

EXHIBIT 2

CLASS ACTION SETTLEMENT AGREEMENT AND RELEASE BETWEEN

**PLAINTIFF, SCOTT SMITH, FOR HIMSELF
AND ON BEHALF OF THE SETTLEMENT CLASSES,**

AND

**DEFENDANTS, CHELMSFORD GROUP, LLC,
AND NEWBURY MANAGEMENT COMPANY**

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CLASS ACTION SETTLEMENT AGREEMENT AND RELEASE

This CLASS ACTION SETTLEMENT AGREEMENT AND RELEASE is made and entered into by and between Plaintiff, Scott Smith, for himself and on behalf of the Settlement Classes, and Defendants, Chelmsford Group, LLC, and Newbury Management Company. Capitalized terms have the meanings provided in Section 2, below.

RECITALS

- A. Defendants have owned and operated the Chelmsford Commons Manufactured Home Community since April 2011.
- B. Plaintiff has been a resident and tenant at Chelmsford Commons since 1998.
- C. When Defendants took over ownership and operation of Chelmsford Commons, a class-action settlement documented and effected by the Master Lease governed, among other things, rents charged at the Park.
- D. The Master Lease contained an escalation provision that allowed the Park's owner to increase rent when a tenant departed and a new tenant rented the lot.
- E. This escalation provision led to a "staggered" rent structure across the Park under which some tenants paid a higher monthly rent than other tenants did, regardless of whether tenants were leasing similar Lots and receiving similar services from the Park owner.
- F. The Master Lease expired by its terms on December 31, 2020.
- G. In November 2020, before the Master Lease expired, Defendants offered Occupancy Agreements to tenants at the Park that gave them the option to enter into tenancies at will, five-year leases, or 10-year leases.

H. The Occupancy Agreements maintained the staggered rent structure that had been established under the Master Lease.

I. In April 2021, after the Occupancy Agreements became effective, Plaintiff filed a Class Action Complaint for Injunctive Relief and Damages against Defendants in the Commonwealth of Massachusetts Superior Court, Middlesex County, captioned *Smith v. Chelmsford Group, LLC*, No. 2181CV00722 (Mass. Super. Ct. Middlesex County).

J. Plaintiff alleged that Defendants, by continuing the staggered rent structure established under the Master Lease, were violating Section 32L(2) of the Massachusetts Manufactured Housing Act, M.G.L. c. 140, § 32L(2), and thus were committing an unfair or deceptive trade practice or act under Chapter 93A of the Massachusetts General Laws, insofar as Defendants were charging different rents to residents or tenants who were leasing similar Lots and receiving similar services from Defendants.

K. Plaintiff sought class-wide relief in two forms: (i) an injunction requiring Defendants to set a uniform Park rent equal to the lowest rent that had been offered by Defendants in November of 2020 and then set in an operative Occupancy Agreement; and (ii) damages calculated as the difference between that uniform Park rent and any higher rent paid by a resident or tenant on or after January 1, 2021.

L. Defendants removed the Action to the United States District Court for the District of Massachusetts, captioned, *Smith v. Chelmsford Group, LLC*, No. 1-21-cv-10654 (D. Mass.), which Court has subject-matter jurisdiction over the Action under both the Federal statutory provisions providing for general diversity jurisdiction and the Federal statutory provisions governing jurisdiction under the Class Action Fairness Act. *See* 28 U.S.C. §§ 1332(a), (d), 1441, 1446, and 1453.

M. After the removal, Defendants counterclaimed against Plaintiff, and they moved for a judgment on the pleadings.

N. No class has been certified by the Court in the Action.

O. In May 2022, the Parties, at the Court's suggestion, went to mediation to discuss a possible resolution of the Action. After three mediation sessions with The Honorable Mitchell H. Kaplan (ret.), the Parties reached an agreement to resolve the Action, subject to the preparation and execution of a settlement agreement and the approval (preliminary and Final) by the Court.

P. This Settlement Agreement contains the terms of the Settlement that the Parties reached in mediation.

Q. Based on Class Counsel's and Plaintiff's independent investigation and evaluation of the Action, they are of the opinion that the Settlement provided in this Settlement Agreement is fair, reasonable, and adequate, and is in the best interests of the Settlement Classes in light of all the known facts and circumstances, including the uncertain outcome and risks associated with continued litigation, as well as the difficulties and delays inherent in litigation.

R. Based on Defendants' and Defense Counsel's independent investigation and evaluation of the Action, they believe that further litigation of the Action would be protracted, expensive, and contrary to Defendants' best interests. Substantial amounts of time, energy, and other resources have been devoted and, absent settlement, will continue to be devoted to Defendants' defense of the claims stated in the Action. Accordingly, Defendants and Defense Counsel are of the opinion that the Settlement provided in this Settlement Agreement is the most efficient manner in which to resolve the Parties' dispute.

S. It is therefore the mutual desire of the Parties to fully, finally, and forever compromise, settle, and discharge the Action and the Released Claims, for themselves and on behalf of the Settlement Classes, and on behalf of their respective Successors-in-Interest and Representatives, on the terms and conditions set forth in this Settlement Agreement.

NOW, THEREFORE, the Parties, in consideration of the promises, covenants, and agreements contained in this Settlement Agreement and for other good and valuable consideration, acknowledged by each of them to be satisfactory and adequate, and intending to be legally bound, mutually agree as follows:

AGREEMENT

1. **Incorporation of Recitals.** The Parties acknowledge and represent that all of the above Recitals are true and correct in all material respects, and all of these Recitals are incorporated by this reference in, and are made a part of, this Settlement Agreement.

2. **Definitions.** As used in this Settlement Agreement, capitalized terms not otherwise defined have the meanings provided below:

2.1. “180-Day Period” has the meaning provided in Section 19, below.

2.2. “Action” means the civil action commenced on April 1, 2021, in the Commonwealth of Massachusetts Superior Court, Middlesex County, captioned *Smith v. Chelmsford Group, LLC, et al.*, No. 2181CV00722 (Mass. Super. Ct. Middlesex County), and removed to the United States District Court for the District of Massachusetts on April 20, 2021, captioned, *Smith v. Chelmsford Group, LLC, et al.*, No. 1-21-cv-10654 (D. Mass.) (Denise J. Casper, J.).

2.3. “Administration Costs” means the fees and expenses of the Settlement Administrator incurred in connection with the Settlement.

2.4. “Base Rent” means the monthly amount charged as “Base Rent,” as that term is used in the Occupancy Agreements. Base Rent does not include the Town of Chelmsford license fee, as adjusted, real estate tax adjustments, water, sewer, and rubbish adjustments, late charges, and the cost of capital improvements, as provided and charged under the Occupancy Agreements. For the avoidance of doubt, Base Rent does not include any amount described separately from “Base Rent” in the Occupancy Agreements, including those amounts described under the headings, “Town of Chelmsford License Fee Adjustment,” “Real Estate Tax Adjustment,” “Water, Sewer, Rubbish Adjustments,” “Late Charges – Payment of Rent,” and “Capital Improvements.”

2.5. “CAFA” means the Class Action Fairness Act of 2005, Pub.L. 109-2, Feb. 18, 2005, 119 Stat. 4.

2.6. “CAFA Notice” has the meaning provided in Section 11, below.

2.7. “Chelmsford” means Chelmsford Group, LLC, a Delaware limited liability company.

2.8. “Chelmsford Commons” means the Chelmsford Commons Manufactured Home Community located at 270-288 Littleton Road, Chelmsford, Massachusetts 01824.

2.9. “Claims” means any and all claims, causes of action, demands, complaints, controversies, agreements, accounts, charges, compensation, debts, judgments, liabilities, obligations, promises, responsibilities, rights, and suits (including, but not limited to, any and all claims for any and all damages, losses, unjust enrichment, injunction, declaration, contribution, indemnification, fines, interest, penalties, multiple damages, restitution, wages, attorneys’ fees, litigation costs, expenses, expert and consulting fees, and for any other type or nature of legal or equitable relief), of every kind and character, whether based on Federal, state,

local, statutory, or common law, or any other law, principle of law, rule, or regulation, whether in law or in equity, whether contingent or noncontingent, whether accrued or not, whether already acquired or to be acquired in the future, whether known or unknown, in law or in equity, brought by way of demand, complaint, counterclaim, cross-claim, third-party claim, or otherwise.

2.10. “Class Counsel” means Ethan R. Horowitz and Brian J. O’Donnell of the Northeast Justice Center.

2.11. “Class List” has the meaning provided in Subsection 8.1, below.

2.12. “Class Member” (plural, “Class Members”) means any member of the Settlement Classes.

2.13. “Class Notice” means the notices of the Settlement provided in Sections 8 and 10, below, that the Settlement Administrator will send to Class Members if and after the Court enters the Preliminary Approval Order.

2.14. “Court” means the United States District Court for the District of Massachusetts.

2.15. “CPI Increase” means an increase in Base Rent that is calculated by using the U.S. Bureau of Labor Statistics Consumer Price Index for All Urban Consumers (CPI-U) Boston, Massachusetts – ALL items (1967=100); and, if that index is not then in use, the price index most nearly comparable to it then published by that Bureau or any successor agency will then be utilized. Under the Occupancy Agreements, Defendants may increase the Base Rent for a lot in April of each year by the greater of the CPI Increase or 4.5%. The CPI Increase, if applied in any year during the Settlement Period, will be calculated based on the most current published information available in March of that year so that the CPI Increase can be established

for April of that year. For example, in March 2023, the CPI Increase will be calculated by comparing the index on the index's publication date and the index published for the period 12 months prior. The calculation of the CPI Increase will be calculated by multiplying the Base Rent in March of each year by a fraction, the denominator of which is the Consumer Price Index as of March of the preceding year, and the numerator of which is the Consumer Price Index as of March of the current year.

2.16. "Current Tenant or Resident" (plural, "Current Tenants or Residents") means a person who resided at Chelmsford Commons or was obligated to pay rent to the operator of Chelmsford Commons as of the Execution Date.

2.17. "Current Market Base Rent" means \$964.37 a month.

2.18. "Defendants" means Chelmsford and Newbury Management Company, a Michigan corporation.

2.19. "Defense Counsel" means Michael R. Brown of Adler Pollock & Sheehan P.C. and Joseph Aviv of Honigman LLP.

2.20. "Effective Date" means the first date on which the Final Approval Order becomes Final and no further action is required by the Court.

2.21. "Execution Date" means the date of the execution by the Parties of this Settlement Agreement, as described in more detail in Section 37, below.

2.22. "Fee Award" means the award of attorneys' fees in the amount of \$200,000 to be requested by Plaintiff and, if approved by the Court, to be paid to Class Counsel.

2.23. "Final" means, with respect to the Final Approval Order, that that order will have been entered by the Court and the time for appeal or for a petition for a writ of *certiorari* will have expired without the initiation of an appeal or the filing of a petition for a writ

of *certiorari*, or, if an appeal or a petition a writ of *certiorari* has been timely initiated or filed, that there has occurred a full and final disposition of the appeal or of the writ of *certiorari* without a reversal or modification, including the exhaustion of proceedings in any remand and subsequent appeal or petition for a writ of *certiorari* after remand. Notwithstanding any other provision of this Settlement Agreement, the Final Approval Order will be deemed final regardless of whether the Court has entered an order awarding attorneys' fees and expenses and regardless of whether such an order, if entered, has become final.

2.24. "Final Approval Motion" has the meaning provided in Section 14, below.

2.25. "Final Approval Order" means the order in which the Court grants Final approval of the Settlement and enters a Final judgment dismissing all claims with prejudice.

2.26. "Final Approval and Fairness Hearing" means the hearing to be held by the Court to consider the motion for Final approval of the Settlement, as well as all objections to the Settlement that are timely filed by Class Members.

2.27. "Future Tenant or Resident" (plural, "Future Tenants or Residents") means a person who will reside at Chelmsford Commons or will be obligated to pay rent to the operator of Chelmsford Commons after the Execution Date and during the Settlement Period, but who is not a Current Tenant or Resident.

2.28. "Incentive Award" means the award of an incentive payment in the amount of \$2,000 to be requested by Plaintiff in consideration for his services rendered to the Settlement Classes and, if approved by the Court, to be paid to Plaintiff.

2.29. "Lot" (plural, "Lots") means a site or pad in the Park on which a manufactured home and appurtenances are or may be located.

2.30. “Master Lease” means the agreement executed on December 21, 1990, by Chelmsford Trailer Park, Inc., a Massachusetts corporation, James M. Shannon, Attorney General for the Commonwealth of Massachusetts, on Behalf of the Commonwealth (the “Commonwealth”), and Chelmsford Mobile Home Park Tenants Association, Inc., a nonprofit corporation (the “Tenants Association”). Prior to the execution of the Master Lease, the Commonwealth and the Tenants Association were certified by the Superior Court of the Commonwealth of Massachusetts, Suffolk County, as class action representatives on behalf of the tenants of Chelmsford Mobile Home Park in a civil action before the court, No. 87-7160.

2.31. “Notice Plan” means the plan for providing the Class Notice to Class Members and that is provided in Section 8, below.

2.32. “Occupied Lots” (singular, “Occupied Lot”) means those Lots at the Park over which a tenant has possessory rights as of the Execution Date. Occupied Lots excludes any unoccupied Lots.

2.33. “Occupancy Agreements” (singular, “Occupancy Agreement”) means the current occupancy agreements between Defendants and tenants that currently govern leases of Lots at the Park, as well as any occupancy agreements entered into and effective during the Settlement Period.

2.34. “Objection Deadline” has the meaning provided in Subsection 12.2, below.

2.35. “Opt-Out List” has the meaning provided in Subsection 13.1, below.

2.36. “Park” means Chelmsford Commons.

2.37. “Parties” means Plaintiff, individually and on behalf of the Settlement Classes, and Defendants. Each of the Parties is a “Party.”

2.38. “Person” means an individual, partnership, limited liability company, corporation, or any other form of organization or entity.

2.39. “Plaintiff” means Scott Smith in his individual capacity and on behalf of the Settlement Classes.

2.40. “Preliminary Approval Order” means the order in which the Court certifies the Settlement Classes for settlement purposes, grants preliminary approval of the Settlement, grants approval of the Notice Plan, sets the method and deadline for Class Members to file objections, and schedules the Final Approval and Fairness Hearing.

2.41. “Preliminary Approval Motion” has the meaning provided in Section 9, below.

2.42. “Released Claims” mean the Claims released by this Settlement Agreement in Section 5, below.

2.43. “Releasees” means Defendants and each of their former, present, and future parents, subsidiaries, and affiliated companies, and each of their predecessors, and each of their Successors-in-Interest (including any future owner or operator of Chelmsford Commons) and Representatives.

2.44. “Representatives” means a Person’s former, present, and future members, shareholders, directors, officers, agents, employees, insurers, attorneys, representatives, successors, and assigns.

2.45. “Rule 23(b)(2) Class” means the class comprised of all Current or Future Tenants or Residents of Chelmsford Commons and as described in more detail in Subsection 3.1, below.

2.46. “Rule 23(b)(3) Class” means the class comprised of all Current Tenants or Residents of Chelmsford Commons, except those who properly exclude themselves from the Rule 23(b)(3) Class under Section 13, below, and as described in more detail in Subsection 3.2, below.

2.47. “Settlement” means the settlement to be consummated under this Settlement Agreement by way of the Final Approval Order.

2.48. “Settlement Administrator” means a third-party settlement administration firm to be agreed-to by the Parties and approved by the Court.

2.49. “Settlement Agreement” means this Class Action Settlement Agreement and Release.

2.50. “Settlement Classes” (singular, “Settlement Class”) means the Rule 23(b)(2) Class and the Rule 23(b)(3) Class.

2.51. “Settlement Classes Representative” means Plaintiff, acting on behalf of the Settlement Classes.

2.52. “Settlement Period” means the period of time provided in Subsection 4.1(a), below, that it takes for all rents in the Park to reach the Current Market Base Rent.

2.53. “Successor-in-Interest” means a Person’s estate, legal representatives, executors, administrators, heirs, devisees, beneficiaries, successors, and assigns (including any future owner or operator of Chelmsford Commons).

2.54. “Updated Addresses” has the meaning provided in Subsection 8.2, below.

3. **Settlement Classes and Opt Outs.** By way of the Preliminary Approval Motion, Class Counsel will request that the Court certify, for settlement purposes only, two separate classes: the Rule 23(b)(2) Class and the Rule 23(b)(3) Class.

3.1. The Rule 23(b)(2) Class. The Rule 23(b)(2) Class will be a class of all Current Tenants or Residents and all Future Tenants or Residents of the Park. The Rule 23(b)(2) Class will receive the prospective relief provided in Subsection 4.1, below, as consideration for the compromise and settlement of the claim for injunctive relief in the Action. Because the Rule 23(b)(2) Class is being certified as a mandatory class under Rule 23(b)(2) of the Federal Rules of Civil Procedure, Class Members will not be permitted to opt out of the Rule 23(b)(2) Class.

3.2. The Rule 23(b)(3) Class. The Rule 23(b)(3) Class will be a class of all Current Tenants or Residents of the Park who do not properly opt out of the Rule 23(b)(3) Class. The Rule 23(b)(3) Class will receive the relief described in more detail in Subsection 4.2, below, provided that they do not opt out of the class, as consideration for the compromise and settlement of the claim for damages in the Action. Under Rule 23(b)(3) of the Federal Rules of Civil Procedure, Class Members of the Rule 23(b)(3) Class will be permitted to opt out of the Rule 23(b)(3) Class.

3.3. Defendants' Reservation of Rights on Class Certification. The Settlement Classes will be proposed and certified for settlement purposes only. Nothing in this Settlement Agreement will be construed as an admission by Defendants that this Action or any similar action is appropriate for class certification for trial purposes. Furthermore, nothing in the Settlement Agreement will prevent Defendants from opposing class certification if Final approval of this Settlement by way of the Final Approval Order is not obtained for any reason or if Defendants terminate this Settlement Agreement.

4. **Settlement Terms and Relief.** In consideration for Plaintiff's and the Settlement Classes' releases in this Settlement Agreement, Defendants will provide, after the Effective Date, and subject to any contingency in this Settlement Agreement under which Defendants may

terminate the Settlement or be relieved from providing relief to the Settlement Classes, the following relief to the Settlement Classes:

4.1. Relief to the Rule 23(b)(2) Class. Defendants will provide the following relief to the Rule 23(b)(2) Class and will consent to the incorporation of this relief into the Final Approval Order:

- a. Defendants will fix the maximum Base Rent at the Current Market Base Rent for the period of time that it takes for all Base Rents at the Park to reach the Current Market Base Rent. The period of time from the Execution Date to the time that it takes for all Base Rents in the Park to reach the Current Market Base Rent will be the “Settlement Period.”
- b. During the Settlement Period, Defendants will not charge any Base Rent higher than the Current Market Base Rent.
- c. During the Settlement Period, every Current Tenant or Resident who is being charged less than the Current Market Base Rent will continue to be charged the Base Rent that he or she is being charged on the Execution Date, subject to an annual rent increase in April of each year of 4.5% or the CPI Increase, whichever is greater, until the Current Tenant or Resident’s Base Rent reaches the Current Market Base Rent. After the Base Rent reaches the Current Market Base Rent, the Current Tenant or Resident will be charged the Current Market Base Rent until the end of the Settlement Period.

- d. All Future Tenants or Residents who enter the Park after the Execution Date will be charged the Current Market Base Rent when they begin leasing a Lot at the Park, regardless of whether, during the Settlement Period, any previous tenant or resident occupying that Lot was charged a lower Base Rent. These Future Tenants or Residents will be charged the Current Market Base Rent until the end of the Settlement Period.

For the avoidance of doubt, nothing in this Settlement restricts the amount that Defendants may charge as Base Rent to any tenant or resident in the Park after the end of the Settlement Period. Furthermore, nothing restricts Defendants' ability to charge and collect other sums under the Occupancy Agreements that are not Base Rent and that are permitted by law.

4.2. Relief to the Rule 23(b)(3) Class. Defendants will provide the following relief to the Rule 23(b)(3) Class:

- a. Defendants will create a settlement fund of \$12,100 for the benefit of the Rule 23(b)(3) Class.
- b. The settlement fund will be distributed on a per Occupied Lot basis, with \$50 allocated to each Occupied Lot.
- c. If one Current Tenant or Resident is associated with an Occupied Lot according to Defendants' resident files or other available records, that Current Tenant or Resident will receive the full \$50 payment allocated to his or her Occupied Lot.
- d. If more than one Current Tenant or Resident is associated with an Occupied Lot according to Defendants' resident files and other

available records, each Current Tenant or Resident will receive a *pro rata* share of the \$50 payment allocated to his or her Occupied Lot.

4.3. The Opt-Out Contingency. In addition to any other contingency in this Settlement Agreement under which Defendants may terminate the Settlement or be relieved from providing relief to the Settlement Classes, should Class Members of the Rule 23(b)(3) Class associated with 21 or more Occupied Lots elect to opt out of the Rule 23(b)(3) Class, Defendants will have the option in their sole discretion to terminate the Settlement and will have no obligation to provide relief to either the Rule 23(b)(2) Class or to the Rule 23(b)(3) Class. In the event that Class Members of the Rule 23(b)(3) Class associated with 21 or more Occupied Lots opt out of the Rule 23(b)(3) Class, Defendants may still, however, choose to proceed with settling with either or both of the Settlement Classes. For the avoidance of doubt, this opt-out contingency depends on the number of Occupied Lots with Class Members opting out, not the number of Class Members who opt out. The decision to terminate the Settlement Agreement must be exercised in writing not later than 10 business days after Defense Counsel's receipt from the Settlement Administrator of the Opt-Out List or the right to terminate will be waived.

5. Releases. In consideration for the relief from Defendants, Plaintiff and the Settlement Classes, in addition to dismissing this Action with prejudice, will, and, by this Settlement Agreement, do, provide Defendants and the other Releasees with the following releases:

5.1. Plaintiff's Release. In consideration of the relief Defendants provide under this Settlement Agreement, Plaintiff – for himself and on behalf of each of his Successors-in-Interest and Representatives – fully, finally, and forever waives, releases, and discharges the

Releasees from and against any and all Claims that the Plaintiff had, has, or may have against any of the Releasees, and of which he has, or reasonably should have, knowledge as of the Execution Date and that are reasonably related to the acts, transactions, or occurrences that were alleged in the Action, including both Claims that were or that could have been alleged in the Action. Plaintiff – for himself and on behalf of each of his Successors-in-Interest and Representatives – also fully, finally, and forever waives, releases, and discharges the Releasees from and against any and all Claims that the Plaintiff had, has, or may have against any of the Releasees regarding, or related in any way to, the Base Rents charged in compliance with this Settlement Agreement from the Execution Date until the end of the Settlement Period and the corresponding rent structure at the Park that this Settlement Agreement establishes during the Settlement Period. Plaintiff – for himself and on behalf of his Successors-in-Interest and Representatives – will not institute or cause to be instituted any action, lawsuit, or other proceeding against any of the Releasees based on any claim released in this Subsection 5.1. Notwithstanding the language in the preceding sentences, the release in this Subsection 5.1 does not encompass any breach by Defendants of this Settlement Agreement.

5.2. The Rule 23(b)(2) Class Release. In consideration of the relief Defendants provide under this Settlement Agreement, Plaintiff – on behalf of the Class Members of the Rule 23(b)(2) Class and each of their Successors-in-Interest and Representatives – fully, finally, and forever waives, releases, and discharges the Releasees from and against any and all claims for injunctive, declaratory, or nonmonetary relief (including, but not limited to, any and all claims for equitable relief, attorneys’ fees, expert and consulting fees, and any other costs or expenses whatsoever) that any Class Member had, has, or may have against any of the Releasees arising from, or related in any way to, the acts, transactions, and occurrences that were alleged in the

Action and any and all claims that were or could have been alleged in the Action regarding the Base Rents charged at the Park or the rent structure at the Park. Plaintiff – on behalf of the Class Members of the Rule 23(b)(2) Class and each of their Successors-in-Interest and Representatives – also fully, finally, and forever waives, releases, and discharges the Releasees from and against any and all Claims that any Class Member had, has, or may have against any of the Releasees regarding, or related in any way to, the Base Rents charged in compliance with this Settlement Agreement from the Execution Date until the end of the Settlement Period and the corresponding rent structure at the Park that this Settlement Agreement establishes during the Settlement Period. Plaintiff – on behalf of the Class Members of the Rule 23(b)(2) Class and each of their Successors-in-Interest and Representatives – will not institute or cause to be instituted any action, lawsuit, or other proceeding against any of the Releasees based on any claim released in this Subsection 5.2. Notwithstanding the language in the preceding sentences, the release in this Subsection 5.2 does not encompass any breach by Defendants of this Settlement Agreement.

5.3. The Rule 23(b)(3) Class Release. In consideration of the relief Defendants provide under this Settlement Agreement, each Class Member of the Rule 23(b)(3) Class who has not opted out of the Rule 23(b)(3) Class – for himself or herself and on behalf of each of his or her Successors-in-Interest and Representatives – fully, finally, and forever waives, releases, and discharges the Releasees from and against any and all Claims that the Class Member had, has, or may have against any of the Releasees, and of which the Class Member has, or reasonably should have, knowledge as of the Execution Date and that are reasonably related to the acts, transactions, or occurrences that were alleged in the Action, including both Claims that were or that could have been alleged in the Action. Each Class Member of the Rule 23(b)(3) Class who has not opted out of the Rule 23(b)(3) Class – for himself or herself and on behalf of

each of his or her Successors-in-Interest and Representatives – also fully, finally, and forever waives, releases, and discharges the Releasees from and against any and all Claims that the Class Member had, has, or may have against any of the Releasees regarding, or related in any way to, the Base Rents charged in compliance with this Settlement Agreement from the Execution Date until the end of the Settlement Period and the corresponding rent structure at the Park that this Settlement Agreement establishes during the Settlement Period. Each Class Member of the Rule 23(b)(3) Class who has not opted out of the Rule 23(b)(3) Class – for himself or herself and on behalf of each of his or her Successors-in-Interest and Representatives – will not institute or cause to be instituted any action, lawsuit, or other proceeding against any of the Releasees based on any claim released in this Subsection 5.3. Notwithstanding the language in the preceding sentences, the release in this Subsection 5.3 does not encompass any breach by Defendants of this Settlement Agreement.

6. **Incentive Award.** Plaintiff will seek from the Court an award of an incentive payment in the amount of \$2,000 in consideration for the services he rendered to the Settlement Classes. Defendants will not oppose that request. If the request is approved by the Court, Defendants will provide the Settlement Administrator, for payment to Plaintiff, the amount of the Incentive Award within 10 days after the Effective Date. The Incentive Award will be treated as non-wage income, will not be reduced by the Settlement Administrator for payroll taxes or for any other withholding, and will be reported to the applicable taxing authorities on IRS Form 1099 under the payee's name and taxpayer identification number.

7. **Fee Award.** Plaintiff will seek from the Court an award of attorneys' fees in the amount of \$200,000. Defendants will not oppose that request. If the request is approved by the Court, Defendants will provide the Settlement Administrator, for payment to Class Counsel, the

amount of the Fee Award within 10 days after the Effective Date. The Fee Award will be treated as non-wage income, will not be reduced by the Settlement Administrator for payroll taxes or for any other withholding, and will be reported to the applicable taxing authorities on IRS Form 1099 under the payee's name and taxpayer identification number.

8. Notice Plan

8.1 Class List. Within a reasonable time after the Execution Date, but not later than seven days after the entry of the Preliminary Approval Order, Defendants will review the records of Chelmsford Commons, create a list of Current Tenants or Residents, and provide this list to Class Counsel ("Class List"), which will include the full name, associated Occupied Site, last-known contact information (including electronic mail address if available), date of birth (if available), and social security number (if available) for each Current Tenant or Resident. The Parties will attempt in good faith to resolve any disagreement between them regarding the content of Defendants' proposed Class List.

8.2 Mail Notice. On receipt of the Class List, the Settlement Administrator will run the Class List through the U.S. Postal Service's National Change of Address Database for verification and correction of addresses ("Updated Address") to attempt to reduce the number of returned mail items. All Updated Addresses obtained by the Settlement Administrator will be provided to Class Counsel and to Defense Counsel. Within 30 days after notice of the entry of the Preliminary Approval Order, the Settlement Administrator will send by U.S. mail the Class Notice to all Class Members for whom the Settlement Administrator is able to obtain an Updated Address. If any Class Notice is returned as undeliverable with a forwarding address provided, then the Settlement Administrator will re-send the Class Notice to the forwarding address. For any Class Notice returned undeliverable without a forwarding address provided, the Settlement

Administrator will run an address search (skiptrace) against the Lexis-Nexis address database, or a comparable database, and re-send the Class Notice to any Updated Address obtained. For any Class Member with a known electronic mail address, the Settlement Administrator will also send the Class Notice by electronic mail.

8.3 Publication Notice. Within 30 days after notice of the entry of the Preliminary Approval Order, the Settlement Administrator will begin publication notice to appear in the *Lowell Sun*. Publication Notice will appear two times in consecutive weeks in the *Lowell Sun*.

8.4 Website Publication and Phone Line. Within 10 days after notice of the entry of the Preliminary Approval Order, the Settlement Administrator will publish a publicly-available website containing the Class Notice, the Preliminary Approval Order and any other material ordered by the Court in its Preliminary Approval Order or otherwise mutually deemed necessary by the Parties. Within 10 days after notice of the entry of the Preliminary Approval Order, the Settlement Administrator will also begin hosting a dedicated toll-free telephone line that will be available for Class Members to call and obtain information about the Settlement. The website and phone line will remain operational until the Effective Date.

8.5 Notice to Future Tenants or Residents. For all new Chelmsford Commons Lot tenancies that are entered into following the Execution Date, Defendants will include a disclosure substantially in the form of the disclosure provided below as an addendum to new Occupancy Agreements:

NOTICE OF CLASS ACTION SETTLEMENT

PLEASE TAKE NOTICE that all tenants or residents of the Chelmsford Commons home site that is the subject of this Occupancy Agreement are eligible for the benefits of the injunctive relief provisions of a judicially-approved class action

settlement in the case of *Smith v. Chelmsford Group, LLC*, Case No. 21-CV-10654-DJC (D. Mass.), from and after the date when they become a tenant or resident at Chelmsford Commons and for the remainder of the Settlement Period. In summary, Base Rent charged for this home site will be set at \$964.37 and will not increase until the end of the Settlement Period. A copy of the class action settlement agreement may be obtained on request from the Chelmsford Commons Office.

8.6 No Additional Notice. The Parties agree that the methods of notice set forth in this Section 8 constitute the best form of notice to Class Members that is practicable under the circumstances.

8.7 Notice Costs. All costs associated with tasks described in this Section 8 are Administration Costs.

9. Preliminary Approval Motion. Within a reasonable period of time after the Execution Date but not later than 10 business days after the Execution Date, Class Counsel will provide to Defense Counsel a draft of Plaintiff's motion for the preliminary approval of the Settlement (the "Preliminary Approval Motion"). The motion will request the following:

- i. Certification, for settlement purposes only, of the Settlement Classes.
- ii. Preliminary approval of the Settlement;
- iii. Approval of the proposed Settlement Administrator;
- iv. Approval, as to the content and form, of the Notice Plan and of the Class Notice, as provided below, and an order directing the Settlement Administrator to provide notices to the Settlement Classes as directed in the Notice Plan;

- iv. The setting of the method and deadline for Class Members to file objections to the Settlement or to opt out of the Rule 23(b)(3) Class; and
- v. The scheduling of all hearings after the entry of the Preliminary Approval Order necessary for Final approval of the Settlement, including the Final Approval and Fairness Hearing, which schedule will account for the CAFA notice period provided in 28 U.S.C. § 1715(d).

The Preliminary Approval Motion will seek an order of the Court (the “Preliminary Approval Order”) substantially in the form annexed to the Preliminary Approval Motion as Exhibit 1, including the exhibits to the order. The Parties will attempt in good faith to resolve any disagreement between them regarding the content and form of the Preliminary Approval Motion, including the proposed scheduling of any hearings.

10. **Class Notice.** Within a reasonable time after the Execution Date but not later than 10 business days after the Execution Date, Class Counsel will provide to Defense Counsel a draft of the Class Notice. The Class Notice will include, but not be limited to, the following:

- i. The method and deadline for timely objecting to the Settlement, and, for the Rule 23(b)(3) Class only, the method and deadline for opting out;
- ii. Class Counsel’s contact information;
- iii. The date, time, and location of the Final Approval and Fairness Hearing;

- iv. The fact that only those Class Members who timely object to the Settlement may be heard at the Final Approval and Fairness Hearing or seek reconsideration or appellate review of the Final Approval Order;
- v. The fact that only those Class Members who timely opt out of the Rule 23(b)(3) Class will be excluded from that class; and
- vi. The amounts of the Fee Award and Incentive Award to be requested from the Court.

The information agreed-to by the Parties for the Class Notice will be adopted into the corresponding publication and website notice material. The Parties will attempt in good faith to resolve any disagreement between them regarding the content and form of the Class Notice.

11. **CAFA Notice.** Within a reasonable time period after the Execution Date, Defense Counsel will provide to Class Counsel a draft of the CAFA notice required by 28 U.S.C. § 1715(b) (the “CAFA Notice”). As provided in 28 U.S.C. § 1715, not later than 10 days after the Preliminary Approval Motion is filed with the Court, Defendants will cause to be served on the office of the Attorney General of the Commonwealth of Massachusetts and on the office of the Attorney General of the United States the CAFA Notice, consisting of the matter listed in 28 U.S.C. § 1715(b)(1)-(8).

The Parties will attempt in good faith to resolve any disagreement between them regarding the content and form of the CAFA Notice.

12. **Objections to the Settlement**

12.1 **Objection Rights.** Any Class Member will have the right to appear and show cause, if he or she has any, why the terms of this Settlement should not be given final

approval by the Court. An objection to the Settlement may be made by Class Members on their own or through an attorney hired at their own expense. If a Class Member intends to appear at the Fairness Hearing, either *pro se* or through an attorney, he or she or the attorney must: (i) file a notice of appearance with the Clerk of the Court no later than 14 days before the Fairness Hearing; (ii) send a copy of the notice of appearance to Class Counsel and to Defense Counsel by U.S. mail postmarked not later than 14 days before the Fairness Hearing, and also by electronic mail; and (iii) otherwise comply with the requirements of this Section 12.

12.2 Objection Procedure. Any objection to the Settlement must be in writing and served by hand, first-class U.S. mail (postage pre-paid), or express overnight carrier to the Settlement Administrator by the Objection Deadline, which will be 90 days from the date of the entry of the Preliminary Approval Order (the "Objection Deadline"). Any objection regarding the Settlement must be signed by the person submitting the objection and include the following to be valid: (i) identify the case name and number; (ii) identify the person submitting the objection as a Class Member; (iii) attach copies of material (if any) that the Class Member will submit to the Court or present at the Fairness Hearing in support of the objection; (iv) be signed by the Class Member; and (v) clearly state in detail: (A) that the Class Member objects to the Settlement in whole or in part; (B) what the Class Member objects to; (C) the legal and factual ground(s) for the objection; (D) the Class Member's name, address, e-mail address, and telephone number; and (E) if represented by counsel, the counsel's name, address, e-mail address, and telephone number.

12.3 Settlement Administrator's Handling of Objections. The Settlement Administrator will provide a copy of any objection received to Class Counsel and to Defense Counsel within two business days of receipt of the objection. Within five days after the

Objection Deadline, the Settlement Administrator will report to Class Counsel and to Defense Counsel the total number of Class Members who have objected to the terms of the Settlement, and within 10 days, the Settlement Administrator will file all objections with the Court.

12.4 Procedure for Appearing at Fairness Hearing. Any Class Member who submits a timely objection as set forth in Subsection 12.2, above, and who otherwise complies with Subsection 12.1, above, may appear at the Fairness Hearing in support of the objection. Class Members or their attorneys who intend to make an appearance at the Fairness Hearing must file a notice of intention to appear with the Court not later than 14 days prior to the date of the Fairness Hearing. Unless otherwise permitted by the Court, a Class Member who appears at the Fairness Hearing, or his or her attorney, will be permitted to argue only those matters that were set forth in the timely objection filed by the Class Member in accordance with Subsection 12.2, above. Unless otherwise permitted by the Court, no Class Member or attorney representing that Class Member will be permitted to raise matter at the Fairness Hearing that the Class Member could have raised, but did not raise, in the Class Member's written objection, and all objections to the Settlement that are not set forth in a written objection are deemed waived. Any Class Member who fails to comply with the applicable provisions of this Settlement Agreement, unless otherwise permitted to appear by the Court, will be barred from appearing at the Fairness Hearing.

12.5 Waiver. Any Class Member or attorney representing the Class Member who fails to comply with the procedures for presenting objections or appearing at the Fairness Hearing as described above, or as otherwise ordered by the Court, will not be treated as filing a valid objection to the Settlement and will have waived and forfeited any and all rights he or she may have to submit a written objection or appear at the Fairness Hearing, and the Class

Member will be bound by all of the terms of this Settlement on final approval by the Court and by all proceedings, orders, and judgments in the Action.

12.6 Responses to Objections. The Parties may file with the Court responses to objections within 14 days of the Fairness Hearing, unless otherwise directed by the Court.

12.7 No Solicitation. At no time will any Party or his, its, or their counsel seek to solicit or otherwise induce Class Members to submit objections to the Settlement.

13. **Requests for Exclusion from the Rule 23(b)(3) Class.**

13.1 Requests for Exclusion. Any Rule 23(b)(3) Class Member who wishes to be excluded from the Rule 23(b)(3) Class must mail a written request for exclusion from the Rule 23(b)(3) Class to the Settlement Administrator at the address provided by the Class Notice. The request for exclusion from the Rule 23(b)(3) Class must be signed by the Rule 23(b)(3) Class Member and include the following to be valid: (i) identify the case name and number; (ii) the Rule 23(b)(3) Class Member's name, address, e-mail address (if any), and telephone number, (iii) a clear statement that the Rule 23(b)(3) Class Member wishes to be excluded from the Rule 23(b)(3) Class, and (iv) if represented by counsel, the name, address, e-mail address, and telephone number of that counsel. The request for exclusion from the Rule 23(b)(3) Class must be postmarked and sent to the Settlement Administrator on or before the Objection Deadline. An opt-out List, identifying the Rule 23(b)(3) Class Members who have made a Request for Exclusion from the Rule 23(b)(3) Class (the "Opt-Out List"), will be assembled by the Settlement Administrator and filed with the Court not later than 15 days prior to the Fairness Hearing. The Settlement Administrator will provide that Opt-Out List to Class Counsel and to Defense Counsel no later than three business days after the Objection Deadline. The Parties will request that the Court decide, in the Final Approval Order, whether to approve the Opt-Out List

as the list of Rule 23(b)(3) Class Members who filed timely and valid requests for exclusion from the Rule 23(b)(3) Class.

13.2. No Solicitation. At no time will any Party or his, its, or their counsel seek to solicit or otherwise induce Class Members to request an opt out from the Rule 23(b)(3) Class.

14. **Final Approval Motion and Final Approval Order**. Class Counsel will provide Defense Counsel with a draft of a motion seeking Final approval of the Settlement within a reasonable time, but at least 14 days, before the date on which this motion will be set to be filed with the Court (the "Final Approval Motion"). The motion will seek a Final judgment in the Action that, among other things, (i) approves the Settlement and dismisses the Action with prejudice, except for the claims of Rule 23(b)(3) Class Members who have requested exclusion from the settlement and are listed in the Opt-Out List approved by the Court in the Final Approval Order, whose claims will be dismissed without prejudice, (ii) determines the Fee Award and the Incentive Award, which judgment will be substantially in the form attached to the Final Approval Motion as Exhibit 1 (the "Final Approval Order"). The Final Approval Motion will request that a hearing before the Court to consider Final approval of the Settlement be held as soon as practicable, to the extent that the hearing was not already set in the Preliminary Approval Order.

The Parties will attempt in good faith to resolve any disagreement between them regarding the content and form of the Final Approval Motion and of the Final Approval Order.

15. **Settlement Administrator**. The Parties, before the filing of the Preliminary Approval Motion, will mutually select a Settlement Administrator to propose to the Court. The Settlement Administrator will be responsible for the following: mailing the Class Notice to the Class Members as provided in the Preliminary Approval Order; responding to any Class

Member's inquiries; filing with the Court any Class Member's objections that are timely received and mailing copies of these objections to Class Counsel and to Defense Counsel; distributing the payments to the Rule 23(b)(3) Class after the Effective Date; reporting on the state of the Settlement on the request of any Party; providing information related to the administration of the Settlement to Class Counsel and to Defense Counsel on the request of any Party; preparing a declaration attesting to the Settlement Administrator's due diligence in administering the Settlement; performing all other duties assigned to the Settlement Administrator by this Settlement Agreement, and performing other duties as may be specified in the Preliminary Approval Order or as the Parties may jointly direct. If the Parties learn that their selected Settlement Administrator is unable or unwilling to act as the Settlement Administrator at any time, then the Parties will promptly mutually select another Settlement Administrator to propose to the Court. Defendants agree to pay the Administration Costs.

16. **No Admission of Liability; Inadmissibility of Settlement.** This Settlement represents a compromise of disputed claims. Under Rule 408 of the Federal Rules of Evidence, and any other analogous evidentiary rule that may apply, neither the Parties' settlement negotiations, nor the terms of the Settlement memorialized in this Settlement Agreement, nor the fact of this Settlement Agreement's execution, nor the Settlement itself or any part of the Settlement, nor any act performed, statement made, or document executed under, or in furtherance of, the Settlement is intended, may be construed, or may be admitted into evidence in this Action or in any other legal or administrative proceeding of any kind in any forum, as an admission by Plaintiff, any of the Defendants, or any of the Releasees as to (a) the truth of any fact alleged in the Action; (b) the validity or value of any claim that was or could have been stated in the Action or of any of the Released Claims; (c) the validity of any defense that was or

could have been stated in the Action, including any defense to class certification; (d) any liability, fault, wrongdoing, or negligence of any of the Defendants or of any of the Releasees, which Defendants expressly deny; or (e) the waiver of any procedural right.

Notwithstanding the preceding paragraph, this Settlement Agreement may be used as evidence in any action or proceeding to enforce, or to allege a breach of, this Settlement Agreement or any provision of this Settlement Agreement.

17. **Waiver of Right to Appeal.** Provided that the Court grants Final approval of the Settlement and of this Settlement Agreement without material modification, Plaintiff, all Class Members who do not submit a timely objection or opt out, and Defendants will be deemed to have waived any and all rights to seek any form of reconsideration or appellate review of any aspect of the Settlement, this Settlement Agreement, or the Final Approval Order.

18. **Avoidance of the Settlement.** If the Court denies preliminary or Final approval of the Settlement or grants preliminary or Final approval of the Settlement with material modification, or if the Final Approval Order is reversed, vacated, or materially modified on reconsideration, rehearing, or at any level of appellate review, or if for any other reason the Settlement does not take effect, or is materially modified after the Effective Date, then the Settlement will become null and void, unless expressly agreed otherwise in a writing signed by the Parties. In the event that the Settlement becomes void, the Parties will revert to litigating the Action as of the date and time immediately prior to the Execution Date, and the Parties will jointly petition the Court to extend all existing deadlines. Nevertheless, a denial by the Court, in whole or in part, of the Fee Award or of the Incentive Award will not affect the validity of the Settlement, but may constitute proper grounds for appellate review of the denial of the Fee

Award or of the Incentive Award, and such an appeal is not waived despite the appellate waiver in Section 17, above.

19. **Payment of Class Consideration.** Within seven business days after the Final Approval Order, Defendants will provide the Settlement Administrator the payments to be provided to the Rule 23(b)(3) Class. The Settlement Administrator will hold this amount in escrow for distribution to the Rule 23(b)(3) Class within 10 days after the Effective Date. All checks will be negotiable for a period of 180 days after their issuance (the “180-Day Period”). Class Members will be informed of the 180-Day Period with their individual checks. If any check could not be delivered or was not cashed within the 180-Day Period, then it will become void, and the Settlement Administrator will issue and deliver a check in an amount equal to the aggregate amount of all void checks to The Massachusetts IOLTA Committee.

20. **Acknowledgements.** Plaintiff acknowledges, individually and on behalf of the Rule 23(b)(3) Class, that each Class Member will be solely responsible for his or her own share of taxes, interest, and penalties due with respect to any payment received by him or her under this Settlement Agreement, except for taxes required to be withheld by the Settlement Administrator, which the Settlement Administrator will submit directly to the applicable taxing authority with notice to Plaintiff or to the applicable Class Member. The Parties have provided no tax advice with respect to the terms of the Settlement. In all events, Defendants will have no liability or responsibility for any taxes. Plaintiff, individually and on behalf of the Rule 23(b)(3) Class, and Class Counsel acknowledge that Plaintiff, Class Members, and Class Counsel will be responsible for paying any tax due on any payment made to any of them under this Settlement Agreement.

The Parties acknowledge that they have been represented by competent, experienced legal counsel of their own choosing throughout all negotiations that preceded the execution of this Settlement Agreement, and that this Settlement Agreement is made with the advice and consent of the Parties' respective counsel.

21. **Cooperation Among the Parties.** Each of the Parties, without further consideration, and as part of finalizing the Settlement, will cooperate with the other Parties and will, in good faith, use all reasonable efforts to effectuate the terms and conditions of the Settlement and of this Settlement Agreement, including, but not limited to, in the following ways: by executing and delivering those documents and taking other actions as may reasonably be necessary to ensure that the Settlement is finally approved by the Court, without material modification, and to implement, effectuate, consummate, and enforce the terms of this Settlement Agreement and of the Final Approval Order.

22. **Jurisdiction of the Court.** The Court will retain jurisdiction with respect to the interpretation, performance, implementation, and enforcement of the terms of this Settlement Agreement and of all orders and judgments entered in connection with the Settlement, and the Parties and their counsel submit to the exclusive personal jurisdiction of the Court for the purposes of interpreting, implementing, and enforcing the Settlement embodied in this Settlement Agreement and all orders and judgments entered in connection with the Settlement.

23. **Limited Non-Disparagement Agreement.** No Party will make, or cause any other Person to make, directly or indirectly, any derogatory remark, statement, or communication about any other Party in so far as the remark, statement, or communication concerns the Settlement, this Action, or the acts, transactions, or occurrences that were alleged in the pleadings and papers filed in the Action.

24. **Survival of Obligations Under the Protective Order.** All obligations under the Stipulated Protective Order Regarding Mediation entered by the Court in this Action on July 29, 2022, remain in force, are not altered by the Settlement or by this Settlement Agreement, and the order will continue to remain in full force and effect unless and until the Parties mutually agree otherwise in writing.

25. **Rights and Obligations Under the Occupancy Agreements.** Except as provided in this Settlement Agreement, Plaintiff, the Class Members, and Defendants retain all of their rights and obligations under the Occupancy Agreements. In the event of a conflict between the Occupancy Agreements and this Settlement Agreement, this Settlement Agreement controls.

26. **Monitoring.** After the Effective Date, Defendants will report to the Court once annually that they are in compliance with this Settlement Agreement. Once annually, Class Counsel will have the right to inspect, on a confidential basis, Chelmsford Commons' rent roll (in the format produced to Class Counsel during the first session of mediation held in person on July 25, 2022) to confirm that Defendants are in compliance with this Settlement Agreement. Defendants will notify the Court of the termination of the Settlement Period. Within 90 days of Defendants' notifying the Court of the termination of the Settlement Period, Class Counsel will have one final opportunity to exercise its right to inspect, on a confidential basis, Chelmsford Commons' rent rolls, as provided in this Section, regardless of whether this right had already been exercised during the preceding year.

27. **No Prior Assignments.** Plaintiff represents, covenants, and warrants that he has not, directly or indirectly, assigned, transferred, or encumbered, or purported to assign, transfer, or encumber, any portion of any of the Released Claims.

28. **Notices.** Any notice, demand, and other communication required to be given under this Settlement Agreement will be in writing, will be mailed by certified or registered mail or delivered by express overnight courier, and will be deemed to have been duly given on the day of mailing or delivery, provided that the notice, demand, or other communication is addressed to the following, as applicable (or to another representative as the listed Party below may designate and provide notice of the other representative to the other Parties in accordance with this Section):

To Plaintiff, Class Counsel, and the Settlement Classes:

Ethan R. Horowitz, Esq.
Northeast Justice Center
Suite 203B
50 Island Street
Lawrence, Massachusetts 01840
EHorowitz@njc-ma.org

To Defendants:

Joel K. Brown
President
RHP Properties, Inc.
31200 Northwestern Highway
Farmington Hills, Michigan 48334
jbrown@rhp.com

- and -

Michael R. Brown, Esq.
Adler Pollock & Sheehan P.C.
175 Federal Street
Boston, Massachusetts 02110
MBrown@apslaw.com

- and -

Lowell D. Salesin, Esq.
Honigman LLP
Suite 101
39400 Woodward Avenue
Bloomfield Hills, Michigan 48304-5151
lsalesin@honigman.com

Without affecting the determination of the mailing or delivery date as provided above, and as a courtesy only, each notice, demand, or other communication will also be transmitted by electronic mail to the Parties to whom the notice, demand, or other communication is directed.

29. **Construction.** This Settlement Agreement is the result of lengthy, arms-length negotiations among the Parties, with the participation of all of the Parties' counsel. This Settlement Agreement will be construed in a neutral manner, and no ambiguity will be construed in favor of or against any Party.

30. **Captions and Interpretations.** Any section, subsection, or paragraph title, heading, caption, and subheading contained in this Settlement Agreement is for convenience only, and in no way defines, limits, or extends the scope or terms of this Settlement Agreement or of any of its provisions.

31. **Modification and Waivers.** This Settlement Agreement may not be changed, altered, amended, modified, or waived, in whole or in part, except in a writing signed by all of the Parties, and, if the modification is proposed to be made after the Settlement has become Final, only if also approved by the Court.

Any failure by any Party to insist on strict compliance by any other Party with any obligation, requirement, or provision of this Settlement Agreement is not, and will not be deemed or construed to be, a waiver of future performance of the same or of any other obligation, requirement, or provision, and notwithstanding such a failure, every Party will have the right to insist on strict compliance with the same or any other obligation, requirement, or

provision of this Settlement Agreement at any time. Furthermore, the waiver by a Party of any provision or breach of this Settlement Agreement will not be deemed or construed to be a waiver of any other provision or breach of this Settlement Agreement.

32. **Applicable Law.** This Settlement Agreement will be governed by, and will be construed, interpreted, administered, and enforced in accordance with, the laws of the Commonwealth of Massachusetts, and without giving effect to any choice or conflict of law provision or rule (whether of the Commonwealth of Massachusetts or of any other jurisdiction) that would cause the application of the laws of any jurisdiction other than of the Commonwealth of Massachusetts.

33. **Integration and Non-Reliance.** This Settlement Agreement constitutes the full, complete, and entire agreement among the Parties regarding all of the subjects covered by the Settlement, and this Settlement Agreement specifically cancels, supersedes, and replaces any and all prior and contemporaneous negotiations, settlement terms or settlement agreements, understandings, promises, covenants, representations, and agreements, whether written or oral, implied-in-fact or implied-in-law, among the Parties or their counsel regarding any and all matters related, directly or indirectly, to any of the subjects covered by this Settlement Agreement. Also, no Party may rely on any representation or promise that is not expressly written in this Settlement Agreement.

34. **Binding on Assigns.** This Settlement Agreement binds, and inures to the benefit of, the Parties, the Class Members, the Releasees, and each of their respective Successors-in-Interest and Representatives. To the extent that either of the Defendants transfers to one or more third parties the Defendants' respective ownership interest(s) in or contractual relationship(s) vis-à-vis Chelmsford Commons, the terms of this transfer must require that the transferee(s) assume

the corresponding Defendant's obligations under this Settlement Agreement for the remainder of the Settlement Period.

35. **Execution.** This Settlement Agreement may be executed in counterparts, and when each Party has signed and delivered one counterpart, each counterpart will be deemed to be an original, and, when taken together with the other signed counterparts, will constitute one Settlement Agreement, which will be binding on, and effective as to, all of the Parties. Execution of counterparts will have the same force and effect as if all of the Parties to this Settlement Agreement had signed the same document.

This Settlement Agreement may be executed by the exchange of signature pages transmitted by .pdf or by facsimile, and any signature transmitted by .pdf or by facsimile will be deemed to be an original signature.

36. **Authority.** The undersigned individuals executing this Settlement Agreement represent and warrant that they have the authority from the Party on behalf of whom they are signing to enter into this Settlement Agreement and to bind the Party on behalf of whom they are signing to this Settlement Agreement.

37. **Execution Date.** The date on which the last signature is affixed below will be the Execution Date.

38. **Defendants' Representations.**

38.1. **Occupied Sites.** Plaintiff has agreed to sign this Settlement Agreement in reliance on the Defendants' representation that the records kept by the operator of Chelmsford Commons, which Defendants represent are records kept in the regular course of Defendants' business, reflect that there are 242 Occupied Lots at Chelmsford Commons. After reasonable

inquiry, Defendants do not have actual knowledge of any inaccuracy in those records as of the Execution Date.

38.2. Class List. Plaintiff has agreed to sign this Settlement Agreement in reliance on Defendants' representation that they will provide him with a list of the persons whom Defendants understand to be the Current Tenants or Residents of Chelmsford Commons. The list will be created based on the records of tenants and registered residents kept by the operator of Chelmsford Commons, which Defendants represent are records kept in the regular course of Defendants' business. After reasonable inquiry, Defendants do not have actual knowledge of any inaccuracy in those records as of the Execution Date.

38.3 Current Rents. Plaintiff has agreed to sign this Settlement Agreement in reliance on Defendants' representation that Base Rents for Current Tenants or Residents have not increased since January 1, 2021, and that no Current Tenant or Resident is presently paying a Base Rent that is higher than the Current Market Base Rent.

IN WITNESS WHEREOF, the Parties have duly executed this Settlement Agreement on the dates set forth below.

FOR PLAINTIFF AND
THE SETTLEMENT CLASSES:

Dated: October 7, 2022

2d - September

Scott Smith
Scott Smith
Plaintiff and Settlement Classes Representative,
For himself and on Behalf of the Settlement
Classes

FOR DEFENDANTS:

Dated: _____, 2022

Joel K. Brown
President
Chelmsford Group, LLC, and Newbury
Management Company

44962158.7

inquiry, Defendants do not have actual knowledge of any inaccuracy in those records as of the Execution Date.

38.2. Class List. Plaintiff has agreed to sign this Settlement Agreement in reliance on Defendants' representation that they will provide him with a list of the persons whom Defendants understand to be the Current Tenants or Residents of Chelmsford Commons. The list will be created based on the records of tenants and registered residents kept by the operator of Chelmsford Commons, which Defendants represent are records kept in the regular course of Defendants' business. After reasonable inquiry, Defendants do not have actual knowledge of any inaccuracy in those records as of the Execution Date.

38.3 Current Rents. Plaintiff has agreed to sign this Settlement Agreement in reliance on Defendants' representation that Base Rents for Current Tenants or Residents have not increased since January 1, 2021, and that no Current Tenant or Resident is presently paying a Base Rent that is higher than the Current Market Base Rent.

IN WITNESS WHEREOF, the Parties have duly executed this Settlement Agreement on the dates set forth below.

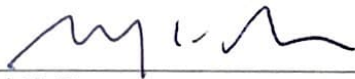
FOR PLAINTIFF AND
THE SETTLEMENT CLASSES:

Dated: _____, 2022

Scott Smith
Plaintiff and Settlement Classes Representative,
For himself and on Behalf of the Settlement
Classes

FOR DEFENDANTS:

Dated: September 13, 2022



Joel K. Brown
President
Chelmsford Group, LLC, and Newbury
Management Company

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