the person is entitled to be indemnified by the corporation for those expenses.

9.4 Insurance. The corporation shall have the right to purchase and maintain insurance to the fullest extent permitted by law on behalf of its officers, directors, employees, and other agents, against any liability asserted against or incurred by any officer, director, employee or agent in such capacity or arising out of the officer’s, director’s, employee’s, or agents’ status as such.

9.5 Indemnification-Excess. The indemnity provided herein shall be in excess of all valid and collectible insurance or indemnity policies.

## ARTICLE X. DISSOLUTION

10.1 Dissolution. In the event that, at any time, this corporation is wound up and dissolved in accordance with its Bylaws, including any special provisions regarding specific property of the corporation, all of the properties, monies and assets of this corporation remaining after provision has been made for payment of its known debts and liabilities, as provided by law, shall be distributed and transferred to such nonprofit funds, foundations or corporations, organized and operated for charitable, religious, or scientific purposes, as designated by the Member of this corporation, and approved by the Facility and Program Sponsor of Mercy Retirement and Care Center, a California nonprofit public benefit corporation, if any; provided,

7368284 |

ECA Seventh Amended & Restated Bylaws 2023-07-20 v3 CleanDRAFT

however, that any such funds, foundations, and/or corporations shall qualify as an exempt organization or organizations and meet the requirements for exemption under § 214 of the California Revenue and Taxation Code and as shall at the time qualify as an exempt organization under Internal Revenue Code § 501(c)(3) and §23701d of the California Revenue and Taxation Code.

Notwithstanding the foregoing, the particular assets described in Section 9.2 hereof shall be distributed in accordance therewith.

10.2 Property Originally Owned by MRCC. In the event that, upon its dissolution, any of the property identified in Exhibit 9.2(a) is owned by the corporation, such property, subject to all liabilities and encumbrances thereupon, will be distributed upon dissolution of the corporation as designated by the Member and approved by the Facility and Program Sponsor of Mercy Retirement and Care Center, a California nonprofit public benefit corporation, if any; , provided, however that any such distributee is then organized and operated exclusively for charitable or religious purposes and is then exempt from federal income taxation under Section 501(c)(3) of the Code.

#### ARTICLE XI. REVIEW AND REVISION: AMENDMENTS

11.1 Review and Revision. These Bylaws shall be reviewed no less often than once every three (3) years, for compliance with applicable law, the objectives of the System, this corporation's articles of incorporation and the common values statement of the corporation and the System. Any necessary revisions of these Bylaws shall be made in accordance with Section 11.2.

11.2 Amendments. These Bylaws may only be amended by action of the Member.

**EXHIBIT 4.1**  
**APPROVAL RIGHTS OF FACILITY AND PROGRAM SPONSOR**

The following actions regarding Mercy Retirement and Care Center (“MRCC”) shall require the approval of the Facility and Program Sponsor, i.e. the individuals in their canonical capacity (or their designees), who constitute the Institute Leadership Team of the Sisters of Mercy of the Americas, a public juridic person of the Roman Catholic Church:

- (a) Final approval of the appointments to the Board of Directors of MRCC;
- (b) Approval of any material conflict-of-interest, affiliate or similar transaction between MRCC, on the one hand, and the corporation and/or an affiliate of the corporation, on the other hand; provided that approval of the Facility and Program Sponsor shall not be required for commercial transactions between MRCC and the corporation and/or its affiliates, if such transaction is entered into in the ordinary course of business and at arm’s length terms and does not exceed monetary limits established from time to time by Elder Care Alliance and approved by the Facility and Program Sponsor;
- (c) Final approval of any deficit operating and/or capital budget of MRCC;
- (d) Approval of all unbudgeted operating and capital expenditures of MRCC in excess of monetary limits established from time to time in accordance with the policies and norms of the Facility and Program Sponsor;
- (e) Approval of the merger or reorganization of MRCC;
- (f) Approval of sale, transfer or disposition of all or any assets of MRCC in excess of monetary limits established from time to time by Facility and Program Sponsor and in accordance with the policies and norms of the Facility and Program Sponsor;
- (g) Approval of any debt or encumbrance of the corporate real estate of MRCC;
- (h) Approval of the dissolution of MRCC;
- (i) Approval of any amendments to the Articles of Incorporation or Bylaws of MRCC that would alter the corporate purpose, affiliation, reserved rights or any sponsor relationship of MRCC;
- (j) Approval of any changes to the mission and common values statement of MRCC;
- (k) Approval of any revision or amendment to the MRCC Statement of Catholic Identity;
- (l) Approval of all matters of MRCC impacting the Catholic Identity of MRCC and its programs and services, including , but not limited to, adherence to and compliance with the Ethical and Religious Directives for Catholic Health Care and the MRCC Statement of Catholic Identity;
- (m) Any other matters which may be required by civil or Roman Catholic canon law regarding MRCC to be submitted to the Institute of the Sisters of Mercy of the Americas, or which the MRCC board of directors may request be submitted.

**EXHIBIT 9.2(a)**

**MRCC PROPERTY (LEGAL DESCRIPTION)**

The Land referred to herein below is situated in the City of Oakland, County of Alameda, State of California, and is described as follows:

**PARCEL ONE:**

LOTS 34, 35, 36, 37 AND 38 OF BRAY TRACT IN THE TOWNSHIP OF BROOKLYN AS PER MAP THEREOF, FILED IN THE OFFICE OF THE COUNTY RECORDER OF ALAMEDA COUNTY, CALIFORNIA, ON JUNE 23, 1886.

EXCEPTING THEREFROM: THAT PORTION DESCRIBED IN THE DEED DATED SEPTEMBER 21, 1915, FROM THE ROMAN CATHOLIC ARCHBISHOP OF SAN FRANCISCO, A CORPORATION TO THE CITY OF OAKLAND, A MUNICIPAL CORPORATION RECORDED OCTOBER 6, 1915, BOOK 2398 OF DEEDS AT PAGE 22, SERIES NO. Q17496, ALAMEDA COUNTY RECORDS.

ALSO EXCEPTING THEREFROM: THE INTEREST CONVEYED BY DEED DATED SEPTEMBER 18, 1924, FROM OUR LADY'S HOME TO THE CITY OF OAKLAND, A MUNICIPAL CORPORATION. RECORDED DECEMBER 17, 1924, BOOK 869, PAGE 197, SERIES NO. T175159, OFFICIAL RECORDS. SAID DEED WAS RE-RECORDED ON MARCH 12, 1925, SERIES NO. U19992, BOOK 957 PAGE 130 OFFICIAL RECORDS.

ALSO EXCEPTING THEREFROM: THAT PORTION OF SAID LAND THAT LIES WITHIN THE LINES OF 35TH AVENUE, FORMERLY REDWOOD AVENUE.

**PARCEL TWO:**

LOTS 11 AND 12, AS DELINEATED AND DESIGNATED UPON THAT CERTAIN MAP ENTITLED, MAP OF LAMP TRACT, FILED IN THE OFFICE OF THE RECORDER OF ALAMEDA COUNTY, JUNE 13, 1893, A SUBDIVISION OF THE BRAY TRACT.

EXCEPTING THEREFROM THAT PORTION THEREOF MORE PARTICULARLY DESCRIBED AS FOLLOWS: BEGINNING AT A POINT ON THE NORTHERN LINE OF EAST 18TH STREET, FORMERLY TOBLER STREET, DISTANT THEREON EASTERLY 224 FEET FROM THE POINT OF INTERSECTION THEREOF WITH THE EASTERN LINE OF 34TH AVENUE, FORMERLY BRAY AVENUE, AS SAID STREET AND AVENUE ARE SHOWN ON THE MAP HEREINAFTER REFERRED TO; RUNNING THENCE NORTHERLY ALONG THE DIVIDING LINE OF LOTS NUMBERED 10 AND 11, NORTH 21 DEG 30' EAST 150 FEET; THENCE SOUTH 68 DEG 09' 42" EAST 69.37 FEET TO THE EASTERLY LINE OF LOT NUMBERED 12; THENCE SOUTH 25 DEG 43' WEST 150 FEET PARALLEL WITH THE WESTERN LINE OF 35TH AVENUE, FORMERLY REDWOOD AVENUE, AS SHOWN ON SAID MAP TO THE NORTHERLY LINE OF EAST 18TH STREET AND THENCE ALONG

7368284.1

ECA Seventh Amended & Restated Bylaws 2023-07-20 v3 CleanDRAFT

SAID LINE OF EAST 18TH STREET, NORTH 68 DEG 30' WEST 58.34 TO THE POINT OF COMMENCEMENT. BEING THE SOUTHWESTERN PORTION OF LOTS NUMBERED 11 AND 12, AS SAID LOTS ARE SHOWN ON THAT CERTAIN MAP ENTITLED, MAP OF THE LAMP TRACT, BROOKLYN TOWNSHIP, ALAMEDA COUNTY, CALIFORNIA, FILED JUNE 13, 1893 IN THE OFFICE OF THE COUNTY RECORDER OF SAID ALAMEDA COUNTY.

PARCEL THREE:

LOTS 1 AND 2, MAP OF THE LAMP TRACT, FILED JUNE 13, 1893, MAP BOOK 14, PAGE 13, ALAMEDA COUNTY RECORDS.

PARCEL FOUR:

LOT 8, MAP OF THE LAMP TRACT, FILED JUNE 13, 1893, MAP BOOK 14, PAGE 13, ALAMEDA COUNTY RECORDS.

PARCEL FIVE:

LOTS 9 AND 10, AS SAID LOTS ARE SHOWN ON THE "MAP OF THE LAMP TRACT", FILED JUNE 13, 1893, IN BOOK 14 OF MAPS, PAGE 13, IN THE OFFICE OF THE COUNTY RECORDER OF ALAMEDA COUNTY.

PARCEL SIX:

LOT 3, MAP OF THE LAMP TRACT, FILED JUNE 13, 1893, MAP BOOK 14, PAGE 13, ALAMEDA COUNTY RECORDS.

## **CERTIFICATE OF SECRETARY**

I, the undersigned, certify that I am presently the elected and acting Secretary of Elder Care Alliance, and that the foregoing Seventh Amended and Restated Bylaws are the current bylaws of Elder Care Alliance were duly approved by the Board of Directors on \_\_\_\_\_, 2023. The Resolution of the Board approving these Bylaws resolved that they would be effective only upon the consummation of the transactions contemplated by that certain Affiliation Agreement, dated July 28, 2023 between the corporation and the Member; and I further certify that the consummation of those transactions occurred, and the foregoing Bylaws became effective, on \_\_\_\_\_.

Executed on this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, at \_\_\_\_\_, California.

\_\_\_\_\_  
Secretary

Exhibit B

Directors of ECA and Affiliates upon Closing

Exhibit C

MRCC Statement of Catholic Identity of the Facility and Program Sponsor

## STATEMENT OF CATHOLIC IDENTITY

### MERCY RETIREMENT AND CARE CENTER (“MRCC”)

---

Mercy Retirement and Care Center is a Catholic institution founded in 1872 in San Francisco by the Sisters of Mercy. MRCC was relocated to Oakland shortly after the 1906 San Francisco earthquake and fire. MRCC currently accommodates 166 residents in its assisted living, memory care and skilled nursing programs. Elder Care Alliance (“ECA”) is the sole corporate member of MRCC, and MRCC is sponsored by the Institute of the Sisters of Mercy of the Americas, West Midwest Community, a religious congregation of women in the Roman Catholic Church, or its successor congregation.

As members of the world-wide network of Mercy, the Sisters of Mercy believe:

- In the healing ministry of Jesus as an essential part of their mission in contemporary society.
- In the uniqueness and richness of the tradition of the foundress, Catherine McAuley, and in the collaborative efforts of the Institute of the Sisters of Mercy of the Americas to strengthen their ministry.
- In the sacredness of all life and, therefore, in the dignity of the human person and the promotion of human wholeness.
- In a spirit of compassion that care for the suffering and the dying.
- In the right to quality senior living services for each individual and their responsibility to act as advocates for the poor and for those with special needs.
- In the stewardship of resources for the enhancement of all life and for the common good.
- In a climate of mutual support, compassion, care and justice for those serving and being served within their ministry.
- In collaboration with others who support Judeo-Christian values in developing a creative response to need.
- In the values and principles of the *Ethical and Religious Directives for Catholic Health Care Services* as it pertains to senior living.

ECA’s and MRCC’s mission statement is:

*“Expressing our faith heritage, Elder Care Alliance is an integrated system committed to serving and enriching the holistic wellness of older adults and those who care for them through education, innovation and a network of professionals, care communities and partners.”*

ECA and MRCC’s Vision is: *“Engaging hearts, Transforming lives, Erasing boundaries.”* This Vision statement came out of four statements that speak to the kind of communities ECA and MRCC want to create and impact they strive to achieve. They will be revealed further in this Statement.

The following elements are illustrative of some of the important ways in which MRCC lives out what they believe:

## **SENIOR LIVING - A LIFE-GIVING MINISTRY**

### ***Engaging hearts, Transforming lives, Erasing boundaries***

- “We strive to transform ourselves, the lives we touch, the field of aging, and society’s view and value of older adults.”

The provision of senior living services is always a value-driven enterprise, and MRCC strives to sustain a live-giving community that provides dignity and quality of life for the frailest of their elders. All programs and activities must be seen as ministry. The beliefs stated above as well as the values of MRCC provide the framework for decision-making.

Mission and Values Integration is an important aspect of their ministry work. This is supported in their hiring processes, general orientation and onboarding, and in leadership development programs. MRCC’s core values of Dignity, Caring, Collaboration, Excellence, Learning and Prudent Stewardship have been translated into distinct behaviors to ensure a common definition, and these are measured annually.

An important contribution to note is that of ecumenism. MRCC, both as a co-founder of ECA and as an integral part of the ECA ministry, has profound influence beyond the campus of MRCC. The Mission, Vision and Values of ECA are the same as for MRCC, and how those get lived out are greatly informed by the history and legacy of MRCC and the charism and heritage of the Sisters of Mercy.

The name “Mercy” will be retained as long as the Sisters of Mercy are sponsors of this ministry or until they deem otherwise. The Sisters of Mercy shall be included in the social life of MRCC. The richness of the history of MRCC and that of the Sisters of Mercy who dedicated their lives to its ministry should be visible within the institution and should be celebrated appropriately, including:

- Mercy Day
- Foundation Day

Women religious continue to serve at MRCC and opportunities will be made available for future employment of women religious in appropriate positions.

An important component of their ministry is a commitment to care for those less fortunate. MRCC’s charitable care program aims to support MRCC residents who exhaust their savings and are no longer able to afford all of their care required. Fundraising for charitable care and the charitable care endowment funds is done every year.

As a ministry of the Catholic Church, MRCC will ensure that care is taken in all policies and communications to ensure alignment with Catholic teachings. This includes marketing, advertising, public relations, website, and other public communications. As appropriate, there will be intentional communication with the Oakland Diocese and the wider Catholic community regarding issues related to MRCC.

## **LIFE-GIVING COMMUNITY AND ENVIRONMENT**

### ***Engaging hearts, Transforming lives, Erasing boundaries***

- “Partnering to create communities where people are empowered, engaged, and have a voice and a vocation.”

This is the type of community MRCC strives to create for their residents and their families, staff, the board of directors, benefactors and volunteers. They can help each other live life to its fullest, and this includes elders who are frail, suffering with chronic conditions, and who have cognitive impairment.

The things that bring a sense of well-being remain constant across the life span: love and belonging, honoring of one's dignity, self-determination, and a sense of purpose. In particular, their core values of Dignity and Caring are instrumental here.

**Dignity**: "We honor and celebrate the inherent worth of each person. We respect others regardless of cognitive ability, cultural background, religious affiliation, sexual orientation or economic means."

**Caring**: "We respond to each person with compassion and create an environment that fosters holistic wellness and empowerment."

Senior living communities are sacred places because elders are cared for here, live here, pray here, rejoice here, grieve here, and oftentimes die here. This is home – where new relationships are formed. Therefore, it is important that residents, families, friends, staff, and visitors experience a welcoming, attractive, and comfortable environment.

This also reflects their core value of **Prudent Stewardship**: "We recognize the responsibility we hold for all resources entrusted to the organization, and exercise good judgment when making decisions that may affect these resources – all in support of our mission."

This commitment extends to the external community as well. MRCC has run the Brown Bag since the early 1990's, serving low income seniors throughout Alameda County two bags of groceries a month. This is an important ministry of MRCC, providing not just food but emotional connection, volunteering opportunities which support vocational wellness, and social engagement.

## **LIFE-GIVING CARE**

### ***Engaging hearts, Transforming lives, Erasing boundaries***

- "Enriching human relationships, connecting people and community, providing environments that foster independence, allowing people to flourish and where there is joy."

Workers in Catholic senior living participate in a noble profession and ministry. It is a calling to care for the intimate care needs of a person. Many of the elders rely on workers at MRCC to assist them with activities of daily living which they used to perform for themselves. Many of the residents have led rich lives that the workers may never fully know or appreciate.

Every person cared for deserves competent, compassionate care and assistance which honors them as individuals with unique needs and preferences. When workers at MRCC provide care that is life-giving, it addresses the whole person – body, mind and spirit. It fully reflects MRCC's core values of:

- ***Dignity***: "honoring and celebrating the inherent worth of each person."
- ***Caring***: "responding to each person with compassion and creating an environment that fosters holistic wellness and empowerment."

- **Excellence:** “demonstrating a commitment and personal accountability to a high standard of quality, delivered through teams of dedicated sponsors, board members, employees, and volunteers.”

Spiritual care is central to the care MRCC provides. The workers at MRCC try to know and respect the religious affiliations and traditions of those served and make every effort to maintain residents’ connections with their faith communities. The MRCC spiritual care team provides pastoral care, daily chapel, weekly mass, and regular programming across assisted living, memory care and skilled nursing. Grief support and memorial services are another integral part of their ministry – for residents, families, friends and staff.

The MRCC’s skilled nursing is Eden Alternative – a philosophy founded on a belief that no matter how old one is or what challenges one lives with, life is about continuing to grow. It affirms that care is a collaborative partnership, focusing on supporting person-directed care. Additionally, the Compassionate Care for the dying program supports the training of care staff throughout MRCC, enabling them to shepherd residents and their families through the dying process with empathy, dignity, compassion.

MRCC is committed to continuous quality improvement and supports that work through interdisciplinary team meetings, clinical quality audits, quarterly Resident Care Committee meetings and other efforts.

## **LIFE-GIVING WORKPLACE**

### ***Engaging hearts, Transforming lives, Erasing boundaries***

- “A key contribution we make to the field of aging is in developing leaders with a calling to deliver person-centered, high quality services in support of holistic wellness.”

The ministry of MRCC extends to the staff. All human life is sacred and good, so MRCC strives to:

- Develop a work environment that promotes trust, collaboration, learning and innovation.
- Encourage people to reach their God-given potential and to find meaning in their work.
- Give people a substantive voice to shape their work.
- Endeavor to treat everyone fairly in all aspects of employment.
- Recruit and hire individuals who are “mission” ready as well as technically competent.
- Ensure MRCC workplaces embody their core values, especially:
  - **Collaboration**: “Teamwork is critical to all we do. We are attentive to the voices of stakeholders. We actively seek out other innovative organizations that are aligned with our values to better benefit those whom we serve.”
  - **Learning**: “We are empowered through a culture of learning and growth, committed to providing opportunities for our employees and those we serve to grow in their vocations.”

MRCC will continue to express Catholic values in its policies and procedures and in the evaluations of employees. Evaluation programs such as *ECA’s Employee Engagement Survey* should include assessments of not only engagement but how well their core values are lived out in the workplace. Where opportunities for growth of a leader is in order, professional development action plans will be developed.

Best efforts will be exercised to assure that managers and supervisors have the skills and means to instill MRCC's core values into the daily operations of their departments.

See attached Advisory Committee Charter.

Exhibit D  
Advisory Committee Charter

BYLAWS OF THE ECA ADVISORY COMMITTEE,  
a California Unincorporated Association

1. *Name of Committee.* The name of this committee is The ECA Advisory Committee. This committee is a nonprofit association organized under the provisions of Title 3 of the California Corporations Code (the "Code"), having all of the rights and privileges provided for therein.
2. *Principal Office.* The principal office for the transaction of the activities and affairs of this committee is located at 1301 Marina Village Pkwy Suite #210 Alameda, CA 94501. The members may later approve a new location of the principal office and this Section may be amended to state the new location.
3. *Purpose.* The purpose of this committee is to serve as the Advisory Committee established pursuant to the Affiliation Agreement dated as of July 28, 2023 by and between Transforming Age, a Washington nonprofit committee, and Elder Care Alliance, a California nonprofit public benefit corporation (the "Affiliation Agreement"), and in particular to monitor and enforce compliance by Transforming Age with its obligations under the Affiliation Agreement; and to ensure historical continuity, be a community advocate in support of the Affiliation Agreement, and build goodwill within the local community for Transforming Age and Elder Care Alliance. The Committee shall not act in a manner contrary to the Affiliation Agreement, and nothing in these bylaws shall be construed in a manner that is contradictory to the Affiliation Agreement.
4. *Not for Profit.* This committee is not to be operated for profit, and none of the earnings or assets of this committee shall inure or be distributed to any of its members. The assets of this committee shall be used solely for the purposes described above. Any assets of this committee remaining upon dissolution shall be contributed to Elder Care Alliance, or if Elder Care Alliance is no longer an organization described in Section 501(c)(3) of the Internal Revenue Code, to Transforming Age, or if Transforming Age is no longer an organization described in Section 501(c)(3) of the Internal Revenue Code, to an organization selected by the members that is an organization described in Section 501(c)(3) of the Internal Revenue Code, and that is dedicated to supporting the provision of quality long term care and social services for older adults.
5. *General Powers of Members.* Subject to the provisions and limitations of the Code and any other applicable laws, the committee's activities and affairs shall be managed, and all corporate powers shall be exercised, by or under the direction of the members.
6. *Membership.*
  - (a) *Eligibility.* This committee shall have two classes of members, voting members and a single non-voting member. The voting members shall be those persons who were members of the Board of Directors of Elder Care Alliance immediately prior to the consummation of the transactions contemplated by the Affiliation Agreement. The non-voting member shall be a person from time to time designated by Transforming Age. No other person shall be eligible for membership of this committee.

(b) *Dues, Fees, and Assessments.* The committee shall not levy any dues, fees, or assessments except with the unanimous approval of the members.

(c) *Termination of Membership.* A membership shall terminate on occurrence of either of the following events:

(i) Resignation of the member;

(ii) Termination of membership under Section (e) of these bylaws based on the good faith determination by the other members that the member has failed in a material and serious degree to observe the rules of conduct of the committee, or has engaged in conduct materially and seriously prejudicial to the committee's purposes and interests;

(iii) With respect to the non-voting member, his or her removal by Transforming Age.

(d) *Suspension of Membership.* A member may be suspended, under Section (e) of these bylaws, based on the good faith determination by the other members that the member has failed in a material and serious degree to observe the committee's rules of conduct, or has engaged in conduct materially and seriously prejudicial to the committee's purposes and interests.

A person whose membership is suspended shall not be a member during the period of suspension.

(e) *Procedure for Termination or Suspension.* If grounds appear to exist for suspending or terminating a member under Section (c) or Section (d) of these bylaws, the following procedure shall be followed:

(i) The committee shall give the member at least 15 days' prior notice of the proposed suspension or termination and the reasons for the proposed suspension or termination. Notice shall be given by any method reasonably calculated to provide actual notice. Notice given by mail shall be sent by first-class or registered mail to the member's last address as shown on the committee's records.

(ii) The member shall be given an opportunity to be heard, either orally or in writing, at least 5 days before the effective date of the proposed suspension or termination. The hearing shall be held, or the written statement considered, by the other members, or by a committee or person authorized by the other members to determine whether the suspension or termination should occur.

(iii) The members, committee, or person shall decide whether the member should be suspended, expelled, or sanctioned in any way. The decision of the members, committee, or person shall be final.

(iv) Any action challenging an expulsion, suspension, or termination of membership, including a claim alleging defective notice, must be commenced within 1 year after the date of the expulsion, suspension, or termination.

(f) *Memberships as Not Transferable.* No membership or right arising from membership shall be transferred. All membership rights cease on the member's resignation, expulsion or death.

(g) *No Liability.* As provided in Section 18605 of the Code, no member, director, or agent of the committee shall be liable for a debt, obligation, or liability of the committee solely by reason of being a member, director, officer, or agent of the committee.

## 7. *Meetings of the Committee*

(a) *Quarterly/Semi-Annual Meetings.* The committee shall meet quarterly for the first two years following Closing and semi-annually thereafter on dates to be determined by arrangement between the committee and Transforming Age, and more frequently as the committee may determine.

(b) *Location of Meetings.* Meetings of the members shall be held at any place within or outside California designated by the chairperson of the committee or by the written consent of all members entitled to vote at the meeting, given before or after the meeting. In the absence of any such designation, members' meetings shall be held at the committee's principal office. Meetings may be held by electronic transmission or electronic video communication. The chair of the committee may authorize members who are not present in person to participate by electronic transmission or electronic video communication.

(c) *Remote Participation in Meetings.* Participation by a member in a meeting by telephone or video communication shall constitute the presence of the member at the meeting, provided that all members participating in the meeting can hear one another, and the member participating by telephone or video communication has a reasonable opportunity to address the meeting. The committee may adopt guidelines and procedures for other means of participation by members not present physically or by proxy to participate in a meeting by other means of remote communication.

(d) *Special Meetings.* Special meetings of the committee may be called at any time by any of the following:

- (i) The chairperson, the treasurer or the secretary of the of the committee;
- (ii) 5 percent or more of the members;
- (iii) The president or chief executive officer of Elder Care Alliance or Transforming Age.

A special meeting called by any person entitled to call a meeting of the members shall be called by written request, specifying the general nature of the business proposed to be transacted,

and addressed to the attention of and submitted to the chairperson of the committee or any vice chairperson or the secretary of the committee. The officer receiving the request shall cause notice to be given promptly to the members stating that a meeting will be held at a specified time and date fixed by the board. If the notice is not given within 20 days after the request is received, the person or persons requesting the meeting may give the notice. No business, other than the business that was set forth in the notice of the meeting, may be transacted at a special meeting.

(e) *Written Notice Required.* Whenever members are required or permitted to take any action at a meeting, a written notice of the meeting shall be given to each member entitled to vote at the meeting. The notice shall specify the place, date, and hour of the meeting, and the means of electronic transmission by and to the committee, electronic video screen communication, conference telephone, or other means of remote communication, if any, by which members may participate in the meeting. For each quarterly meeting, the notice shall state the matters that the chairperson, at the time notice is given, intends to present for action by the members. For a special meeting, the notice shall state the general nature of the business to be transacted and shall state that no other business may be transacted.

(f) *Notice of Certain Agenda Items.* Approval by the members of any of the following proposals, other than by unanimous approval by those entitled to vote, is valid only if the notice or written waiver of notice states the general nature of the proposal or proposals:

- (i) Removing or suspending a member;
- (ii) Amending these Bylaws; or
- (iii) Electing to dissolve the committee.

(g) *Notice Requirements.* Notice of any meeting of members shall be in writing and shall be given at least two but no more than 90 days before the meeting date. The notice shall be given either personally, by electronic transmission by the committee, or by first-class, registered, or certified mail, or by other means of written communication, charges prepaid, and shall be addressed to each member entitled to vote, at the address of that member as it appears on the books of the committee or at the address given by the member to the committee for purposes of notice. If no address appears on the committee's books and no address has been so given, notice shall be deemed to have been given if either (1) notice is sent to that member by first-class mail or electronic or other written communication to the committee's principal office or (2) notice is published at least once in a newspaper of general circulation in the county in which the principal office is located.

(h) *Electronic Notice.* Notice given by electronic transmission by the committee shall be valid only if--

(i) Delivered by (a) facsimile telecommunication or electronic mail when directed to the facsimile number or electronic mail address, respectively, for that recipient on record with the committee; (b) posting on an electronic message board or network that the committee has designated for those communications, together with a separate notice to the

recipient of the posting, which transmission shall be validly delivered on the later of the posting or delivery of the separate notice of it; or (c) other means of electronic communication;

(ii) To a recipient who has provided an unrevoked consent to the use of those means of transmission for communications; and

(iii) That creates a record that is capable of retention, retrieval, and review, and that may thereafter be rendered into clearly legible tangible form.

Notwithstanding the foregoing, notice shall not be given by electronic transmission by the committee after either of the following: (a) the committee is unable to deliver two consecutive notices to the member by that means or (b) the inability so to deliver the notices to the member becomes known to the secretary, any assistant secretary, or any other person responsible for the giving of the notice.

(i) *Quorum.* A majority of the voting members shall constitute a quorum for the transaction of business at any meeting of members. The voting members present at a duly called or held meeting at which a quorum is present may continue to transact business until adjournment, even if enough members have withdrawn to leave less than a quorum, if any action taken (other than adjournment) is approved by at least a majority of the voting members required to constitute a quorum.

(j) *Voting.* Each voting member entitled to vote may cast one vote on each matter submitted to a vote of the members. If a quorum is present, the affirmative vote of a majority of the voting power represented at the meeting, entitled to vote and voting on any matter, shall be deemed the act of the members. The non-voting member shall have no voting rights.

(k) *Waiver of Notice or Consent.* The transactions of any meeting of members, however called or noticed and wherever held, shall be as valid as though taken at a meeting duly held after standard call and notice, if (1) a quorum is present either in person or by proxy, and (2) either before or after the meeting, each member entitled to vote, not present in person or by proxy, signs a written waiver of notice, a consent to the holding of the meeting, or an approval of the minutes of the meeting. The waiver of notice, consent, or approval need not specify either the business to be transacted or the purpose of the meeting except that, if action is taken or proposed to be taken for approval of any matter specified in Section 7(f) of these bylaws, the waiver of notice, consent, or approval shall state the general nature of the proposal. All such waivers, consents, or approvals shall be filed with the committee's records or made a part of the minutes of the meeting.

A member's attendance at a meeting shall also constitute a waiver of notice of and presence at that meeting unless the member objects at the beginning of the meeting to the transaction of any business because the meeting was not lawfully called or convened. Also, attendance at a meeting is not a waiver of any right to object to the consideration of matters required to be included in the notice of the meeting but not so included, if that objection is expressly made at the meeting.

(l) *Action by Unanimous Written Consent.* Any action required or permitted to be taken by the members may be taken without a meeting, if all voting members consent in writing to the action. The written consent or consents shall be filed with the minutes of the meeting. The action by written consent shall have the same force and effect as a unanimous vote of the members.

(m) *Proxies.* Each member entitled to vote shall have the right to do so either in person or by an agent authorized by a written proxy, signed by the member and filed with the secretary of the committee; provided that no person who is not a member may serve as agent or proxy for a member. A proxy shall be deemed signed if the member's name is placed on the proxy by the member or the member's attorney-in-fact, whether by manual signature, typewriting, electronic signature, or otherwise. A proxy shall be valid for a single meeting only.

(n) *Adjournment; Notice.* Any members' meeting, whether or not a quorum is present, may be adjourned from time to time by the vote of the majority of the members represented at the meeting, either in person or by proxy.

(o) *Exclusion of the Non-Voting Member.* The voting members may, by vote of a majority of the voting members, exclude the non-voting member from any discussion, deliberation or vote with respect to which the voting members determine that the non-voting member has a conflict of interest by reason of his or appointment by Transforming Age, and the inspection rights of the members set forth in Section 11(d) shall not be construed to permit the non-voting member to inspect or copy records of the committee relating to any such matter.

## 8. *Officers.*

(a) The officers of this committee shall be a chairperson, a secretary, and a treasurer. Any number of offices may be held by the same person, except that the secretary and the treasurer may not serve concurrently as the chair of the committee.

(b) *Election of Officers.* The officers of this committee shall be chosen by the members annually the first quarterly meeting of the committee, and thereafter at a quarterly – and later semi-annual - meetings held most closely to the anniversary of the first meeting, and shall serve at the pleasure of the board, subject to the rights of any officer under any employment contract. The members may appoint and authorize the chair of the board or another officer to appoint any other officers that the committee may require. Each appointed officer shall have the title and authority, hold office for the period, and perform the duties specified in the bylaws or established by the members.

(c) *Removal of Officers.* Without prejudice to the rights of any officer under an employment contract, the members may remove any officer with or without cause. An officer who was not chosen by the members may be removed by any other officer on whom the board confers the power of removal.

(d) *Resignation of Officers.* Any officer may resign at any time by giving written notice to members or to the chairperson, or if the chairperson is resigning, to the members or to the secretary. The resignation shall take effect on the date the notice is received or at any later time specified in the notice. Unless otherwise specified in the notice, the resignation need not be

accepted to be effective. Any resignation shall be without prejudice to any rights of the committee under any contract to which the officer is a party.

(e) *Responsibilities of the Chairperson.* The chairperson shall preside at meetings of the committee and shall exercise and perform such other powers and duties as the members may assign from time to time. If there is no president or chief executive officer, the chairperson shall be the chief executive officer of the committee.

(f) *Responsibilities of Secretary.*

(i) The secretary shall keep or cause to be kept, at the committee's principal office or such other place as the members may direct, a book of minutes of all meetings, proceedings, and actions of the committee, of subcommittees, and of members' meetings. The minutes of meetings shall include the time and place that the meeting was held; whether the meeting was annual, general, or special, and, if special, how authorized; the notice given; the names of persons present at committee and subcommittee meetings; and the number of members present or represented at members' meetings.

(ii) The secretary shall keep or cause to be kept, at the principal California office, a copy of these bylaws, as amended to date.

(iii) The secretary shall keep or cause to be kept, at the committee's principal office or at a place determined by resolution of the committee, a record of the committee's members, showing each member's name and address.

(iv) The secretary shall give, or cause to be given, notice of all meetings of members and of subcommittees that these bylaws require to be given. The secretary shall have such other powers and perform such other duties as the board or the bylaws may require.

(g) *Responsibilities of the Treasurer.*

(i) The treasurer shall keep and maintain, or cause to be kept and maintained, adequate and correct books and accounts of the committee's properties and transactions. The treasurer shall send or cause to be given to the members such financial statements and reports as are required to be given by law, by these bylaws, or by the board. The books of account shall be open to inspection by any member at all reasonable times.

(ii) The treasurer shall (1) deposit, or cause to be deposited, all money and other valuables in the name and to the credit of the committee with such depositories as the members may designate; (2) disburse the committee's funds as the members may order; (3) render to the members, when requested, an account of all transactions as treasurer and of the financial condition of the committee; and (4) have such other powers and perform such other duties as the members or the bylaws may require.

9. *Indemnification.* To the fullest extent permitted by law, this committee shall indemnify its members, and may indemnify employees and other agents, including persons formerly occupying any such positions, against all expenses, judgments, fines, settlements, and other amounts actually and reasonably incurred by them in connection with any proceeding, and including an action by or in the right of the committee, by reason of the fact that the person is or was a person described in that section.

10. *Insurance.* The committee shall have the right to purchase and maintain insurance to the full extent permitted by law on behalf of its members, officers employees, and other agents, to cover any liability asserted against or incurred by any member, officer, employee, or agent in such capacity or arising from the member's officer's, employee's, or agent's status as such.

11. *Committee Records.* This committee shall keep the following:

- (a) Adequate and correct books and records of account;
- (b) Minutes of the proceedings of its members and subcommittees; and
- (c) A record of each member's name and address.

The minutes and other books and records shall be kept either in written form or in any other form capable of being converted into clearly legible tangible form or in any combination of the two.

(d) *Members' Inspection Rights.* Any member may upon not less than ten (10) business days' advance written notice, and for a purpose reasonably related to the member's interest as a member:

- (i) Obtain from the committee a copy of these bylaws, as amended to date;
- (ii) Obtain from the committee a list of names and addresses of members;
- (iii) Inspect, copy, and make extracts of the accounting books and records and the minutes of the proceedings of the members and committees.

If the committee reasonably believes that the information will be used for a purpose other than one reasonably related to a person's interest as a member, it may deny the member access to the membership list.

Any inspection and copying under this Section shall be made by the member in person. The right of inspection includes the right to copy and make extracts.

12. *Dissolution.* The committee shall dissolve upon the expiration of all of the commitments of Transforming Age set forth in Section 6 of the Affiliation Agreement: provided that it shall nevertheless continue to exist for the purpose of enforcing any commitment of Transforming Age that arose prior to such time.

13. *Amendment.* These bylaws may be amended by a vote of the members, but only with the approval of Transforming Age.

CERTIFICATION

The undersigned, Secretary of The ECA Advisory Committee, certifies that the foregoing Bylaws were duly approved by the members of the committee at a meeting duly held on \_\_\_\_\_, 2023.

\_\_\_\_\_  
Print name: \_\_\_\_\_

Date: \_\_\_\_\_

Schedule 8.c)

Required ECA Consents

Exhibit 29-B

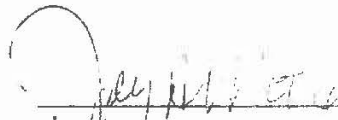
Statement by the Chair of the Board

**CERTIFICATE OF SECRETARY OF  
ELDER CARE ALLIANCE**

I, the undersigned, Secretary of Elder Care Alliance, a California nonprofit public benefit corporation (the "Corporation"), certify the following:

1. The foregoing resolutions were adopted by the Board of Directors of the Corporation at a meeting duly held on July 25, 2023, at which a quorum was present and acting throughout. These resolutions have not been revoked, modified, amended, or rescinded, and are still in effect.
2. As of the date of this Certificate, the following persons are the elected and qualified officers of the Corporation, either of whom is authorized by the Board of Directors of the Corporation to execute documents on behalf of the Corporation, and the signatures that are opposite their names are their genuine signatures.

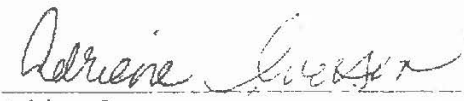
Joy Moore, Chair of the Board

  
signature

Adriene Iverson, Chief Executive Officer

  
signature

In Witness Whereof, I have signed this Certificate as of July 25, 2023.

  
Adriene Iverson  
Assistant Secretary

Title 11, California Code of Regulations, § 999.5(d)(9)

*List of officers and directors of the transferee, the most recent audited financial statements, transferee's governance documents, and a description of the transferee's policies, procedures, and eligibility requirements for the provision of charity care*

1. Attached to this Section 999.5(d)(9) as Exhibit 30-A is a list of the officers and directors of Transforming Age.
2. Attached to this Section 999.5(d)(9) as Exhibit 30-B is a copy of most recent audited financial statements of Transforming Age. This document will be submitted under separate cover as a confidential document in accordance with Section 999.5(c)(3).
3. Attached to this Section 999.5(d)(9) as Exhibit 30-C is a copy of the Articles of Incorporation of Transforming Age.
4. Attached to this Section 999.5(d)(9) as Exhibit 30-D is a copy of the Bylaws of Transforming Age
5. Attached to this Section 999.5(d)(9) as Exhibit 30-E is a copy of the Charity and Discount Payment philosophy of Transforming Age.

Exhibit 30-A

Officers and Directors of Transforming Age

## TRANSFORMING AGE - 2022-23

BOARD MEMBERS		Terms
Mary Wagner Chair	Retired Senior Vice President, Starbucks	2018-2021, 2021-2024
Jesse Bond Vice Chair	Owner, Bond Financial, LLC	2017-2020, 2020-2023
Scott Lumsden Immediate Past Chair	Executive Presbyter, Seattle Presbytery	2015-2018 2018-2021 2021-2024
Barb Bennett	Retired President & COO of Vulcan Inc	2022-2025
Cathy Danigelis	Western Region Manager, KeyBank Community Development Lending	2020-2023
Torsten Hirche	President & CEO, Transforming Age	ex officio
Lisa Nelson	Finance Executive/Startup Advisor	2020-2023
Jim Melhorn	Retired President/CEO, Episcopal Ministries to the Aging	2018-2021, 2021-2024
Karin Miller	Retired Geriatric Social Worker	2014-2017 2017-2020 2020-2023
Greg Russell	Partner, Peterson Russell Kelly PLLC	2019-2022 2022-2025

OFFICERS		Terms
Torsten Hirche	President & CEO	
Michael Connell	Treasurer & CFO	
Michele Luke	Secretary	

Exhibit 30-B

Audited Financial Statements of Transforming Age

[Submitted separately under cover of confidentiality]

Exhibit 30-C

Articles of Incorporation of Transforming Age

UNITED STATES OF AMERICA

The State of  Washington

Secretary of State

I, KIM WYMAN, Secretary of State of the State of Washington and custodian of its seal, hereby issue this

ARTICLES OF INCORPORATION

to

TRANSFORMING AGE

A WA NONPROFIT CORPORATION, effective on the date indicated below.

Effective Date: 08/21/2019

UBI Number: 604 483 481



Given under my hand and the Seal of the State  
of Washington at Olympia, the State Capital



Kim Wyman, Secretary of State

Date Issued: 08/21/2019

**ARTICLES OF INCORPORATION  
OF  
TRANSFORMING AGE**

**ARTICLE 1  
NAME; GOVERNING LAW**

The name of the corporation is Transforming Age (the "Corporation"). The Corporation is governed by the Washington Nonprofit Corporation Act, Chapter 24.03 of the Revised Code of Washington (the "Act").

**ARTICLE 2  
DURATION**

The Corporation shall have perpetual existence.

**ARTICLE 3  
PURPOSES AND POWERS**

**3.1 Purposes.** The Corporation is organized exclusively for one or more of the purposes as specified in Section 501(c)(3) of the Internal Revenue Code of 1986 (the "Code"), including without limitation, to develop and provide strategic direction to, manage the officers and employees of, and otherwise engage in activities to support Presbyterian Retirement Communities Northwest, a nonprofit corporation organized under the Act and an organization described in Section 501(c)(3) of the Code ("PRCN"), and those organizations described in Section 501(c)(3) of the Code that are related to PRCN through common control (together, such class of organizations, the "PRCN Group"). The Corporation shall be an integral part of each of the members of the PRCN Group and shall be organized and operated exclusively for the benefit of, to perform the functions of, and to carry out the purposes of the members of the PRCN Group and shall be supervised and controlled in connection with the members of the PRCN Group within the meaning of Section 509(a)(3) of the Code.

**3.2 Powers.** In general, and subject to such limitations and conditions as are or may be prescribed by law, or in these Articles or the Corporation's Bylaws, the Corporation shall have all powers that now or hereafter are conferred by law upon a corporation organized for the purposes set forth above, or are necessary or incidental to the powers so conferred, or are conducive to the attainment of the Corporation's purposes.

## **ARTICLE 4 LIMITATIONS**

**4.1 Permitted Activities.** Notwithstanding any other provisions of these Articles, the Corporation may not carry on any activities not permitted to be carried on by (a) an organization exempt from federal income tax under Section 501(a) of the Code and described in Section 501(c)(3) of the Code or the corresponding provision of any future federal tax law, or (b) an organization contributions to which are deductible under Section 170(c)(2) of the Code or the corresponding provision of any future federal tax law.

**4.2 Legislative and Political Activity.** No substantial part of the activities of the Corporation may be the carrying on of propaganda or otherwise attempting to influence legislation, except as otherwise permitted to an organization described in Section 501(c)(3) of the Code or the corresponding provision of any future federal tax law. The Corporation may not participate in, or intervene in (including the publishing or distribution of statements), any political campaign on behalf of (or in opposition to) any candidate for public office.

**4.3 No Inurement to Private Persons.** No part of the net earnings of the Corporation shall inure to the benefit of, or be distributable to, any director, officer, or other private person, except that the Corporation is authorized or empowered to pay reasonable compensation for services rendered and to make payments and distributions in furtherance of its purposes.

## **ARTICLE 5 MEMBERS**

The Corporation shall have no members.

## **ARTICLE 6 DIRECTORS AND NAME AND ADDRESS OF EACH INITIAL DIRECTOR**

The management of the Corporation shall be vested in a Board of Directors. The number, qualifications, terms of office, manner of election, time and place of meetings and powers and duties of the directors shall be prescribed in the Bylaws of the Corporation. The initial number of directors shall be nine and their names and addresses are as follows:

1. John Iwanski, 1980 112th Ave., Suite 210, Bellevue, Washington 98004
2. Scott Lumsden, 1980 112th Ave., Suite 210, Bellevue, Washington 98004
3. Jesse Bond, 1980 112th Ave., Suite 210, Bellevue, Washington 98004
4. Gregory Russell, 1980 112th Ave., Suite 210, Bellevue, Washington 98004
5. Torsten Hirche, 1980 112th Ave., Suite 210, Bellevue, Washington 98004
6. James Melhorn, 1980 112th Ave., Suite 210, Bellevue, Washington 98004
7. Karin Miller, 1980 112th Ave., Suite 210, Bellevue, Washington 98004
8. James Rand, Ph.D., 1980 112th Ave., Suite 210, Bellevue, Washington 98004
9. Mary Wagner, 1980 112th Ave., Suite 210, Bellevue, Washington 98004

## ARTICLE 7 DIRECTOR LIABILITY LIMITATIONS

**7.1 Immunity from Liability.** A director of the Corporation will have such immunity from liability as is granted under federal and Washington state law, including without limitation the Federal Volunteer Protection Act and Revised Code of Washington ("RCW") 4.24.264.

**7.2 Liability to the Corporation.** No director of the Corporation will be personally liable to the Corporation for monetary damages for conduct as a director, except for (a) acts or omissions involving intentional misconduct or a knowing violation of law by the director, (b) a director's vote or assent to a distribution which is unlawful or violates the requirements of these Articles, or (c) any transaction from which the director will personally receive a benefit in money, property or services to which the director is not legally entitled. If the Act is hereafter amended to authorize corporate action further eliminating or limiting the personal liability of directors, then the liability of a director shall be deemed eliminated or limited to the full extent permitted by the Act, as so amended. Any repeal or modification of this Article shall not adversely affect any right or protection of a director of the Corporation existing at the time of such repeal or modification for or with respect to an act or omission of such director occurring prior to such repeal or modification.

## ARTICLE 8 INDEMNIFICATION

**8.1 Authorized Indemnification and Advancement of Expenses.** As authorized by RCW 23B.08.560, the Corporation will, without regard to the limitations in RCW 23B.08.510 through 23B.08.550: (a) indemnify its directors to the full extent permitted by the Act now or hereafter in force; and (b) advance reasonable expenses incurred by a director who is a party to a proceeding in advance of final disposition of the proceeding. However, such indemnity and advancement of expenses will not apply on account of: (i) acts or omissions of the director finally adjudged to be intentional misconduct or a knowing violation of law; (ii) conduct of the director finally adjudged to be in violation of RCW 23B.08.310, as applicable to corporations formed under the Act; or (iii) any transaction with respect to which it was finally adjudged that such director personally received a benefit in money, property, or services to which the director was not legally entitled. Notwithstanding the foregoing, no indemnification may be provided under this Article 8 if payment of any such amount would result in an "excess benefit transaction" under Section 4958 of the Code or the corresponding provision of any future federal tax law such that the director would be subject to the imposition of tax and any applicable correction procedures, including repayment of amounts provided for indemnification.

**8.2 Procedure.** The Board of Directors may take such action as is necessary to carry out these indemnification and expense advancement provisions. The Board of Directors is expressly empowered to adopt, approve, and amend from time to time such Bylaws, resolutions, contracts, or further indemnification and expense advancement arrangements as may be

permitted by law to implement these provisions. Such Bylaws, resolutions, contracts or further arrangements may include but not be limited to establishing the procedures and implementing the manner in which determinations as to any indemnity or advance or expenses are made.

**8.3 Amendment.** No amendment or repeal of this Article 8 will apply to or have any effect on any right to indemnification or advancement of expenses provided hereunder with respect to acts or omissions occurring prior to such amendment or repeal.

**8.4 Severability.** If any provision or application of this Article is invalid or unenforceable, the remainder of this Article and its remaining applications will not be affected thereby but continue in full force and effect.

#### **ARTICLE 9 BYLAWS**

Bylaws of the Corporation may be adopted by the Board of Directors at any regular meeting or any special meeting called for that purpose, so long as they are not inconsistent with the provisions of these Articles. The authority to make, alter, amend or repeal the Bylaws is vested in the Board of Directors and may be exercised at any regular or special meeting of the Board of Directors.

#### **ARTICLE 10 ADDRESS OF REGISTERED OFFICE AND AGENT**

The address of the registered office of the Corporation is 999 Third Avenue, Suite 4600, Seattle, Washington 98104. The name of the registered agent of the Corporation at such address shall be Hillis Clark Martin & Peterson P.S. The Corporation may change the name and address of its registered agent in the manner provided in the Revised Code of Washington.

#### **ARTICLE 11 DISSOLUTION**

Upon the winding up or dissolution of the Corporation, the assets of the Corporation remaining after payment of, or provision for payment of, all debts and liabilities of the Corporation, shall be distributed to members of the PRCN Group that are then described in Section 501(c)(3) of the Code, or the corresponding provision of any future United States Internal Revenue law, in such amounts and as determined by the Board of Directors, and used exclusively to accomplish the purposes for which this Corporation is organized. In the event that all then-members of the PRCN Group decline to accept assets of the Corporation in dissolution pursuant to this Article 11, such assets shall be distributed to one or more organizations described in Section 501(c)(3) of the Code and used exclusively to accomplish the purposes for which the Corporation is organized.

**ARTICLE 12  
EFFECTIVE DATE**

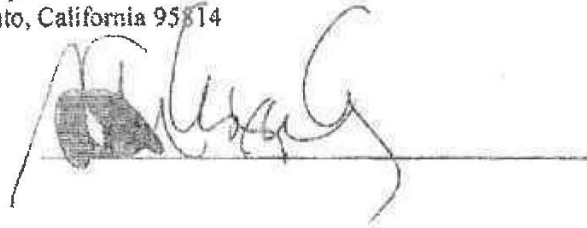
These Articles are effective upon filing by the Secretary of State.

**ARTICLE 13  
INCORPORATOR**

The name and address of the incorporator is:

Deborah Abernathy  
Orrick, Herrington & Sutcliffe LLP  
400 Capitol Mall #3000  
Sacramento, California 95814

Dated August 21, 2019.



### CONSENT TO SERVE AS REGISTERED AGENT

HILLIS CLARK MARTIN & PETERSON P.S. hereby consents to serve as Registered Agent, in the State of Washington, for Transforming Age. The undersigned understands that, as agent for the Corporation, it will be the Registered Agent's responsibility to receive service of process in the name of the Corporation; to forward all mail to the Corporation; and to immediately notify the Office of the Secretary of State in the event of the Registered Agent's resignation, or of any changes in the registered office address of the Corporation for which it is agent.

EXECUTED this 20<sup>th</sup> day of August, 2019.

HILLIS CLARK MARTIN & PETERSON P.S.

By Joel N Bodansky  
Joel N Bodansky, Vice President



## Name Reservation

See attached detailed instructions

- ☐ See Section 2 for Filing Fee
- ☒ ADD \$50.00 For Expedited Service

This Box For Office Use Only

FILED  
 Secretary of State  
 State of Washington  
 Date Filed: 04/01/2019  
 Effective Date: 04/01/2019  
 Reservation/Registration No: 1274428

Expiration Date:

Registration Number:

## NAME RESERVATION

Chapter 23B, 24.03, 25.10, 25.15, 25.05 RCW

### SECTION 1

NAME OF ENTITY TO BE RESERVED: (List alternates in order of preference)

A. Transforming Age

B.

C.

### SECTION 2

(Select the entity type that applies. see instructions for requirements)

- ☐ Limited Liability Company (LLC) \$30    ☐ Profit Corporation \$30    ☒ Non-profit Corporation \$20
- ☐ Limited Partnership (LP) \$30    ☐ Limited Liability Partnership (LLP) \$30

### SECTION 3

NAME, ADDRESS, AND SIGNATURE OF APPLICANT

Name: \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_

State: \_\_\_\_\_

Zip Code: \_\_\_\_\_

NAME AND ADDRESS OF CLIENT (if different from the applicant)

Name: Transforming Age

Address: 106 5th Ave SE

City: Olympia

State: WA

Zip Code: 98501

This document is hereby executed under penalties of perjury, and is, to the best of my knowledge, true and correct.

x

\_\_\_\_\_  
 APPLICANT SIGNATURE

\_\_\_\_\_  
 Title

\_\_\_\_\_  
 Date

\_\_\_\_\_  
 Phone Number

Name Reservation

Washington Secretary of State



# SOS

Office of the Secretary of State  
Corporations & Charities Division

### Congratulations:

You have completed the initial filing to create a new business entity. **The next step in opening your new business is to complete a Business License Application.** You may have completed this step already. The Business License Application can be completed online or downloaded at:  
<http://www.bls.dor.wa.gov/>.

If you have any questions about the Business License Application, or would like a Business License Application package mailed to you, please call Business License Services at 1 800-451-7985.

HILLIS CLARK MARTIN & PETERSON P.S.  
999 3RD AVE STE 4600  
SEATTLE WA 98104-4084

James M. Dolliver Building  
801 Capitol Way South • PO Box 40234  
Olympia, WA 98504-0234  
Tel: 360.725.0377  
[www.sos.wa.gov/corps](http://www.sos.wa.gov/corps)

### IMPORTANT

You have completed the initial filing to create a new entity. To keep your filing status active and avoid administrative dissolution, you must:

1. **File an Annual Report** and pay the annual license fee each year before the anniversary of the filing date for the entity. A notice to file your annual report will be sent to your registered agent. It is the corporation or LLC's responsibility to file the report even if no notice is received.
2. **Maintain a Registered Agent** and registered office in this state. You must notify the Corporations Division if there are any changes in your registered agent, agent's address, or registered office address. Failure to notify the Corporations Division of changes will result in misrouted mail, and possibly administrative dissolution.

If you have questions about report and registered agent requirements, please contact the Corporations Division at 360-725-0377 or visit our website at:  
[www.sos.wa.gov/corps](http://www.sos.wa.gov/corps).

Exhibit 30-D

Bylaws of Transforming Age

**FIRST AMENDED AND RESTATED**  
**BYLAWS**  
**OF**  
**TRANSFORMING AGE**

**Amended April 29, 2022**

**AMENDED AND RESTATED BYLAWS OF  
TRANSFORMING AGE**

WHEREAS, the Board of Directors of Transforming Age, a Washington nonprofit Corporation (“Corporation”), adopted Bylaws for the corporation in January, 2021; and

WHEREAS, the Board of Directors of the Corporation intends to amend and restate the Bylaws, effective as of the date below, as follows:

**ARTICLE 1 - OFFICES**

The principal office of the Corporation shall be located at its principal place of business or such other place as the Board of Directors (the “Board”) may designate. The Corporation may have such other offices, either within or without the State of Washington, as the Board may designate or as the business of the Corporation may require from time to time.

**ARTICLE 2 - MEMBERS**

As set forth in the Articles of Incorporation, the Corporation shall have no members.

**ARTICLE 3 - BOARD OF DIRECTORS**

**3.1. Powers.** The business and affairs of the Corporation shall be conducted under the direction of, and the control and disposal of the Corporation’s properties and funds shall be vested in, the Board, except as otherwise provided in the Washington Nonprofit Corporation Act (Chapter 24.03 of the Revised Code of Washington) (the “Act”) or the Articles of Incorporation.

**3.2. Number.** The Board shall consist of a minimum of five (5) and not more than eleven (11) members, including the ex-officio voting director as set forth in Section 3.7.1. hereof. A majority of the members of the Board shall at all times be then-current directors of those organizations described in Section 501(c)(3) of the Internal Revenue Code of 1986 (the “Code”) that are related to Presbyterian Retirement Communities Northwest, a nonprofit corporation organized under the Act and an organization described in Section 501(c)(3) of the Code, through common control and receive support and/or services from the Corporation such that the Corporation is under common control with each such entity (each, a “Supported Organization”). Within such parameters, the number of directors shall be set by a majority vote of the entire Board at any time and from time to time, provided that no decrease in the number of directors shall have the effect of shortening the term of any incumbent director.

**3.3. Qualifications.** The directors must support the mission, values and vision of the Corporation. The directors shall have such other qualifications as the Board may prescribe including, but not limited to, status as a then-current director of the Supported Organizations.

**3.4. Duties of Directors.** Each director shall perform the duties of a director, including the duties as a member of any committee of the Board upon which the director may serve, in good faith, in a manner that such director believes to be in the best interests of the Corporation, and with such care, including reasonable inquiry, as an ordinarily prudent person in a like

position would use under similar circumstances.

### **3.5. Elections of Directors.**

**3.5.1. Elections.** The initial directors shall be those individuals listed in the Articles of Incorporation. Subsequent directors shall be elected by the Board at the annual meeting of the Board or any special meeting.

**3.5.2. Classes of Directors.** There shall be three classes of directors, each group consisting of approximately one-third of the total number of directors fixed by or in the manner provided by these Bylaws. At its initial meeting, the Board shall group the initial directors into three classes as described herein by establishing respective dates of terms.

**3.5.3. Successor Directors.** Approximately one-third of the number of directors fixed by or in the manner provided by these Bylaws shall be elected each year at the annual meeting of the Board to replace that group of directors whose terms expire each year.

**3.6. Term.** Directors shall serve a term of three (3) years commencing on the date of election, except for the initial directors and in the circumstance described in the last sentence of this Section 3.6. Each director shall hold office until his or her successor is elected and qualified or until his or her death, resignation, or removal. No director shall be eligible for re-election after completing three successive three (3)-year terms until the expiration of at least one year. If a director completes the third year of his or her third term while serving as Chair, that director's third term will be extended one year so that he or she can serve on the executive committee as Immediate Past Chair.

### **3.7. Ex-Officio Directors.**

**3.7.1. Ex-Officio Voting Director.** The President of the Corporation shall be an ex-officio voting member of the Board and shall be treated as a director for all purposes of these Bylaws and the Act.

**3.7.2. Ex-Officio Non-voting Directors.** The Board may appoint ex-officio non-voting directors from time to time. Ex-officio non-voting directors shall, subject to the Corporation's policies regarding conflicts of interest, have the right to attend all regular and special meetings of the Board but shall not have the power to make motions or to vote and shall not be counted in determining a quorum. Notice of Board meetings shall be provided to ex-officio non-voting directors as provided in Section 4.9, but failure to provide such notice shall not invalidate any action taken by the Board at such meeting.

**3.8. Increase in Number.** If the Board increases the number of directors as provided in these Bylaws, such position shall be filled by the affirmative vote of a majority of the remaining Board even though less than a quorum of the Board may be present at the meeting to the extent permitted by the Act. The Board may make such an election at any of its meetings. A director elected under this section may be given a one-, two-, or three-year term, in the Board's discretion, to promote even class size.

**3.9. Vacancies.** The Board may appoint an individual to fill any vacancy in the position of director. The Board may do so at any meeting of the Board by the affirmative vote of a

majority of the remaining directors even if less than a quorum of the Board is present at the meeting to the extent permitted by the Act. A director who fills a vacancy shall serve for the unexpired term of his or her predecessor in office.

**3.10. Resignation.** Any director may resign at any time by delivering notice in the form of a record to the Chair, the President, or the Secretary at the principal office of the Corporation, or by giving such notice at any meeting of the Board. Any such resignation shall take effect at the time specified therein or, if the time is not specified, upon delivery thereof and, unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective; provided however, that if the resignation would result in the Corporation having no director or no director capable of serving as such, the resigning director shall continue to serve as a director until a successor director is appointed and qualified as provided in these Bylaws or by resolution of the Board. If the individual then serving as President resigns or is removed from such position, including through failure of the Board to re-appoint such individual as President, he or she shall be deemed to have resigned from the Board. If an individual then serving as a director of a Supporting Organization resigns from such position such that he or she is no longer on the board of directors of any Supported Organization, he or she shall be deemed to have resigned from the Board as long as there is at least one director remaining after such resignation.

**3.11. Removal.** At any regular meeting preceded by notice of such purpose that complies with the notice provisions of a special meeting, or at any special meeting called expressly for that purpose, the Board may by the affirmative vote of two-thirds of the directors present at such meeting remove from office, with or without cause, one or more directors as long as there is at least one director remaining after such removal. If an individual then serving as a director of a Supporting Organization is removed from such position with or without cause such that he or she is no longer on the board of directors of any Supported Organization, he or she shall automatically be removed from the Board as long as there is at least one director remaining after such removal.

**3.12. Compensation.** Directors shall not receive compensation for their services as such, although the reasonable expenses of directors for attendance at Board meetings or otherwise directly incident to their duties as directors may be paid or reimbursed by the Corporation. Directors shall not be disqualified from receiving reasonable compensation for services rendered to or for the benefit of the Corporation in any other capacity.

**3.13. Standing or Temporary Committees.** The Board, by resolution adopted by a majority of the directors in office, may designate and appoint from among its members one or more standing or temporary committees. Any committee of the Board must:

- (a) Consist of two (2) or more directors;
- (b) Be governed by the same rules regarding meetings, action without meetings, notice and waiver of notice, and quorum and voting requirements as apply to the Board; and
- (c) To the extent provided in such resolution, have and may exercise the authority of the Board in the management of the Corporation; provided, however, that the Board may not delegate its authority to:

- (i) amend, alter, or repeal these Bylaws;
- (ii) elect, appoint, or remove any member of any such committee or any director or officer of the Corporation;
- (iii) amend the Articles of Incorporation;
- (iv) adopt a plan of merger or consolidation with another corporation;

- (v) authorize the sale, lease, or exchange of all or substantially all of the property and assets of the Corporation, not in the ordinary course of business;
- (vi) authorize the voluntary dissolution of the Corporation or revoke proceedings therefor;
- (vii) adopt a plan for the distribution of the assets of the Corporation; or
- (viii) amend, alter, or repeal any resolution of the Board which by its terms provides that it shall not be amended, altered or repealed by such committee.

The designation and appointment of any board committee and the delegation thereto of authority shall not operate to relieve the Board, or any individual director, of any responsibility imposed upon it by law. The Board may at any time change the members of any committee, fill vacancies, and discharge any committee by resolution adopted by a majority of the directors in office.

**3.13.1. Attendance.** Board members who are not appointed to a committee may attend by invitation.

**3.13.2. Resignation of Committee Member.** Any member of any committee may resign at any time by delivering notice thereof, in the form of a record, to the Chair, the President, the Secretary, or the chair of such committee, or by giving such notice at any meeting of such committee. Any such resignation shall take effect at the time specified therein or, if the time is not specified, upon delivery thereof and, unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

**3.13.3. Removal of Committee Member.** The Board, by resolution adopted by a majority of the directors in office, may remove from office any member of any committee elected or appointed by it.

## **ARTICLE 4 - MEETINGS OF BOARD OF DIRECTORS AND BOARD COMMITTEES**

**4.1. Annual Meeting.** The Board shall hold an annual meeting during the month of October at such date, time, and place as shall be determined by the Board. At this meeting, the Board shall elect directors and officers of the Corporation in accordance with these Bylaws and may transact any further business to properly come before the Board. The failure to hold an annual meeting at the time stated in these Bylaws does not affect the validity of any corporate action.

**4.2. Place of Meetings.** All meetings of the Board and board committees shall be held at the principal office of the Corporation or at such other place within or without the State of Washington designated by the Board, by any persons entitled to call a meeting, or by a waiver of notice executed by all directors.

**4.3. Regular Meetings.** By resolution, the Board may specify the date, time, and place for the holding of regular meetings of the Board or any committee designated by the Board without any notice other than such resolution. If no such resolution is adopted, the Board may call meetings pursuant to the notice provisions set forth in Sections 4.9 and 4.10.

**4.4. Special Meetings.** Special meetings of the Board or any board committee may be called by or at the request of the Chair, the Vice-Chair, the President, or any two or more of the directors in office, or in the case of a committee meeting, by the chair of the committee. The person or persons authorized to call special meetings may fix the place and time for holding any special Board or committee meeting called by them. Notice of a special meeting shall be given as provided in Sections 4.9 and 4.10.

**4.5. Quorum.** Unless a greater portion is required by these Bylaws, the Articles of Incorporation, or applicable Washington law, a majority of the directors then in office shall constitute a quorum for the transaction of business or any particular item of business at any Board meeting. If a quorum is not present at a meeting, a majority of the directors present may adjourn the meeting and set a date and time for the meeting to reconvene without further notice.

**4.6. Participation by Telephone.** Members of the Board or of any committee designated by the Board may participate in a meeting of the Board or of that committee by means of a conference telephone or similar communications equipment by means of which all persons participating in the meeting can hear one another at the same time, and participation by such means shall constitute presence in person at a meeting.

**4.7. Presumption of Assent.** A director present at a Board meeting at which action on any corporate matter is taken shall be presumed to have assented to the action taken unless:

- (a) the director's dissent or abstention from the action taken is entered in the minutes of the meeting;
- (b) the director delivers his or her dissent or abstention to such action to the person acting as the secretary of the meeting before the adjournment thereof; or
- (c) the director delivers such dissent or abstention to the Secretary of the Corporation immediately after the adjournment of the meeting.

Notwithstanding the foregoing, such right to dissent or abstain shall not apply to a director who voted in favor of such action.

**4.8. Manner of Acting.** Each director shall be entitled to one (1) vote. The act of the majority of the directors present at a meeting at which there is a quorum shall be the act of the Board, unless the act of a greater number is required by these Bylaws, the Articles of Incorporation, or applicable Washington law. A director may not vote or act by proxy at any meeting of the Board or any board committee.

**4.9. Notice of Meetings.** For any meeting of the Board or any committee designated by the Board for which notice is required by these Bylaws or by applicable Washington law, a notice stating the place, date, and hour of the meeting shall be delivered to each director at his or her address shown on the records of the Corporation prior thereto in a tangible medium (e.g., a letter or facsimile) or by an electronic transmission (e.g., email) (as provided in Section 4.10). The method of notice need not be the same to each director. Such notice shall be delivered at least 24 hours prior to the meeting. If notice is delivered in a tangible medium, it may be transmitted by mail, private carrier, or personal delivery; telegraph or teletype; or telephone, wire, or wireless equipment that transmits a facsimile of the notice. If mailed, the notice shall be deemed delivered

two days after it is deposited in the United States mail addressed to the director at his or her address as it appears on the records of the Corporation with postage thereon prepaid. Other forms of notice in a tangible medium described in this paragraph are effective when received. Neither the business to be transacted at, nor the purpose of, any regular or special meeting of the Board or any committee designated by the Board need be specified in the notice.

**4.10. Notice by Electronic Transmission.** Except as set forth below, each director impliedly consents to receipt of notices by electronic transmission.

(a) A director may revoke the implied authorization to receipt of notices by electronic transmission by providing written notice to the Secretary of the Corporation.

(b) Authorization to send notices by electronic transmission is deemed revoked if the Corporation is unable to deliver two consecutive notices by electronic transmission to the director's address shown in the corporation's current records, and this inability becomes known to the Secretary of the Corporation or other person responsible for giving the notice. The inadvertent failure by the Corporation to treat this inability as a revocation does not invalidate any meeting or other action.

(c) Notice provided in an electronic transmission is received when:

(i) It enters an electronic system that the recipient has designated or currently uses for the purpose of receiving electronic transmissions of the type sent; and

(ii) It is in a form capable of being processed by that system.

#### **4.11. Waiver of Notice**

**4.11.1. Waiver by Communication.** Whenever any notice is required to be given to any director under the provisions of these Bylaws, the Articles of Incorporation, or applicable Washington law, a waiver thereof in the form of a record executed by the director entitled to such notice, including, without limitation, an electronic transmission from the director entitled to such notice, whether before or after the time stated therein, shall be deemed equivalent to the giving of such notice. Neither the business to be transacted at nor the purpose of any regular or special meeting of the Board need be specified in the waiver of notice of such meeting.

**4.11.2. Waiver by Attendance.** The attendance of a director or a committee member at a meeting shall constitute a waiver of notice of such meeting, except where a director or a committee member attends a meeting for the express purpose of objecting to the transaction of any business because the meeting is not lawfully called or convened.

**4.12. Actions by Unanimous Consent in Lieu of a Meeting.** Any action required or permitted by the Articles of Incorporation or Bylaws, or by the laws of the state of Washington, to be taken at a meeting of the directors of the Corporation or at a meeting of a committee of the Board may be taken without a meeting if a consent, in the form of a record setting forth the action so taken, is executed by all the directors or all of the members of the committee, as the case may be, entitled to vote with respect to the subject matter thereof. Such consents may be executed in two or more counterparts, each of which shall be deemed an original and all of which, taken together, shall constitute one and the same document. Such consents shall have the same force and effect as a unanimous vote and may be described as such. Any such consent shall be inserted in the

minute book as if it were the minutes of a Board meeting.

## **ARTICLE 5 - OFFICERS**

**5.1. Positions.** The officers of the Corporation shall be the Chair, Vice-Chair, President, one or more Vice Presidents, Secretary, and Treasurer. The Board shall elect the Chair and Vice-Chair and select the other officers of the Corporation at its annual meeting. The Chair and Vice-Chair shall be elected from among Board members. The President, Secretary and Treasurer shall be appointed by the Board from among the Board or the staff of the Corporation. Any two or more offices may be held by the same person, except the offices of President and Secretary. Any officer other than the Chair, Vice-Chair, President, Secretary and Treasurer may be appointed by the Board or by the President and have such duties as specified by the Board or the President from time to time.

**5.2. Term of Office.** The Chair shall be elected for a one-year term, with the expectation that at the end of the one-year term the Chair shall serve for an additional one-year term as Immediate Past Chair. The Vice-Chair shall be elected for a one-year term, with the expectation that the Vice-Chair will succeed the Chair at the end of his or her own year-term. Unless the Chair or Vice-Chair dies, resigns, or is removed from office, he or she shall hold office until his or her successor is elected. The President, Secretary, and Treasurer shall serve for terms of one year or until their respective successor is appointed or they are removed by the Board. The remaining officers shall not serve for any specific term of office but shall serve at the discretion of the President.

**5.3. Resignation.** Any officer may resign at any time by delivering notice to the Chair, the President, the Secretary, or the Board in the form of a record. Any such resignation shall take effect at the time specified therein or, if the time is not specified, upon delivery thereof and, unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

**5.4. Removal.** The Chair, Vice-Chair, President, or any other officer elected or appointed by the Board may be removed from office, with or without cause, by the Board. Other officers may be removed by the Board or the President. Such removals shall be without prejudice to the contractual rights, if any, of the person so removed.

**5.5. Vacancies.** A vacancy in the offices of Chair, Vice-Chair, President, Secretary or Treasurer created by the death, resignation, removal, disqualification, creation of a new office or any other cause may be filled by the Board for the unexpired portion of the term or for a new term established by the Board. A vacancy created in any of the offices appointed by the President shall be filled by the President.

**5.6. Compensation; Contract Rights.** The salaries, if any, of the officers shall be limited to reasonable compensation for services, as fixed from time to time by the Board or by any person or persons to whom the Board has delegated such authority. No officer shall be prevented from receiving a salary by reason of the fact that he or she is a director of the Corporation. Officers may also receive reimbursement for reasonable expenditures incurred on behalf of the Corporation. Election or appointment of an officer shall not of itself create contract rights.

**5.7. Chair.** The Chair, when present, shall preside at all meetings of the Board. The Chair shall have such other powers as the Board may determine.

**5.8. Vice-Chair.** The Vice-Chair shall perform the duties of the Chair in the absence or incapacity of the Chair, except as may be limited by resolution of the Board. The Vice-Chair shall perform such other duties as from time to time may be assigned to him or her by the Chair or by the Board.

**5.9. Immediate Past Chair.** The Immediate Past Chair shall ensure continuity during governance transitions and organizational change, help ensure the appropriate succession of Officers and Trustees, to support the Chair in his or her role, and to provide continuity to the organization by providing historical context for issues. The Immediate Past Chair shall be permitted to serve for one (1) year even if they have reached the maximum term limits hereunder.

**5.10. President.** The President shall be the chief executive officer of the Corporation and, subject to the direction and control of the Board, shall have general supervision of the business and affairs of the Corporation. The President may sign deeds, mortgages, bonds, contracts, or other instruments, except when the signing and execution thereof have been expressly delegated by the Board or by these Bylaws to some other officer or agent of the Corporation or are required by law to be otherwise signed or executed by some other officer or in some other manner. In general, the President shall perform all duties incident to the office of President and such other duties as are assigned to him or her by the Board from time to time.

**5.11. Vice Presidents.** The Board or the President may appoint one or more Vice Presidents to assist the President in carrying out the programs of the Corporation. In the event of the death of the President or his or her inability to act, the Vice President (or, if there is more than one vice president, the Vice Presidents in the order designated by the Board) shall perform the duties of the President, except as may be limited by resolution of the Board, with all the powers of and subject to all the restrictions upon the President. Vice Presidents shall have, to the extent authorized by the President or the Board, the same powers as the President to sign deeds, mortgages, bonds, contracts or other instruments. Vice Presidents shall perform such other duties as from time to time may be assigned to him, her or them by the President or the Board.

**5.12. Secretary.** The Secretary shall be responsible for ensuring that minutes of meetings of the Board are recorded and maintained and, to the extent minutes of meetings of committees of the Board are recorded, that such minutes are maintained; see that all notices are duly given in accordance with the provisions of these Bylaws or as required by law; be custodian of the corporate records of the Corporation or appoint such person or entity as is appropriate to act as such custodian; ensure that records are kept of the name and address of each director and each officer; if required, sign with the President, or other officer authorized by the President or the Board, deeds, mortgages, bonds, contracts, or other instruments; and in general perform all duties incident to the office of Secretary and such other duties as from time to time may be assigned to him or her by the President or the Board.

**5.13. Treasurer.** The Treasurer shall have charge of and be responsible for all funds and securities of the Corporation; ensure that monies due and payable to the Corporation from any source whatsoever are properly received and that receipts are given for said monies; ensure that all such monies are deposited in the name of the Corporation in banks, trust companies or other depositories selected in accordance with the provisions of these Bylaws; and in general perform all of the duties incident to the office of Treasurer and such other duties as may be assigned to him or her by the President or the Board. If requested by the Board, at the Corporation's expense, the Treasurer shall give a bond for the faithful discharge of his or her duties in such amount and with such surety or sureties as the Board may determine.

## **ARTICLE 6 – INDEMNIFICATION**

### **6.1. Definitions. As used in this Article:**

**6.1.1. “Agent”** means an individual who is, or was, an agent of the Corporation or an individual who, while an agent of the Corporation, is, or was, serving at the Corporation’s request as a director, officer, partner, trustee, employee, or agent of another foreign or domestic corporation, partnership, joint venture, trust, employee benefit plan, or other enterprise. “Agent” includes, unless the context requires otherwise, the estate or personal representative of an Agent.

**6.1.2. “Corporation”** means this Corporation and any domestic or foreign successor entity.

**6.1.3. “Director”** means an individual who is, or was, a director of the Corporation or an individual who, while a director of the Corporation, is, or was, serving at the Corporation’s request as a director, officer, partner, trustee, employee, or agent of another foreign or domestic corporation, partnership, joint venture, trust, employee benefit plan, or other enterprise. “Director” includes, unless the context requires otherwise, the estate or personal representative of a Director.

**6.1.4. “Employee”** means an individual who is, or was, an employee of the Corporation or an individual who, while an employee of the Corporation, is, or was, serving at the Corporation’s request as a director, officer, partner, trustee, employee, or agent of another foreign or domestic corporation, partnership, joint venture, trust, employee benefit plan, or other enterprise. “Employee” includes, unless the context requires otherwise, the estate or personal representative of an Employee.

**6.1.5. “Expenses”** means reasonable fees and expenses incurred in any Proceeding including, without limitation, fees and expenses of counsel.

**6.1.6. “Indemnitee”** means an individual made a Party to a Proceeding because the individual is, or was, a Director, Officer, Employee, or Agent, and who possesses indemnification rights pursuant to the Articles of Incorporation, this Article, or other corporate action. “Indemnitee” shall also include the heirs, executors, and other successors in interest of such individuals.

**6.1.7. “Liability”** means the obligation to pay a judgment, settlement, penalty, or fine, including an excise tax assessed with respect to an employee benefit plan, or Expenses incurred with respect to a Proceeding.

**6.1.8. “Officer”** means an individual who is, or was, an officer of the Corporation or an individual who, while an officer of the Corporation, is, or was, serving at the Corporation’s request as a director, officer, partner, trustee, employee, or agent of another foreign or domestic corporation, partnership, joint venture, trust, employee benefit plan, or other enterprise. “Officer” includes, unless the context requires otherwise, the estate or personal representative of an Officer.

**6.1.9. “Party”** includes an individual who was, is, or is threatened to be named a defendant or a respondent in a Proceeding.

**6.1.10. “Proceeding”** means any threatened, pending, or completed action, suit, or

proceeding, whether civil, criminal, administrative, or investigative, and whether formal or informal.

## **6.2. Indemnification Rights of Directors, Officers, Employees, and Agents.**

**6.2.1.** The indemnification rights and the right to advancement of Expenses of the Corporation's Directors shall be as set forth in the Articles of Incorporation. The procedures of Section 6.3 shall apply to such indemnification rights and advancement of Expenses unless the Board adopts or approves further indemnification and expense advancement arrangements as may be permitted by law.

**6.2.2.** The indemnification rights of the Corporation's Officers, Employees, and Agents shall be as set forth in these Bylaws. The Corporation shall indemnify its Officers, Employees, and Agents to the full extent permitted by law, subject to RCW 23B.08.510 through RCW 23B.08.550, against Liability arising out of a Proceeding to which such individual was made a Party because the individual is or was an Officer, Employee, or Agent of the Corporation. The Corporation shall advance Expenses incurred by such Officer, Employee, or Agent who is a Party to a Proceeding in advance of final disposition of the Proceeding, as provided herein. Notwithstanding the foregoing, no indemnification shall be provided under this Article if payment of any such amount would result in an excess benefit transaction such that the Officer, Employee, or Agent would be subject to the imposition of tax and any applicable correction procedures, including repayment of such amounts, under Section 4958 of the Code or the corresponding provision of any future federal tax law.

## **6.3. Procedure for Seeking Indemnification and/or Advancement of Expenses.**

**6.3.1. Notification and Defense of Claim.** Indemnatee shall promptly notify the Corporation, in the form of a record, of any Proceeding for which indemnification could be sought under this Article 6 or the Articles of Incorporation. In addition, Indemnatee shall give the Corporation such information and cooperation as it may reasonably require and as shall be within Indemnatee's power. With respect to any such Proceeding as to which Indemnatee has notified the Corporation:

(a) The Corporation shall be entitled to participate therein at its own expense; or

(b) Except as otherwise provided below, to the extent that it may wish, the Corporation, jointly with any other indemnifying Party similarly notified, will be entitled to assume the defense thereof, with counsel satisfactory to Indemnatee. Indemnatee's consent to such counsel may not be unreasonably withheld.

After notice from the Corporation to Indemnatee of its election to assume the defense, the Corporation will not be liable to Indemnatee under this Article for any Expenses subsequently incurred by Indemnatee in connection with such defense. However, Indemnatee shall continue to have the right to employ its counsel in such Proceeding, at Indemnatee's expense; and if:

(a) The employment of counsel by Indemnatee has been authorized by the Corporation;

Last Amended April 29, 2022 (b) Indemnatee shall have reasonably concluded that there may be a

conflict of interest between the Corporation and Indemnatee in the conduct of such defense; or

(c) The Corporation shall not, in fact, have employed counsel to assume the defense of such Proceeding;

then the fees and expenses of Indemnatee's counsel shall be at the expense of the Corporation.

The Corporation shall not be entitled to assume the defense of any Proceeding brought by, or on behalf of, the Corporation or as to which Indemnatee shall reasonably have made the conclusion that a conflict of interest may exist between the Corporation and the Indemnatee in the conduct of the defense.

**6.3.2. Information to be Submitted and Method of Determination and Authorization of Indemnification.** For the purpose of pursuing rights to indemnification under the Articles of Incorporation and/or this Article, Indemnatee shall submit to the Board a sworn statement requesting indemnification and reasonable evidence of all amounts for which such indemnification is requested (together, the sworn statement and the evidence constitute an "Indemnification Statement").

Submission of an Indemnification Statement to the Board shall create a presumption that the Indemnatee is entitled to indemnification hereunder, and the Corporation shall, within sixty (60) calendar days thereafter, make the payments requested in the Indemnification Statement to, or for the benefit of, the Indemnatee, unless: (a) within such sixty (60)-calendar-day period it shall be determined by the Corporation that the Indemnatee is not entitled to indemnification under the Act or the Articles of Incorporation; (b) such vote shall be based upon clear and convincing evidence (sufficient to rebut the foregoing presumption); and (c) the Indemnatee shall receive notice of such determination in the form of a record, which shall disclose with particularity the evidence upon which the determination is based.

The foregoing determination shall be made (a) by the Board by majority vote of a quorum consisting of Directors not at the time parties to the Proceeding; (b) if a quorum cannot be obtained under (a) in this paragraph, by majority vote of a committee duly designated by the Board, in which designation Directors who are Parties may participate, consisting solely of two or more Directors not at the time Parties to the Proceeding; or (c) by special legal counsel as provided by RCW 23B.08.550.

Any determination that the Indemnatee is not entitled to indemnification, and any failure to make the payments requested in the Indemnification Statement, shall be subject to judicial review by any court of competent jurisdiction.

**6.3.3. Special Procedure Regarding Advance for Expenses.** An Indemnatee seeking payment of Expenses in advance of a final disposition of the Proceeding must furnish the Corporation, as part of the Indemnification Statement:

(a) a written affirmation, given in the form of a record, of the Indemnatee's good faith belief that the Indemnatee has met the standard of conduct required to be eligible for indemnification; and

(b) a written undertaking, in the form of a record constituting an unlimited general obligation of the Indemnatee, to repay the advance if it is ultimately

determined by the final disposition of a court of competent jurisdiction that the Indemnitee did not meet the required standard of conduct.

If the Corporation determines that indemnification is authorized, the Indemnitee's request for advance of Expenses shall be granted.

**6.3.4. Settlement.** The Corporation is not liable to indemnify Indemnitee for any amounts paid in settlement of any Proceeding without the Corporation's consent, given in the form of a record. The Corporation shall not settle any Proceeding in any manner that would impose any penalty or limitation on Indemnitee without Indemnitee's consent, given in the form of a record. Neither the Corporation nor Indemnitee may unreasonably withhold its consent to a proposed settlement.

## **6.4. Contract and Related Rights.**

**6.4.1. Contract Rights.** The right of an Indemnitee to indemnification and advancement of Expenses is a contract right upon which the Indemnitee shall be presumed to have relied in determining to serve, or to continue to serve, in his or her capacity with the Corporation. Such right shall continue as long as the Indemnitee shall be subject to any possible Proceeding. Any amendment to, or repeal of, this Article shall not adversely affect any right or protection of an Indemnitee with respect to any acts or omissions of such Indemnitee occurring prior to such amendment or repeal.

**6.4.2. Optional Insurance, Contracts, and Funding.** The Corporation may:

- (a) Maintain insurance, at its expense, to protect itself and any Indemnitee against any Liability;
- (b) Enter into contracts with any Indemnitee in furtherance of this Article and consistent with the Act; and
- (c) Create a trust fund, grant a security interest, or use other means (including, without limitation, a letter of credit) to ensure the payment of such amounts as may be necessary to effect indemnification as provided in this Article.

**6.4.3. Severability.** If any provision or application of this Article shall be invalid or unenforceable, the remainder of this Article and its remaining applications shall not be affected thereby, and shall continue in full force and effect.

**6.4.4. Right of Indemnitee to Bring Suit.** If (a) a claim under the Articles of Incorporation and/or this Article for indemnification is not paid in full by the Corporation within sixty (60) days after notice of a claim has been received by the Corporation; or (b) a claim under this Article for advancement of Expenses is not paid in full by the Corporation within twenty (20) days after notice of a claim, then the Indemnitee may, but need not, at any time thereafter bring suit against the Corporation to recover the unpaid amount of the claim. To the extent successful in whole or in part, the Indemnitee shall be entitled to also be paid the expense (to be proportionately prorated if the Indemnitee is only partially successful) of prosecuting such claim.

to have made a determination prior to the commencement of such Proceeding that indemnification or reimbursement or advancement of Expenses to the Indemnitee is proper in the circumstances, nor (b) an actual determination by the Corporation (including its Board or its independent legal counsel) that the Indemnitee is not entitled to indemnification or to the reimbursement or advancement of Expenses, shall be a defense to the Proceeding or create a presumption that the Indemnitee is not so entitled.

**6.5. Exceptions.** Notwithstanding any other provision in this Article or in the Corporation's Articles of Incorporation to the contrary, the Corporation shall not be obligated pursuant to the terms of this Article to indemnify or advance Expenses to Indemnitee with respect to any Proceeding:

(a) Initiated or brought voluntarily by Indemnitee and not by way of defense, except with respect to Proceedings brought to establish or enforce a right to indemnification under the Articles of Incorporation, the Bylaws, the Act, or any other statute or law; but such indemnification or advancement of Expenses may be provided by the Corporation in specific cases if the Board finds it to be appropriate.

(b) Instituted by Indemnitee to enforce or interpret rights under the Articles of Incorporation or these Bylaws, if a court of competent jurisdiction determines that each of the material assertions made by Indemnitee in such Proceeding was not made in good faith or was frivolous.

(c) For which any of the Expenses or Liabilities for indemnification being sought have been paid directly to Indemnitee by an insurance carrier under an insurance policy maintained by the Corporation.

(d) If the Corporation is prohibited by its Articles of Incorporation, the Act, or other applicable law as then in effect from paying such indemnification and/or advancement of Expenses.

## **ARTICLE 7 - EXEMPT ACTIVITIES**

Notwithstanding any other provision of these Bylaws, no director, officer, employee, or representative of the Corporation shall take any action or carry on any activity, by or on behalf of the Corporation, not permitted to be taken or carried on, without penalty, by an organization exempt from taxation, or by an organization contributions to which are deductible under federal income tax laws as they now exist, or as they hereafter shall be amended.

## **ARTICLE 8 - ADVISORY BOARDS**

The Board may appoint one or more Advisory Boards consisting of two or more persons who may or may not be directors to provide advice and assistance to the Board and such Advisory Boards shall not have the authority of the Board. Members of the Advisory Boards may be invited to meetings of the Board, but shall not be entitled to vote or exercise other powers of a director of the Corporation; provided, however, to the extent permitted by law, members of the Advisory Boards shall be entitled to the same limitations on liability and rights to indemnification as directors of the Corporation. The Board may determine by separate resolution the operational rules that govern the Advisory Boards. Advisory Board members may be removed at any time, with or without cause, by the Board in its sole discretion.

## **ARTICLE 9 - ADMINISTRATIVE AND FINANCIAL PROVISIONS**

**9.1. Books and Records.** The Corporation shall keep the following records at its registered office or its principal office in the State of Washington:

- (a) Current copies of its Articles of Incorporation and Bylaws, as amended;
- (b) Correct and adequate records of accounts and finances;
- (c) A record of officers' and directors' names and addresses;
- (d) Minutes of the proceedings of its Board, and any minutes that may be maintained by committees having any of the authority of the Board;
- (e) Copies of such documents as may be required to be made publicly available under the Code, including copies of its application for recognition of tax-exempt status on Form 1023 and copies of its Form 990 and Form 990-T, if any; and
- (f) Such other records as may be necessary or advisable.

Such records may be made available in any manner and by any means permitted under the Act and the Code, as applicable. All books and records of the Corporation shall be open at any reasonable time to inspection by any director.

**9.2. Fiscal Year.** The accounting year of the Corporation shall be the twelve months ending September 30.

**9.3. Loans to Directors and Officers Prohibited.** No loans or advances shall be made by the Corporation to any of its directors or officers.

**9.4. Rules of Order.** The rules contained in the most recent edition of Robert's Rules of Order, newly revised, shall govern all meetings of directors where those rules are not inconsistent with the Articles of Incorporation, Bylaws, or other rules of order of the Corporation.

**9.5. Amendment of Bylaws.** These Bylaws may be amended or repealed by the affirmative vote of a majority of the directors then in office at any meeting of the Board.

## **ARTICLE 10 - DEFINITIONS**

Except as otherwise provided herein, as used in these Bylaws:

**10.1. "Chair"** means the officer of the Corporation whose duties are described in Section 5.7.

**10.2. "Corporation"** means TRANSFORMING AGE, a Washington nonprofit corporation.

**10.3. "Deliver"** means:

(a) Mail; or

(b) Transmit by facsimile equipment, for purposes of delivering a demand consent, notice, or waiver to the Corporation or one of its officers or directors; or

(c) Make an electronic transmission, in accordance with Section 4.10 of these Bylaws, for purposes of delivering a demand, consent, notice, or waiver to the Corporation or one of its officers or directors.

**10.4. “Electronic transmission”** means an electronic communication:

(a) Not directly involving the physical transfer of a record in a tangible medium; and

(b) That may be retained, retrieved, and reviewed by the sender and the recipient thereof, and that may be directly reproduced in a tangible medium by a sender and recipient.

**10.5. “Execute”** means:

(a) Sign, with respect to a written record; or

(b) Electronically transmit along with sufficient information to determine the sender’s identity; or

(c) File in compliance with the standards for filing with the office of the secretary of state as prescribed by the secretary of state, with respect to a record to be filed with the secretary of state.

**10.6. “President”** means the officer of the Corporation whose duties are described in Section 5.9.

**10.7. “Record”** means information inscribed on a tangible medium or contained in an electronic transmission.

**10.8. “Secretary”** means the officer of the Corporation whose duties are described in Section 5.11.

**10.9. “Tangible medium”** means a writing, copy of a writing, facsimile, or a physical reproduction, each on paper or other tangible material.

**10.10. “Treasurer”** means the officer of the Corporation whose duties are described in Section 5.12.

**10.11. “Vice-Chair”** means the officer of the Corporation whose duties are described in Section 5.8.

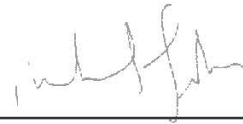
**10.12. “Vice-President”** means an officer of the Corporation whose duties are described in Section 5.10.

**10.13. "Writing"** does not include an electronic transmission.

## **CERTIFICATE OF ADOPTION**

The undersigned Secretary of TRANSFORMING AGE does hereby certify that the above and foregoing Bylaws of said Corporation were adopted by the Board as the Bylaws of said Corporation on April 29, 2022, and that the same do now constitute the Bylaws of this Corporation.

Dated this 29 day April, 2022.

A handwritten signature in dark ink, appearing to read 'Michele Luke', is written above a horizontal line.

**Michele Luke, Secretary of the Board**



Exhibit 30-E

Charity and Discount Payment Philosophy of Transforming Age

## **Transforming Age: Charitable Care**

Sample Language regarding charitable care policy from CCRC residence agreements:

### **Residents Who Become Unable to Pay:**

It is Skyline's policy that this Agreement will not be terminated solely because of your financial inability to continue to pay the Monthly Fee or other charges payable under the terms of this Agreement by reason of circumstances beyond your control; provided, however, this policy shall not be construed to qualify or limit Skyline's right to terminate this Agreement in accordance with its terms. If you present facts which, in the opinion of Skyline, justify special financial consideration, Skyline will give careful consideration to subsidizing in part or in whole the Monthly Fee and other charges payable by you under the terms of this Agreement so long as such subsidy can be made without impairing the ability of Skyline to attain its objectives while operating on a sound financial basis. Any determination by Skyline with regard to the granting of financial assistance shall be within the sole discretion of Skyline, and any decision to provide such financial assistance shall continue in effect only so long as Skyline, in its sole discretion, determines that it can continue to operate for the benefit of all Residents on a sound basis. As a means of providing financial assistance to Residents, Skyline may establish an endowment fund for donations from Residents. The endowment fund may be used to provide financial assistance in accordance with the subsidy policy described above. In the event Skyline determines to provide you with any financial assistance or subsidy, you agree we may charge such amounts, plus interest, against the refund of your Entrance Fee. Furthermore, we may require you to move to a smaller or less expensive Residence.

#31

Title 11, California Code of Regulations, § 999.5(d)(10)

*A description of the Applicant's efforts to inform local governmental entities, professional staff, and employees of the health facilities, and the general public of the proposed transaction*

ECA affiliates, including MRCC, held employee All Staff meetings on August 7, 2023 to make them aware that ECA was affiliating with TA, pending receipt of all required approvals. A letter to all employees along with FAQ's were distributed. A letter was also distributed to all MRCC residents.

A press release was issued to key media outlets and posted on LinkedIn. A copy of the press release is attached to this Section 999.5(d)(10) as Exhibit 31-A.

The reaction of MRCC employees has been positive.

Exhibit 31-A

Press Release



FOR IMMEDIATE RELEASE

**Media Contact:** Kristen Crawford  
kcrawford@transformingage.org

## Transforming Age and Elder Care Alliance Join Forces to Enhance Senior Living Services

August 8, 2023 – Seattle, Wash. – Today, [Transforming Age](#) and [Elder Care Alliance \(ECA\)](#) are excited to announce that they are affiliating, and ECA is joining the Transforming Age network in a strategic move that brings together the two nonprofit organizations to enhance their shared commitment to enrich the lives of older adults. By combining their expertise, together the two organizations aim to strengthen and grow their mission impact and better address the evolving needs of older adults, across the economic spectrum.

Transforming Age is one of the nation's largest nonprofit senior living providers, serving more than 100,000 older adults by integrating housing, community services, technology, philanthropy and partnerships. Transforming Age is recognized for their robust nonprofit mission, commitment to creating a culture of excellence, and their diverse network of affiliates that serve older adults across the economic spectrum.

Guided by a similar set of values and rich culture, San Francisco Bay Area-based Elder Care Alliance is a non-profit system serving almost 10,000 older adults across five communities and a system of community programs throughout California. The organization came together more than 25 years ago and has founding roots dating back to the 1870s with the Sisters of Mercy. Elder Care Alliance had been in search of a partner to help expand their mission impact in a more socio-economically diverse way. Throughout ECA's search process, Transforming Age came to the forefront due to their compelling vision that aligned with the strategic vision cast by ECA.

Under this new partnership, both organizations will leverage their combined strengths to broaden their service offerings, providing older adults with an expanded array of programs, innovative care options, and sustainable housing solutions. ECA has implemented several groundbreaking programs, including their [engagement-focused memory care program](#) that is based on the "I'm Still Here™" methodology. ECA's Mercy Brown Bag Program distributes over 144,000 bags filled with groceries to almost 9,000 older adults struggling with food insecurity annually. ECA's network of five communities serves 660 residents through 450 team members.

"This search process was different than others I have been a part of in the past. The affiliation between Elder Care Alliance and Transforming Age represents a true partnership, with real synergy – not just in culture match but strategic vision. I am excited to see how together we

might transform aging," said Adriene Iverson, CEO of Elder Care Alliance. "We look forward to collaborating with and learning from one another as we strive to positively impact the lives of older adults and their families."

The ECA affiliation also bolsters Transforming Age's presence in California, the state with the highest population of residents over the age of 65. The Transforming Age network of affiliates, which recently announced the opening of a second headquarters in Omaha, Nebraska, owns and operates over 75 communities in 23 states.

"We are thrilled to welcome Elder Care Alliance to the Transforming Age family," said Torsten Hirche, President and CEO of Transforming Age. "By uniting forces, we gain even greater strength across all five of our mission spheres in a joint effort to enable older adults to truly live without limits."

# #

### **About Transforming Age**

Transforming Age is a nationally recognized nonprofit organization offering holistic and integrated solutions that enable people to age successfully. Dedicated to creating unlimited possibilities to enhance the lives of older adults, Transforming Age offers an integrated network of housing, community services, technology, philanthropy and partnerships. With over 2,200 team members, Transforming Age serves over 100,000 people across the economic spectrum in 75 affordable and market rate communities, in addition to providing home and community-based services to low-income seniors. Transforming Age and its affiliated foundations provide philanthropic programs aimed at supporting those in need of financial assistance, the creation or enhancement of programs and services. Transforming Age also provides business service solutions to industry partners including management, development, and consulting services. The organization's technology initiatives aim to improve the lives of older adults and those who serve them at scale.

### **About Elder Care Alliance**

Located in the San Francisco Bay Area and Ventura County, Elder Care Alliance communities have been a trusted name in senior living and memory care in California for more than 25 years. ECA's Mercy Retirement and Care Center traces its roots back more than 150 years. ECA strives to create communities that are not just places where older adults live but places where older adults flourish. ECA's vision is to enable places where people are empowered and engaged while working to transform society's view and value of older adults.

Title 11, California Code of Regulations, § 999.5(d)(11)(A)

*Board minutes or other documents relating or referring to consideration by the Board of Directors of the applicant and any related entity, or any committee thereof of the transaction or of any other possible transaction involving any of the health facilities that are the subject of the transaction.*

***[Redactions relate to matters not involving consideration of the Affiliation]***

1. Attached to this Section 999.5(d)(11)(A) as Exhibit 32-A is a copy of the Board of Trustee minutes dated July 26, 2022.
2. Attached to this Section 999.5(d)(11)(A) as Exhibit 32-B is a copy of the Board of Trustee minutes dated September 27, 2022.
3. Attached to this Section 999.5(d)(11)(A) as Exhibit 32-C is a copy of the Strategic Planning Taskforce minutes dated October 20, 2022.
4. Attached to this Section 999.5(d)(11)(A) as Exhibit 32-D is a copy of the Board of Trustee minutes dated November 12, 2022.
5. Attached to this Section 999.5(d)(11)(A) as Exhibit 32-E is a copy of the Strategic Planning Taskforce minutes dated November 18, 2022.
6. Attached to this Section 999.5(d)(11)(A) as Exhibit 32-F is a copy of the Strategic Planning Taskforce minutes dated December 16, 2022.
7. Attached to this Section 999.5(d)(11)(A) as Exhibit 32-G is a copy of the Strategic Planning Taskforce minutes dated February 16, 2023.
8. Attached to this Section 999.5(d)(11)(A) as Exhibit 32-H is a copy of the Strategic Planning Taskforce minutes dated April 5, 2023.
9. Attached to this Section 999.5(d)(11)(A) as Exhibit 32-I is a copy of the Strategic Planning Taskforce minutes dated May 5, 2023.
10. Attached to this Section 999.5(d)(11)(A) as Exhibit 32-J is a copy of the Board of Trustee minutes dated May 23, 2023.
11. Attached to this Section 999.5(d)(11)(A) as Exhibit 32-K is a copy of the Strategic Planning Taskforce minutes dated July 7, 2023.
12. Attached to this Section 999.5(d)(11)(A) as Exhibit 32-L is a copy of the Board of Trustee minutes dated July 25, 2023.

For further information regarding the ECA Board's evaluation of potential transactions and selection of TA as the best option for an affiliation partner, see the response to Sections 999.5(d)(11)(C).

Exhibit 32-A

Board of Trustee Minutes dated July 26, 2022

**MINUTES OF THE MEETING OF  
THE BOARD OF DIRECTORS OF  
ELDER CARE ALLIANCE**

**JULY 26, 2022  
VIA VIDEOCONFERENCE CALL**

**PRESENT:** Val Agostino Sr. Pauline Borghello Tom Briody  
Doris Chang Sr. Phyllis Hughes Steven Kim  
Geraldine McGrath Joy Moore Ericka Ryan

**ABSENT:** Jackie Ejuwa

**STAFF:** Robin Evitts Kat Haas Adriene Iverson

**GUESTS:** Mario McKenzie, CLA Cathy Schweiger, CLA

1. **CALL TO ORDER:** Chair Joy Moore called the meeting to order at 3:04 PM.
2. **REFLECTION:** Board Member Doris Chang shared a poem by Jenny Gibson, “Sun Has Burst in the Sky.”
3. **CONSENT CALENDAR:** Chair Joy Moore called for a motion to approve the Consent Calendar, including the Minutes of the April 19, 2022 meeting and the FY22 April Financials.

**ACTION:** A motion was made by Sr. Phyllis Hughes to approve the Consent Calendar, including the Minutes of the April 19, 2022 Board of Directors meeting and the FY22 April Financials as presented. The motion was seconded by Tom Briody and approved.

4. **STRATEGIC PLANNING SESSION:** A quick review of the strategic planning work to date from April 2021 through today was provided, including Mission, Impact Vision, Strategic Parameters, SWOT, the Long=Range Strategies, and key takeaways coming out of the November, February and April 2022 board meetings.

Cathy from CLA provided an overview of the key themes from interviews conducted with six individual Board Members focused on the topics of strategic partnerships, the Wellness pivot and general observations. This included key challenges for ECA specifically and the industry more globally as well as to ECA’s ability to execute on the Wellness pivot.

Mario from CLA provided a review of ECA’s baseline financial analysis, which used conservative assumptions around census and rate increases. A 10-year forecast of key

financial ratios were reviewed along with cash flow, capital capacity and free cash flow performance against ECA's target.

Cathy reviewed Organization Types and the Board discussed where ECA falls on that continuum.

The Board broke into two breakout rooms for discussion around a vision of what success looks like. Highlights of the discussion were shared out with the larger group. The Board then discussed elements of a future state that would be disappointing. The group further discussed non-negotiables.

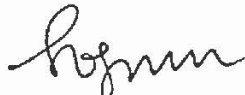
Mario and Cathy wrapped up the session and left the meeting.

5. **COMMITTEE MATTERS - FY23 BUDGET APPROVAL:** Robin noted the Finance Committee met in June, reviewed the budget, and while there was not a quorum, is recommending approval by the Board. Robin reviewed highlights, including rate increases; census assumptions; drivers for expense increases; and, capital spending budgets.

**ACTION: A motion was made by Sr. Pauline Borghello to approve the FY23 Budget as presented. The motion was seconded by Val Agostino and approved.**

6. **EXECUTIVE SESSION:** The Board adjourned into Executive Session at 5:26 PM to discuss the CEO evaluation and evaluation of the meeting.
7. **ADJOURNMENT: NEXT MEETING – SEPTEMBER 27, 2022 @ 3 PM:** There being no further business to come before the Board of Directors, Chair Joy Moore adjourned the meeting at 5:57 PM.

Respectfully submitted,



Jackie Ejuwa, Secretary

Exhibit 32-B

Board of Trustee Minutes dated September 27, 2022

**MINUTES OF THE MEETING OF  
THE BOARD OF DIRECTORS OF  
ELDER CARE ALLIANCE**

**SEPTEMBER 27, 2022  
Executive Inn & Suites Oakland  
1755 Embarcadero, Oakland, CA**

**PRESENT:** Val Agostino                      Sr. Pauline Borghello                      Doris Chang  
             Jackie Ejuwa                      Sr. Phyllis Hughes                      Steven Kim  
             Geraldine McGrath                      Joy Moore                      Ericka Ryan

**ABSENT:** Tom Briody

**STAFF:** Robin Evitts                      Kat Haas                      Adriene Iverson

**GUESTS:** Mario McKenzie, CLA                      Cathy Schweiger, CLA

- 1. CALL TO ORDER:** Vice Chair Geraldine McGrath called the meeting to order at 3:09 PM.
- 2. REFLECTION:** Board Member Jackie Ejuwa shared a poem by Julie Herbert.
- 3. CONSENT CALENDAR:** Vice Chair Geraldine McGrath called for a motion to approve the Consent Calendar items, including Minutes of the July 26, 2022 meeting; acceptance of the Q4 Unaudited Financials; the AVC Upstream of Cash; the AVSR Upstream of Cash; and the ECA PNC Bank Signatory Resolution.

**ACTION:** A motion was made by Val Agostino to approve the Consent Calendar, including the Minutes of the July 26, 2022 Board of Directors meeting; the FY22 Unaudited Financials; Resolution re. Acceptance of Transfer of Cash for the annual upstream of cash for Elder Care Alliance of Camarillo; Resolution re. Acceptance of Transfer of Cash for the annual upstream of cash for Elder Care Alliance of San Rafael; and, Resolution re. PNC Bank Signatories as presented. The motion was seconded by Ericka Ryan and approved.

- 4. CEO & Finance Reports Q&A:** [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
  
[REDACTED]  
[REDACTED]  
[REDACTED]

5. **EXECUTIVE SESSION:** The Board adjourned to Executive Session at 3:20 PM to discuss strategy work underway.

**ACTION:** A motion was made by Ericka Ryan to approve the roles, responsibilities, and authority outlined under the Deal Flow Stage process as presented. The motion was seconded by Doris Chang and approved.

**ACTION:** A motion was made by Ericka Ryan to approve the creation of a Strategic Planning Taskforce comprised of board members Val Agostino, Doris Chang, Steven Kim, Joy Moore and Ericka Ryan. The motion was seconded by Sr. Pauline Borghello and approved.

**ACTION:** A motion was made by Ericka Ryan to approve the Severance Policy as presented. The motion was seconded by Val Agostino and approved.

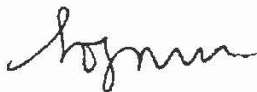
The Board reconvened to general session at 5:30 PM.

6. **EVALUATION OF THE MEETING:** The Board provided positive feedback on the meeting venue and value of the robust discussion.
7. **NEXT MEETING – NOVEMBER 12, 2022 at 9:00 AM:** Adriene noted the November meeting will provide a substantive strategy update as well as a Corporate Member update. The plan is to host a dinner Friday evening with a full meeting day on Saturday only.
8. **ADJOURNMENT:** There being no further business to come before the ECA Board of Directors, Chair Joy Moore called for a motion to adjourn.

**ACTION:** A motion was made by Ericka Ryan to adjourn the meeting. The motion was seconded by Doris Chang and unanimously approved.

Chair Joy Moore adjourned the meeting at 5:39 PM.

Respectfully submitted,



Jackie Ejuwa, Secretary

Exhibit 32-C

Strategic Planning Taskforce Minutes dates October 20, 2022

**MINUTES OF ELDER CARE ALLIANCE STRATEGIC PLANNING TASKFORCE  
OCTOBER 20, 2022  
VIA VIDEOCONFERENCE**

**PRESENT:** Val Agostino Doris Chang Steven Kim  
Joy Moore Ericka Ryan

**GUESTS:** Mario McKenzie (CLA) Cathy Schweiger (CLA)

**STAFF:** Robin Evitts Adriene Iverson

1. **CALL TO ORDER:** The meeting was called to order at 3:32 PM.
2. **TARGET PROFILE REVIEW:** The current target list was discussed and the Ziegler 200 reviewed. Consensus is to ultimately limit number of RFI requests to 8-10. Management to review Target list and ensure CEO stability is not weighted too heavily in evaluating initial tiers as well as consider potential other Targets. The Top Tier Targets will be approached blind by Mario and Cathy to gauge interest and gain an understanding of high level strategy around growth. The results will then drive the group that moves to the next step of RFI.
3. **RFI OUTLINE:** The Taskforce reviewed the RFI outline aligned with the current criteria and made the following revisions: review Stability of Leadership to include strategic core competencies/capabilities; add an item regarding mission, vision, values and culture and how ECA aligns with it; for strategy, add a question as to how we align with their strategic vision; revise Corp. Member Legacy to add a question about how they see fostering elements of our mission, values, culture and programming that are rooted in our faith heritage; and, add a question asking about their key people stats.
4. **SOLICITATION MATERIAL – KEY TALKING POINTS:** Reviewed the current outline. Add our Domains of Wellness. No other changes
5. **AFFILIATION CRITERIA:** Modify the criteria with the items under RFI Outline: Leadership Stability, Corp. Member Legacy.

Next steps: Management to refine Target list; CLA to conduct blind outreach; November and December meeting dates set; begin drafting RFI; begin drafting Solicitation materials.

6. **ADJOURNMENT:** The meeting was adjourned at 4:30 P.M.

Respectfully submitted,



Adriene Iverson, Assistant Secretary

Exhibit 32-D

Board of Trustee Minutes dated November 12, 2022



**JOINT MEETING OF THE BOARD OF DIRECTORS  
AND CORPORATE MEMBERS OF ELDER CARE ALLIANCE**

**November 12, 2022 @ 1:00 PM**

**Executive Inn & Suites, Embarcadero, Oakland, CA 94606**

**PRESENT:** Val Agostino                      Sr. Pauline Borghello                      Tom Briody  
Doris Chang                      Jackie Ejuwa                      Sr. Phyllis Hughes  
Steven Kim                      Geraldine McGrath                      Joy Moore  
Ericka Ryan

**STAFF:** Robin Evitts                      Kat Haas                      Adriene Iverson

- 1. CALL TO ORDER:** Chair Joy Moore called the joint meeting of the Board of Directors and Corporate Members of Elder Care Alliance to order at 1:03 PM.
- 2. REFLECTION:** Adriene Iverson shared a reflection about Fall from Lin Yutang.
- 3. CONSENT CALENDAR:** The minutes of the September 27, 2022 meeting, the FY23 September 30 Financials, and the 2023 Meeting Dates were considered.

**ACTION:** A motion was made by Tom Briody to approve the Consent Calendar, including the Minutes of the September 27, 2022 meeting; FY23 September 30 Financials; and, 2023 Meeting Dates as presented. The motion was seconded by Ericka Ryan and approved.

**4. ACTION ITEMS:**

***FY22 AUDIT:*** The FY22 Audit highlights were reviewed.

**ACTION:** A motion was made by Val Agostino to accept the FY22 Audit as presented. The motion was seconded by Sr. Phyllis Hughes and approved.

***INVESTMENT POLICY:*** Robin highlighted the revisions to the Investment policy as recommended by the Investment Committee and the Finance Committee.

**ACTION:** A motion was made by Geraldine McGrath to approve the Investment policy as revised and recommended by the Finance Committee. The motion was seconded by Ericka Ryan and approved.

***NEW BUSINESS – NOMINATION AND ELECTION OF OFFICERS:*** The slate of officers was considered.

**ACTION:** A motion was made by Doris Chang to appoint the persons set forth below to the office set forth next to his or her name, each such person to serve until November 30, 2023 or until such time as his or her representative successor shall have been duly qualified and elected or until his or her relationship with the Corporation shall terminate, whichever event shall first occur. The motion was seconded by Tom Briody and approved.

Chair	Joy Moore
Vice Chair	Geraldine McGrath
Secretary	Jackie Ejuwa
Assistant Secretary	Adriene Iverson
CFO	Robin Evitts

***APPOINTMENT OF COMMITTEE ROSTERS:*** The Committee Roster was considered.

**ACTION:** A motion was made by Jackie Ejuwa to appoint the committee roster as proposed. The motion was seconded by Geraldine McGrath and approved.

***APPOINTMENT OF AFFILIATE BOARDS:*** The proposed appointments of the affiliate boards was considered.

**ACTION:** A motion was made by Sr. Phyllis Hughes to appoint the AlmaVia and VSM Boards as proposed. The motion was seconded by Pauline Borghello and approved.

***CONFLICT OF INTEREST DISCLOSURE:*** The annual Conflict of Interest Disclosure policy was reviewed. Conflict of Insurance Disclosure forms are due mid-December. The annual Disclosure Summary will be included for review at the next board meeting.

**5. BOARD SELF-EVALUATION RESULTS:** The Board adjourned into Executive Session at 1:21 PM to discuss the results of the annual Board Self-Evaluation survey. The Board reconvened into general session at 1:42 PM.

**6. CEO REPORT AND FINANCE Q&A:** [REDACTED]

**7. STRATEGY:**

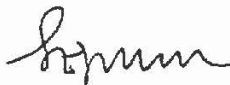
**TARGET – KEY LEARNINGS:** Adriene provided an update on the Strategic Planning Taskforce work. The Taskforce met in October to refine the target list; review the larger pool; discuss and refine the initial Request for Information for targets to align with the criteria the Board refined in September; review key talking points for the information to be sent as part of the solicitation material.

Blind contacts were made with five targets, with another four scheduled or in progress. Key learnings were reviewed. November Taskforce meeting agenda items were reviewed. A budget for the work will be developed for Taskforce review.

**BYLAWS AMENDMENT:** Adriene provided an update on the Corporate Members' status, with an overview of the work to date. The bylaws are provided as a first reading, with approval scheduled for the February 28 meeting, requiring approval from the Board and both Corporate Members. An overview of the current situation at the Synod was provided.

- 8. BOARD EXERCISE:** Board Members and staff participated in an icebreaker activity, sharing stories about an older adult who has had a meaningful impact on their life.
- 9. NEXT MEETING:** The next meeting is scheduled for February 28, 2023.
- 10. ADJOURNMENT:** There being no further business to come before the Elder Care Alliance Board of Directors, Chair Joy Moore adjourned the meeting at 3:11 PM.

Respectfully submitted,



Jackie Ejuwa, Secretary

Exhibit 32-E

Strategic Planning Taskforce Minutes dated November 18, 2022

**MINUTES OF ELDER CARE ALLIANCE STRATEGIC PLANNING TASKFORCE  
NOVEMBER 18, 2022  
VIA VIDEOCONFERENCE**

**PRESENT:** Val Agostino                      Doris Chang                      Steven Kim  
                    Ericka Ryan

**GUESTS:** Cathy Schweiger (CLA)

**STAFF:** Adriene Iverson

**1. CALL TO ORDER:** The meeting was called to order a 1:02 PM.

**2. APPROVE MINUTES:**

**ACTION:** Val Agostino made a motion to approve the minutes of the October 10, 2022 meeting as presented. The motion was seconded and duly approved.

**3. INITIAL TARGETS AND PROCESS:** Cathy Schweiger provided additional color regarding the blind outreach conversations with key Targets. TA: most nimble and most enabled; CL – good fit but California a challenge for them; C – great organization but may not be as innovation forward; S – question is whether we will be stronger together; K – strong but federation model and central support structure not built; P – CEO personality might not be a right fit; M – innovative in lots of ways but focus has been on high-end CCRCs.

LS – Taskforce decided to move forward with blind outreach to see if something might even be considered. Key question will be on business model and what they aspire to be.

Process/Timing: Reviewed timeline, and there were no changes. Taskforce decided to add K and E to top 5 for initial reach out with NDA's.

**4. RFI DRAFT:** The Taskforce reviewed the RFI draft:

- Cover Letter: Emphasize who we are and ECA's strengths – strategic motivation, not a troubled asset
- Wordsmith around term "affiliation"
- 9.c. consolidate and consider "support and contribute"
- 10. Clarify intent of the question
- Add categories and group questions
- Process should allow for questions before response to RFI is due

**5. SOLICITATION MATERIAL – KEY TALKING POINTS:** Table of Contents looks good. Key feedback included:

- Executive Summary: include more on core operations and core competencies
- Develop key headline/talking point
- Highlight Strategic Framework and a transaction as enabler
- Financials: underscore position of stability, strength and strategy; include future capital costs; Intuition model will be updated in December
- Leadership: move this above Board as a key consideration/strength

- Align categories to those of the RFI
- Clinical: note 5-star rating
- Utilize quotes from virtual fundraiser; add video links

6. **POTENTIAL ISSUE – TALKING POINTS:** Taskforce reviewed key issues and associated talking points.

Add: Budget for a potential transaction.

7. **ADJOURNMENT:** The meeting was adjourned at 1:56 P.M.

Respectfully submitted,



---

Adriene Iverson, Assistant Secretary

Exhibit 32-F

Strategic Planning Taskforce Minutes dated December 16, 2022

**MINUTES OF ELDER CARE ALLIANCE STRATEGIC PLANNING TASKFORCE  
DECEMBER 16, 2022  
VIA VIDEOCONFERENCE**

**PRESENT:** Val Agostino Doris Chang Steven Kim  
Joy Moore Ericka Ryan

**GUESTS:** Mario McKenzie (CLA) Cathy Schweiger (CLA)

**STAFF:** Adriene Iverson

**1. CALL TO ORDER:** The meeting was called to order at 1:03 PM.

**2. APPROVE MINUTES:**

**ACTION:** Val Agostino made a motion to approve the minutes of the November 18, 2022 meeting as presented. The motion was seconded and duly approved.

**3. INITIAL TARGETS AND PROCESS:** Reflects updates from the discussion of last month's meeting to include E and K in the initial Target list. CEO of K has resigned.

Cathy Schweiger provided an update on her conversation with LS, which has a very strong model focused on health and purpose. It is payer-based, and expansion efforts are targeting large, multi-state systems with an ISNIP service offering. It does not appear to be a good fit at this time. However, it might be beneficial to add them as an educational component to a future board meeting.

**4. RFI DRAFT:** The Taskforce reviewed the RFI draft:

- Cover Letter:
  - Replace opening paragraph with the one from the Solicitation Executive Summary
  - Second paragraph should highlight ECA's value proposition more strongly
  - Current second paragraph then moves to third
- Recirculate first page once reworked.

**5. SOLICITATION MATERIAL DRAFT:** Overall looks good. Feedback may be provided offline. Final draft will be recirculated by end of December. Staff will have legal review both this document and the RFI as there may be necessary clauses that need to be incorporated.

**6. POTENTIAL ISSUES – TALKING POINTS:** Taskforce reviewed key issues and associated talking points.

**7. BUDGET:** Taskforce reviewed the current Budget, which will be updated and refined as the process moves forward, especially as Retention bonuses may grow to include additional roles. Not all costs will necessarily be borne by ECA.

Timing: process will kick-off the first week of January with responses due mid-February. Most likely the Taskforce would perform their review first of March. Then

narrow to the finalists, and due diligence would begin. Meetings that might include Taskforce members might then be in April.

**8. ADJOURNMENT:** The meeting was adjourned at 1:31 P.M.

Respectfully submitted,



---

Adriene Iverson, Assistant Secretary

Exhibit 32-G

Strategic Planning Taskforce Minutes dated February 16, 2023

**MINUTES OF ELDER CARE ALLIANCE STRATEGIC PLANNING TASKFORCE**  
**FEBRUARY 16, 2023**  
**VIA VIDEOCONFERENCE**

**PRESENT:** Val Agostino                      Steven Kim                      Joy Moore      Ericka Ryan  
**ABSENT:** Doris Chang

**GUESTS:** Mario McKenzie (CLA)      Cathy Schweiger (CLA)

**STAFF:** Adriene Iverson

1. **CALL TO ORDER:** The meeting was called to order at 9:04 AM.

2. **APPROVE MINUTES:**

**ACTION:** Upon a motion duly made and seconded, the minutes of the December 16, 2022 meeting were approved as presented.

3. **TARGETS AND PROCESS UPDATE:** Two Targets out due to fit with their organizational growth objectives. Val will reach out to S for more information. Mario will connect with KI about their intent. P is standing up a significantly new development arm, which could impact their response.

Call between Adriene and CEO of CL will occur tomorrow to provide them with more detail of ECA's objectives. T requested a meeting with key leadership focused on strategic value proposition. Adriene will move forward with scheduling that.

Process: RFI responses will be evaluated and an Executive Summary and recommendation prepared. The detailed responses will be included as appendices. Reviewed projected process through May.

Reviewed the draft list of potential considerations for when the process moves to negotiations. This will be dynamic and based upon the partner on the other side. Additional items may include, how any sale dollars are utilized; services to remain in place; key leaders to remain. Adriene to investigate potential attorney general considerations.

4. **POTENTIAL ISSUES – TALKING POINTS:** Taskforce reviewed key issues and associated talking points. An update was provided on current status of the MRCC refinance and the Corporate Member work.

5. **ADJOURNMENT:** The meeting was adjourned at 9:43 AM.

Respectfully submitted,



---

Adriene Iverson, Assistant Secretary

Exhibit 32-H

Strategic Planning Taskforce Minutes dated April 5, 2023

**MINUTES OF ELDER CARE ALLIANCE STRATEGIC PLANNING TASKFORCE**  
**APRIL 5, 2023**  
**VIA VIDEOCONFERENCE**

**PRESENT:** Val Agostino                      Doris Chang                      Steven Kim      Joy Moore  
**ABSENT:** Ericka Ryan

**GUESTS:** Mario McKenzie (CLA)

**STAFF:** Adriene Iverson

**1. CALL TO ORDER:** The meeting was called to order at 4:34 PM.

**2. APPROVE MINUTES:**

**ACTION:** Upon a motion duly made and seconded, the minutes of the February 16, 2023 meeting were approved as presented.

**3. TARGET REVIEW:** Two options exist, each representing a different strategic choice.

TA: aligns with ECA's Strategic Parameters, providing opportunity to exponentially increase mission impact with greater socio-economic diversity. ECA would be a platform for growth in California across all service lines, including home and community-based services and potentially serving religiously associated Communities. Strong and compelling strategic vision that puts the older adult at the center. Established and strong shared services which would benefit ECA Communities. Governance is set up to enable strategic vision and provide nimbleness. Could be execution risk given lofty goals. Balance sheet is a little weaker – BB rated and highly leveraged. Steve will review the March investor call. Strong workforce strategy and head of HR has been with them through growth. In summary, high alignment with a vision to execute on strategy. Affiliation process to get to a decision would be relatively quick, with highest priority ensuring strategic vision alignment, which has already been confirmed.

TA Board is very involved and aligned, helping to drive strategic vision, so provides a measure of continuity and stability.

E: More traditional, classic and conservative senior living opportunity where ECA would be absorbed. Would provide good geographic synergy and opportunity to add home care offering in ECA markets. Primary focus is on fix the core type strategy, rebuilding census and building out shared services; two top established functions are IT and fixed asset management. No clear vision on how to integrate home and community-based services into broader system. Lack of a larger compelling strategic vision beyond growing the core senior living through expansion in northern California. Governance is determined for each affiliation instead of a governance model that supports strategic vision. Lack of a clear workforce strategy. Affiliation process to get to a decision would be lengthy.

There are no other organizations with the same bold strategic vision of TA. Other Targets who did not respond because of timing and their own internal reorganization work may have been good but will not be ready for some time.

May Board Meeting:

- Provide comparisons of TA – E – ECA in order to give context and more fully demonstrate the strategic options.
- Include CCRC education regarding the financial model.
- Outline affiliation and integration experience
- Non-negotiables for any affiliation agreement

Next steps: need additional information on Targets:

- Business model overview
- Finances – update
- Quality metrics/Risk
- Shared Services offering with benefit/impact

Next Taskforce meeting:

- Criteria update for each
- Finances – comparison to key/relevant benchmarks
- Next steps outlined
- Overview of affiliation agreement - summary from attorney; highlight any differences from a traditional agreement
- Non-negotiables for any affiliation agreement
- Community Impact comparison
- Due diligence
- Recommendation

**4. ADJOURNMENT:** The meeting was adjourned at 5:43 PM.

Respectfully submitted,



---

Adriene Iverson, Assistant Secretary

Exhibit 32-I

Strategic Planning Taskforce Minutes dated May 5, 2023

**MINUTES OF ELDER CARE ALLIANCE STRATEGIC PLANNING TASKFORCE**  
**May 5, 2023**  
**VIA VIDEOCONFERENCE**

**PRESENT:** Val Agostino                      Doris Chang                      Steven Kim      Joy Moore

**ABSENT:** Ericka Ryan

**GUESTS:** Mario McKenzie (CLA)              Cathy Schweiger (CLA)

**STAFF:** Adriene Iverson

**1. CALL TO ORDER:** The meeting was called to order at 3:04 PM.

**2. APPROVE MINUTES:**

**ACTION:** Upon a motion duly made and seconded, the minutes of the April 5, 2023 meeting were accepted as presented.

**3. TARGET REVIEW:** Reviewed supplemental information provided by both Targets.

Mario provided an overview of the financial analysis included in the packet, including the adjustments made to get to more of an apple-to-apple comparison.

TA had a sizable new development project that opened. TA is also going through a sizable growth curve. In general, Life Plan Communities are a highly leveraged product with pay-back periods of 15-20 years. In general, TA is focused on building diversification and building scale.

E is a more traditional business model. The divestiture of the three standalone skilled nursing facilities should significantly improve financial performance.

Conclusions: Financial strength of either does not create a clear and compelling reason to elevate one over the other. Additionally, financial weakness of a level does not exist for either to warrant walking away. This underscores the importance of the operational and integration plan implementation to leverage shared services.

Recommendation: Consensus is that TA has the compelling strategic vision and shared services to benefit ECA. Recommend to Board to narrow a limited due diligence period for TA to get to a Go/No-Go decision, determining whether TA can absorb TA's current growth and execute on delivering shared services.

Criteria Grid:

- Update ratings for Financial against 3-5 key metrics
- Update socio-economic diversity against percent served for market rate, affordable, and home and community based services; validate E's affordable housing ownership

Key Items – Next 60 Days

- TA 5-year plan for absorbing growth, including contingencies, growth parameters, and risk measures
- Shared Services – validate delivery for recent affiliates
- Affiliation Agreement – structure, risk mitigation/exit, legal analysis

May Board Meeting Agenda:

- Overview of the work to date
- Overview of the two Targets in summary
- Overview of financials with ECA
- Line out recommendation and work of next 60 days
- Focused due diligence list
- Legal review of affiliation agreement
- Roadmap for the transaction, including Board/staff meetings
- July Go/No-Go

**4. ADJOURNMENT:** The meeting was adjourned at 5:02 PM.

Respectfully submitted,



---

Adriene Iverson, Assistant Secretary

Exhibit 32-J

Board of Trustees Minutes dated May 23, 2023



**MEETING OF THE BOARD OF DIRECTORS  
OF ELDER CARE ALLIANCE  
May 23, 2023 @ 1:30 PM  
Executive Inn & Suites, Oakland**

**PRESENT:**   Sr. Pauline Borghello                     Doris Chang                     Jackie Ejuwa  
                  Rahul Joglekar                         Steven Kim                     Joy Moore  
                  Ericka Ryan

**ABSENT:**    Val Agostino                                      Geraldine McGrath

**STAFF:**     Kat Haas    Bing Isenberg                    Adriene Iverson

**GUEST:**     Mario McKenzie, CLA

1. **CALL TO ORDER:** Chair Joy Moore called the meeting of the Board of Directors of Elder Care Alliance to order at 1:29 PM. Attendees introduced themselves.
2. **REFLECTION:** Adriene led the group in a shared reflection.
3. **EXECUTIVE SESSION:** The Board adjourned into Executive Session at 1:34 PM to discuss strategy work and progress to date.

The Board reconvened to general session at 3:54 PM.

***Mercy Bylaws Revision:*** Adriene reviewed the one final change to the Dissolution clause in the MRCC bylaws. The revision changes it to match the Dissolution clause already reflected in the MRCC Articles.

**ACTION:** A motion was made by Jackie Ejuwa to approve the Mercy Bylaws revision as presented. The motion was seconded by Ericka Ryan and approved.

4. **CONSENT CALENDAR:** The Minutes of the February 28, 2023 and March 30, 2023 meetings were considered along with the FY23 March Financials.

**ACTION:** A motion was made by Jackie Ejuwa to approve the Consent Calendar, including Minutes of the February 28, 2023 and March 30, 2023 meetings; and, the

**FY23 March Financials as presented. The motion was seconded by Sr. Pauline Borghello and approved.**

**5. COMMITTEE MATTERS**

**FY24 Budget:** The Finance Committee recommended the FY24 Budget to the ECA Board of Directors for approval. Target expectations, assumptions, and budget highlights were reviewed.

**ACTION:** A motion was made by Ericka Ryan to approve the FY24 Budget as presented. The motion was seconded by Doris Chang and approved.



**6. CEO REPORT/FINANCIALS Q&A:** Clarification on net promoter scores was provided.



**7. EXECUTIVE SESSION:** The Board adjourned to Executive Session for evaluation of the meeting at 4:13 PM. Staff was excused for this portion of the meeting.

**8. NEXT MEETING:** The next meeting of the ECA Board of Directors is scheduled for July 25, 2023.

**9. ADJOURNMENT:** There being no further business to come before the ECA Board of Directors, Chair Joy Moore adjourned the meeting at 4:58 PM.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Ejuwa".

Jackie Ejuwa, Secretary

Exhibit 32-K

Strategic Planning Taskforce Minutes dated July 7, 2023

# MINUTES OF ELDER CARE ALLIANCE STRATEGIC PLANNING TASKFORCE

July 7, 2023

## VIA VIDEOCONFERENCE

**PRESENT:** Val Agostino Steven Kim Joy Moore Ericka Ryan

**ABSENT:** Doris Chang

**STAFF:** Adriene Iverson

1. **CALL TO ORDER:** The meeting was called to order a 11:06 AM.

2. **7/5 MEETING DEBRIEF:** Those on the Taskforce who attended the meeting with Transforming Age (TA) on July 5<sup>th</sup> provided feedback. The meeting July 5<sup>th</sup> consisted of: For TA - CEO, SVP Strategy and Development, past Board Chair and future Board Chair; for ECA – CEO, Board Chair Joy Moore and board members Val Agostino, Steven Kim, and Doris Chang.

Overall, the meeting was highly favorable, and no red flags were identified.

General Impressions/Feedback on TA Management:

- CEO is dynamic, inspiring, and energetic.
- CEO does what he says he will do.
- SVP of Strategy and Development has strong business acumen that provides a good counterpoint to growth.

General Impressions/Feedback on the TA Board:

- Board is brought along well by management.
- Board has strength in knowing where the boundaries are; any concerns about growing too quickly were effectively addressed.
- Goal of the meeting was to ensure that TA Management and Board were on the same page from a strategic vision perspective, and it is clear that they are; governance and management are consistent in their strategic vision.
- Governance is performed through a Committee of the Whole which provides transparency and nimbleness.
- Immediate past, present and immediate future board Chairs serve as executive Committee; Board member terms are 10 years.
- TA Board member reps shared good insight into CEO's strengths and the working relationship with the Board.
- Clear aim was to make this affiliation work for both parties; not making it work at any cost.
- Demonstrated servant leadership; clear connection to the culture of TA.

Culture and Vision Alignment

- TA receives a lot of opportunities and few make the cut; good validation of both ECA's value and the strategic alignment.
- Everyone at the meeting was authentic and transparent. There was a clear connection from each person as to the personal connection to the mission.
- Lots of synergy with the two organizations' strategic vision.

- ECA viewed as a base for growth in CA; there is a demonstrated understanding of the unique nature of California.
- TA's view is they can learn from every organization they bring in; no ego; honest about where the other party can help fill a gap.
- Everyone in the room demonstrated humble-hungry-smart (EQ). The TA CEO certainly leads from this place.

#### Organization:

- Not the strongest financial organization, but well-balanced against pursuing mission impact.
- Good balance of managing risks.
- People strategy: good work done here on the foundation as well as the strategic vision. Approach is to bring everyone over in an affiliation and focus on finding the right seats.

#### Areas for Follow Up:

- More clarity on how TA is actually organized both from a management and governance perspective.
- Review of the actual Agreement terms; Adriene to have legal provide a summary. One consideration is ECA's role in CA growth.

#### Next Steps/Roadmap:

- Communication planning starts now
- 7/25 Board meeting: approve agreement and shared service agreement
- 4-5 months: Attorney general and regulatory approvals
- Upon all approvals:
  - CEO and CFO appointments
  - Board changes (some ECA board members may end up on TA board organically)
  - Bylaws revised – Corporate Member addition
  - ECA Board becomes Advisory Council – 2-year term; ensure board member terms are aligned; ECA Committees end; address MRCC board rep

Taskforce adjourned into Executive Session to review other topics.

**3. ADJOURNMENT:** The meeting was adjourned at 12:09 PM.

Respectfully submitted,

---

Adriene Iverson, Assistant Secretary

Exhibit 32-L

Board of Trustees Minutes dated July 25, 2023



**MEETING OF THE BOARD OF DIRECTORS  
OF ELDER CARE ALLIANCE  
July 25, 2023 @ 3:00 PM  
Executive Inn & Suites, Oakland**

<b>PRESENT:</b>	Val Agostino Steven Kim	Sr. Pauline Borghello Joy Moore	Rahul Joglekar Ericka Ryan
<b>ABSENT:</b>	Doris Chang	Jackie Ejuwa	Geraldine McGrath
<b>STAFF:</b>	Kat Haas	Bing Isenberg	Adriene Iverson
<b>GUEST:</b>	Mario McKenzie, CLA (via Zoom)		

1. **CALL TO ORDER:** Chair Joy Moore called the meeting of the Board of Directors of Elder Care Alliance to order at 3:13 PM.
2. **EXECUTIVE SESSION:** The Board adjourned to Executive Session at 3:14 PM to discuss the CEO review.

**ACTION:** A motion was made by Ericka Ryan to approve the CEO Performance rating and next steps as discussed. The motion was seconded by Val Agostino and approved.

Staff rejoined the meeting at 3:53 PM as the Board took up the topic of strategy.

3. **REFLECTION:** A reflection was read by all attendees.
4. **STRATEGY:** Executive Session continued with a discussion about strategy and next steps. There was an in depth discussion about work to date, review of all agreements and bylaw amendments, and the Advisory Committee charter. An outline of next steps and the communication plan was provided.

**ACTION:** A motion was made by Ericka Ryan to approve the Resolutions that authorize entering into the affiliation, the affiliation agreement, the consulting shared services agreement, the proposed amended and restated bylaws, and the proposed advisory committee charter. The motion was seconded by Val Agostino and approved.

The Board reconvened to general session at 4:43 PM.

5. **CONSENT CALENDAR:** The Minutes of the May 23, 2023 meeting, the FY24 Condition Compensation Recommendation, and the FY24 Discretionary Compensation Recommendation were considered.

**ACTION:** A motion was made by Sr. Pauline Borghello to approve the Consent Calendar, including Minutes of the May 23, 2023 meeting, the FY24 Conditional Compensation Recommendation, and the FY24 Discretionary Compensation Recommendation as presented. The motion was seconded by Rahul Joglekar and approved.

#### 6. COMMITTEE MATTERS

*Mercy Refinance:* [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

**ACTION:** A motion was made by Ericka Ryan to approve the ECA-Mercy Plan Resolution with revised financing parameters as presented. The motion was seconded by Sr. Pauline Borghello and approved.

#### 7. CEO REPORT AND FINANCE Q&A:

[REDACTED]

[REDACTED]

[REDACTED]

8. **NEXT MEETING:** The next meeting of the ECA Board of Directors is September 26, 2023. The annual meeting and retreat is scheduled for November 10-11. More details will be forthcoming. A future agenda will include the Advisory Committee role and function.
9. **ADJOURNMENT:** There being no further business to come before the ECA Board of Directors, Chair Joy Moore adjourned the meeting at 5:03 PM.

#33

Title 11, California Code of Regulations, § 999.5(d)(11)(B)

*Copies of all documents relating or referring to the reasons why any potential transferee was excluded from further consideration as a potential transferee for any of the health facilities that are the subject of the agreement or transaction*

For information regarding the ECA Board's evaluation of potential transactions and selection of TA as the best option for an affiliation partner, please see the responses to Sections 999.5(d)(1)(C), 999.5(d)(11)(A) and 999.5(d)(11)(C).

#34

Title 11, California Code of Regulations, § 999.5(d)(11)(C)

*Copies of all Requests for Proposal sent to any potential transferee, and all responses received*

ECA used a Request for Information (“RFI”) to potential transferees. For information regarding the ECA Board’s evaluation of potential transactions and selection of TA as the best option for an affiliation partner, please see the responses to Sections 999.5(d)(1)(C) and 999.5(d)(11)(A).

Included for reference is:

- RFI, attached as Exhibit 34-A.

The affiliation criteria evaluations for the two interested parties are being submitted under cover of confidentiality.

Exhibit 34-A

RFI



## Request for Information - Introduction

As explained in the accompanying Information Package, Elder Care Alliance (ECA) is actively seeking an opportunity to join an organization aligned with our Mission and Values to advance our strategic framework and program excellence.

The accompanying package provides information about ECA and our system of communities and services. We invite you to review the package to learn more about ECA and the strengths we bring to a potential relationship.

To assist us to learn more about your organization and our potential combined strengths, we ask you to respond to the requests outlined for the Key Areas below. We appreciate your investment of time in providing this information.

Any questions should be directed to Cathy Schweiger at [Cathy.Schweiger@claconnect.com](mailto:Cathy.Schweiger@claconnect.com). Responses are due by **February 24, 2023**. Once complete, please upload your information using CLA's secure LEAPFILE transmission services (instructions attached).

Responses will be reviewed by our Strategic Planning Taskforce during the first quarter. We anticipate inviting a small subset of respondents to a preliminary conversation to address questions from both parties and then, potentially, to formal Community tours.

We look forward to exploring further how our two organizations might align in furtherance of advancing excellence, strategy and innovation.

Sincerely,

Adriene Iverson  
President & CEO

## Request for Information - Key Areas

### **Mission, Vision Values and Culture**

- Provide an overview of your Mission, Vision, Values, and culture and how you believe ECA fits within this framework.
- Does your organization have faith-based roots? If so, describe how are your faith-based roots are reflected in the culture, values, and programming of your Communities.
- Describe how you envision fostering and sustaining the elements of ECA's faith heritage that are expressed in the culture and values of ECA Communities.
- Describe any community benefit programs you might have that benefit lower socio-economic groups.

### **Strategy and Innovation**

- Provide an overview (or the full version) of your current strategic plan, and describe how the potential affiliation with ECA aligns with your strategic vision.
- Provide an overall strategic assessment of your locations and the perceived market positioning of your Communities, including geographies currently served and future plans regarding geographies served.
- Describe the role of innovation in your organization and any innovation-specific approaches, outcomes and investments.

### **Organizational Overview and Strengths**

- Describe services provided by your organization along with approximate numbers of individuals served by category; highlight any programs that serve diverse socio-economic populations, including how and to what degree.
- Provide an overview of the organization's key strategic core competencies and capabilities along with any key programmatic best practices i.e. Wellness, Memory Care
- Provide the following financial data:
  - past three years of Audited Financial statements
  - past three years of actual v. budget performance
  - current year budget and current YTD actual v. budget performance
  - most recent financial statement disclosures (EMMA or secondary market)
  - recent rating by rating agencies, if applicable

### **Leadership and People Philosophy**

- Provide an organization chart along with bios (including tenure) of key leaders.
- Describe your People philosophy, including your approach to creating opportunities for team member career development and internal advancement; describe any advancement success stories from past affiliation efforts.



- Provide an overview of key team member statistics that highlight your People philosophy, including 3-year trend of turnover, retention, and team member engagement.
- Describe your corporate governance structure, composition, and standing committees along with an overview of your board of director areas of expertise.

### **Affiliation and Integration Experience**

- Describe past affiliation and integration experience, lessons learned from that experience, and how this impacts your approach to affiliation efforts. Include integration outcomes and key successes.
- Describe what you look for in a potential affiliation partner.
- Describe your governance approach for affiliated or subsidiary entities.
- If you have an established affiliation process, provide an overview of your desired timeline and milestones.

Add anything else you feel is important for us to know about your organization.

#35

Title 11, California Code of Regulations, § 999.5(d)(11)(D)

*All documents reflecting the deliberative process used by the applicant and any related entity in selecting the transferee as the entity to participate in the proposed agreement or transaction*

For information regarding the ECA Board's evaluation of potential transactions and selection of TA as the best option for an affiliation partner, please see the responses to Sections 999.5(d)(1)(C), 999.5(d)(11)(A), and 999.5(d)(11)(C).

#36

Title 11, California Code of Regulations, § 999.5(d)(11)(E)

*Copies of each Proposal received by the applicant from any potential transferee suggesting the terms of a potential transfer of Applicant's health facilities, and any analysis of each such Proposal*

Please see the supporting materials included in response to Section 999.5(d)(11)(A).

#37

Title 11, California Code of Regulations, § 999.5(d)(11)(F)

*The Applicant's prior two annual audited financial statements, the Applicant's most current unaudited financial statement, business projection data, and current capital asset valuation data*

1. Attached to this Section 999.5(d)(11)(F) as Exhibit 37-A are the Applicant's 2022 audited financial statements.
2. Attached to this Section 999.5(d)(11)(F) as Exhibit 37-B are the Applicant's 2021 audited financial statements.
3. Attached to this Section 999.5(d)(11)(F) as Exhibit 37-C are the Applicant's unaudited consolidated financial statements for 2023.

The Applicant's financial documents listed above will be submitted under separate cover as a confidential document in accordance with Section 999.5(c)(3).

#38

Title 11, California Code of Regulations, § 999.5(d)(11)(G)

*Copies of any requests for opinions to the Internal Revenue Service for rulings attendant to this transaction and any Internal Revenue Service responses thereto*

There have not been any requests for opinions to the Internal Revenue Service for rulings in connection with the proposed Transaction.

#39

Title 11, California Code of Regulations, § 999.5(d)(11)(H)

*Pro forma post-transaction balance sheet for the surviving or successor nonprofit corporation*

The Transaction provides for Elder Care Alliance to continue as the sole corporate member of the Applicant following the Transaction. Therefore, there is no anticipated change to the *pro forma* balance sheet of the Applicant as a result of the Transaction.