IV. SETTLEMENT AGREEMENTS

MORGAN STANLEY ET AL. SETTLEMENT AND RELEASE AGREEMENT

This Settlement and Release Agreement (the "**Agreement**") is dated as of **April __, 2010** and entered into made by and among Erickson Retirement Communities, LLC, Erickson Construction, LLC ("**ERC**"), Erickson Group, LLC ("**Erickson Group**"), Littleton Campus, LLC, Dallas Campus LP, Dallas Campus GP, LLC, Kansas Campus, LLC, (collectively, the "**Debtors**"), MSRESS III Dallas Campus, L.P. ("**Dallas MSRESS**"), MSRESS III Denver Campus, LLC ("**Denver MSRESS**;" together with Dallas MSRESS, the "**Ground Lessors**"), MSRESS III Kansas Campus, L.P ("**Kansas MSRESS**" and, collectively with the Ground Lessors, the "**Morgan Stanley Entities**") and Capmark Finance, Inc., acting in its capacities as collateral and administrative agents for participated and syndicated secured loans to the Littleton Debtor (defined below). All parties referenced above are referred to herein, collectively, as the "**Settling Parties**". Subject to Court approval of the Plan and Disclosure Statement (defined below), this Agreement is intended by the Settling Parties to fully, finally and forever satisfy, resolve, discharge and settle any claims held between the parties that are related to the Ground Leases (defined below), upon and subject to the terms and conditions hereof.

RECITALS

A. WHEREAS on October 19, 2009 (the "**Petition Date**"), the Debtors filed voluntary petitions for relief under chapter 11 of the Bankruptcy Code (the "**Erickson Bankruptcy**") in the United States Bankruptcy Court for the Northern District of Texas, Dallas Division (the "**Bankruptcy Court**"). The Debtors remain in possession of their assets and continue to manage their businesses as debtors in possession. No trustee or examiner has been appointed in these cases, although an examiner has been requested.

B. WHEREAS the Debtor Erickson Retirement Communities, LLC is a Maryland limited liability company that owns and/or controls, among other properties, the subsidiaries Littleton Campus, LLC (the "**Littleton Debtor**"), Dallas Campus GP, LLC, Dallas Campus LP (together, the "**Dallas Debtor**") and Kansas Campus LP (the "**Kansas Debtor**"), which are campus-style communities that offer seniors a life cycle of retirement services. All three campuses are open and operating but at various stages of development.

C. WHEREAS Capmark Finance, Inc., as collateral and administrative agent (the "**Littleton Agent**") to certain construction loan lenders (collectively, the "**Littleton Lenders**"), extended revolving loans (as may have been amended, restated, supplemented or otherwise modified from time to time, the "**Littleton Construction Loan**") to Littleton Debtor under that certain Construction Loan Agreement, dated March 29, 2006 by and between the Littleton Agent and the Littleton Debtor. The proceeds of the Construction Loan Agreement were loaned to Littleton Debtor and were used for the development and construction of a continuing care retirement community known as Wind Crest, located in Littleton, Colorado (the "**Wind Crest Campus**"). In connection with the Littleton Construction Loan, the Littleton Debtor granted a first-priority lien to the Littleton Agent on all of its assets relating to the Wind Crest Campus, including any proceeds and products therefrom. In addition, ERC and Erickson Group guaranteed the obligations relating to the Littleton Construction Loan and granted a first-priority lien on its assets relating to the Wind Crest Campus. Accordingly, Littleton Agent has a first-priority lien on the Sale Proceeds (defined below) relating to the Wind Crest.

D. WHEREAS Bank of America, N.A., as collateral and administrative agent (the "**Dallas Agent**") to certain construction loan lenders (collectively, the "Dallas Lenders"), extended revolving loans (as may have been amended, restated, supplemented or otherwise modified from time to time, the "**Dallas Construction Loan**") to Dallas Debtor under that certain Construction Loan Agreement, dated May 25, 2005 by and between the Dallas Agent and the Dallas Debtor, with the loan amount being increased pursuant to an Amended and Restated Loan Agreement dated November 30, 2005, as amended and restated by a Second Amended and Restated Loan Agreement dated April 28, 2006, as further amended on November 27, 2007 in an Amendment No. 1 to Second Amended and Restated Loan Agreement and as amended on February 27, 2009 in an Amendment No. 2. The proceeds of the Construction Loan Agreement were loaned to Dallas Debtor and were used for the development and construction of a continuing care retirement community known as Highland Springs, located in Dallas, Texas (the "**Highland Springs Campus**"). In connection with the Dallas Construction Loan, the Dallas Debtor granted a lien to the Dallas Agent on all of its assets, including any proceeds and products therefrom. In addition, ERC guaranteed the obligations relating to the Dallas Construction Loan and granted a first-priority lien on those assets relating to the Highland Springs Campus. Accordingly, Dallas Agent has a first-priority lien on the Sale Proceeds relating to the Highland Springs Campus.

E. WHEREAS PNC Bank, National Association as collateral and administrative agent (the "**Kansas Agent**") to certain construction loan lenders (collectively, the "Kansas Lenders"; together with the Littleton Lenders and Dallas Lenders, the "**Lenders**"), extended revolving loans (as may have been amended, restated, supplemented or otherwise modified from time to time, the "**Kansas Construction Loan**") to Kansas Debtor under that certain Construction Loan Agreement, dated April 20, 2007 by and between the Kansas Agent and the Kansas Debtor. The proceeds of the Construction Loan Agreement were loaned to Kansas Debtor and were used for the development and construction of a continuing care retirement community known as Tall Grass, located in Overland Park, Johnson County, Kansas (the "**Tallgrass Creek Campus**"). In connection with the Kansas Construction Loan, the Kansas Debtor granted a lien to the Kansas Agent on all of its assets, including any proceeds and products therefrom. In addition, ERC and Erickson Group guaranteed the obligations relating to the Kansas Construction Loan and granted a first-priority lien on those assets relating to the Tallgrass Creek Campus. Accordingly, Kansas Agent has a first-priority lien on the Sale Proceeds relating to the Tallgrass Creek Campus.

F. WHEREAS on October 11, 2006, Denver MSRESS entered into a transaction with the Littleton Debtor to purchase the land upon which the Wind Crest Campus is located and to lease this property back to the Littleton Debtor pursuant to the terms of the Ground Lease Agreement dated October 11, 2006 (the "**Littleton Ground Lease**").

G. WHEREAS in connection with the Littleton Ground Lease, the Littleton Agent, Denver MSRESS and Littleton Debtor entered into that certain Ground Lessor Tri-Party Agreement dated October 11, 2006 (as may have been amended, restated, supplemented or otherwise modified from time to time, the "**Littleton Tri-Party Agreement**"), whereby Denver MSRESS agreed, among other things, to subordinate all of Denver MSRESS' interests in Wind Crest Campus, including the real property, improvements thereon and the partnership interests of the Littleton Debtor to the liens of the Littleton Agent in such collateral.

H. WHEREAS on April 28, 2006, Dallas MSRESS entered into a transaction with the Dallas Debtor to purchase the land upon which Highland Springs Campus is located and to lease this property back to the Dallas Debtor pursuant to the terms of the Ground Lease Agreement dated April 28, 2006 (the "**Dallas Ground Lease**"; with the Littleton Ground Lease, the "**Ground Leases**").

I. WHEREAS in connection with the Dallas Ground Lease, the Dallas Agent, Dallas MSRESS and Dallas Debtor entered into that certain Ground Lessor Tri-Party Agreement dated April 28, 2006 (as may have been amended, restated, supplemented or otherwise modified from time to time, the "**Dallas Tri-Party Agreement**"), whereby Dallas MSRESS agreed, among other things, to subordinate all of Dallas MSRESS' interests in Highland Springs Campus, including the real property, improvements thereon, the partnership interests of the Dallas Debtor to the liens of the Dallas Agent in such collateral.

J. WHEREAS on or about April 3, 2007, Debtor Kansas Campus, LLC (the "**Kansas Debtor**"), executed and delivered, among other things, a Promissory Note, a Loan Agreement, and a Mortgage, Assignment of Rents and Leases, Security Agreement and Fixture Filing (the "**Kansas Subordinated Mortgage**"), pursuant to which Kansas MSRESS provided mezzanine financing to the Kansas Debtor in the original principal amount of $25,000,000, which financing was secured by, *inter alia*, a subordinate lien on approximately 65 acres in Overland Park, Kansas upon which the Tallgrass Creek Retirement Community is located.

K. WHEREAS in connection with the Kansas Subordinated Mortgage, the Kansas Agent, Denver MSRESS, and the Kansas Debtor entered into that certain Subordination & Standstill Tri-Party Agreement dated April 3, 2007 (as may have been amended, restated, supplemented or otherwise modified from time to time, the "**Kansas Tri-Party Agreement**"), whereby Kansas MSRESS agreed, among other things, to subordinate all of Kansas MSRESS' interests in the Tallgrass Creek Retirement Community, including the real property, improvements thereon, and the membership interests of the Kansas Debtor to the liens of the Kansas Agent in such collateral.

L. WHEREAS on December 22 and 23, 2009, the Debtors conducted an auction for the sale of substantially all of the Debtors' assets. At the conclusion of the auction, Redwood-ERC Senior Living Holdings, LLC ("**Redwood**") was determined by the Debtors to have submitted the highest and best bid for the assets in the aggregate amount of $365 million (the "**Sale Proceeds**").

M. WHEREAS on December 14, 2009, Morgan Stanley Entities filed a Joint Motion with campus mezzanine lenders Michigan Retirement System Entities and HCP ER3, LP in Warminster, Pennsylvania, HCP ER2, LP in Novi, Michigan, HCP ER6, LP in Houston Texas (collectively, the "**HCP Landholder Entities**") and HCP, Inc. ("**HCP**" and collectively with the HCP Landholder Entities, the "**HCP Entities**"), for an Order Appointing an Examiner Pursuant to 11 U.S.C. §1104 (the "**Joint Motion for Appointment of an Examiner**").

N. WHEREAS on December 22, 2009, certain of the Debtors filed adversary proceeding complaints relating to the Wind Crest Campus and the Highland Springs Campus and seeking, *inter alia*, a declaratory judgment recharacterizing the Dallas Ground Lease transaction

and the Littleton Ground Lease transactions as financing agreements and not true leases [AP Case Nos. 09-03466 and 09-03465] (the "**Recharacterization Proceedings**").

O. WHEREAS Dallas MSRESS and Denver MSRESS timely answered the Complaints filed in the Recharacterization Proceedings and disputed certain of the factual allegations and legal conclusions asserted by the Debtors in the Recharacterization Proceedings and generally denied that any grounds existed to recharacterize the Dallas Ground Lease and the Littleton Ground Lease as financing agreements.

P. WHEREAS among others, each of the Agents for those lenders of the Corporate Revolver[1], Landowner Debtors (as defined in the Plan), the Agent for the Construction Lenders and Morgan Stanley Entities claim a competing lien and claim against the Sale Proceeds.

Q. WHEREAS the Debtors' have filed their Disclosure Statement for Debtors' Fourth Amended Joint Plan of Reorganization Under Chapter 11 of the Bankruptcy Code (the "**Disclosure Statement**") and Debtors' Fourth Amended Joint Plan of Reorganization Under Chapter 11 of the Bankruptcy Code (as such plan may be amended and modified, the "**Plan**"). The Plan and Disclosure Statement contemplate a settlement of the respective claims against and to the Sale Proceeds including a resolution of the disputes of the claims of the Morgan Stanley Entities as further set forth herein.

NOW, THEREFORE, in consideration of the mutual covenants and agreements set forth herein, the receipt and sufficiency of which are hereby acknowledged, the Settling Parties hereby agree as follows, subject to Bankruptcy Court approval:

Section 1. PAYMENTS AND TRANSFERS

1.1 Cash Payment. Upon the later of the Operative Date or the closing of the Redwood sale as contemplated under the Plan, a cash payment shall be made to Denver MSRESS of $1,000,000 from the TIP pursuant to, and in accordance with, the terms and conditions of the Plan (the "**Payment Carve-Out**").

1.2 The Ground Lessors agree to transfer legal ownership of the property subject to the Littleton Ground Lease and the Dallas Ground Lease. The Ground Lessors, respectively, covenant to convey legal title by quitclaim deed, in a form reasonably acceptable to the Debtors and Redwood, as directed in the Plan, the parcels of real property subject to the Ground Leases excluding the Littleton Out-Parcel, as soon as reasonably practicable after the Operative Date (the "**Transfers**"), as those parcels of real property are more particularly described in the following documents:

(i) Purchase Agreement dated October 11, 2006 (the "**Littleton Purchase Agreement**"), by and among Littleton Debtor, ERC and Denver MSRESS, for the acquisition of the real property relating to the Wind Crest Campus, located in Littleton, Douglas County, Colorado (as more particularly described in the Littleton Purchase Agreement); and

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1/ Terms used herein and not otherwise defined shall have the meaning ascribed to them under the Plan.

(ii) Purchase Agreement dated April 28, 2006 (the "**Dallas Purchase Agreement**"), by and among Dallas Debtor, ERC and Dallas MSRESS, for the acquisition of the real property relating to the Highland Springs Campus, located in Dallas, Collin County, Texas (as more particularly described in the Dallas Purchase Agreement);

Section 2. TRANSFER AND DISPOSITION OF THE LITTLETON OUT-PARCEL

2.1 Transfer of Littleton "Out-Parcel." The Littleton Out-Parcel shall, at any time after the later of (i) the Operative Date; or (ii) the closing of the Redwood sale pursuant to the Plan, at the sole and absolute election of the Littleton Agent, be transferred to a special purpose entity created by the Littleton Agent (the "**Littleton Out-Parcel SPE**").

2.2 Retention of Mortgages.

2.2.1 The Littleton Agent shall retain its first-priority mortgage lien against the right, title and interest in the Littleton Out-Parcel to secure (i) the amounts owed to the Littleton Agent under the Littleton Construction Loan after deducting any amounts received under the Plan (without taking into account any discharge of the Littleton Debtors' obligations under the Littleton Construction Loan based upon confirmation of the Plan, or otherwise); and (ii) the Carrying Costs (defined below) advanced by Littleton Agent or the Littleton Lenders.

2.2.2 On or before the Operative Date, Denver MSRESS shall be granted a junior lien against the right, title and interest in the Littleton Out-Parcel subordinated to the first-priority lien held by the Littleton Agent to secure (i) an amount equal to $26,650,000, less any amounts Denver MSRESS receives under the Plan; and (ii) any Carrying Costs advanced by Denver MSRESS. The Debtors, the Littleton Agent, or the Littleton Out-Parcel SPE, as applicable, shall execute and deliver a mortgage in a form reasonably acceptable to Denver MSRESS to secure the junior lien granted to Denver MSRESS on or before the Operative Date or, if transferred to the Littleton Agent or the Littleton Out-Parcel SPE, contemporaneously with any transfer of the Littleton Out-Parcel to the Littleton Agent or the Littleton Out-Parcel SPE.

2.3 Disposition of the "Littleton Out-Parcel."

2.3.1 Within 30 days of the execution and delivery of this Agreement, the Littleton Agent shall engage an independent third party licensed appraiser, to appraise the value of the Littleton Out-Parcel (the "**Appraisal**"). The Littleton Agent shall provide notice to, and confer with, Denver MSRESS concerning the engagement of the appraiser (but shall have no obligations to accept any comments or recommendations of Denver MSRESS). The cost of the Appraisal shall be deemed a Carrying Cost (as hereinafter defined) and shall be advanced by the Littleton Agent and/or the Littleton Lenders. The Littleton Agent shall provide to Denver MSRESS a copy of the Appraisal within two (2) business days of the Littleton Agent's receipt thereof.

2.3.2 Except as set forth below, the Littleton Agent shall, at its sole and absolute discretion, control the process, timing and amount to be received for any disposition of the Littleton Out-Parcel. Without limiting the foregoing, the Littleton Agent shall be entitled to:

(a) direct the Littleton Debtor to sell the Littleton Out-Parcel pursuant to a sale under 11 U.S.C. § 363 upon such terms and conditions approved by the Littleton Agent (the "**Bankruptcy Sale Process**"); or

(b) if the Littleton Agent has elected to transfer the Littleton Out-Parcel under Section 2.1 above:

(i) select a commercial real estate broker to market the Littleton Out-Parcel;

(ii) determine the terms and conditions of any agreement relating to the compensation of any commercial real estate broker; and

(iii) determine whether, when and on what terms (including price) to market the Littleton Out-Parcel; provided, however, that if the Littleton Agent determines that the Littleton Out-Parcel should be listed or advertised for sale at a price certain, the advertised listing price during the first six months the Littleton Out-Parcel is listed for sale shall be an amount equal to or exceeding the value assigned the Littleton Out-Parcel in the Appraisal (collectively, the "**Private Sale** Process").

The Littleton Agent shall provide notice to, and confer with, Denver MSRESS regarding the foregoing and shall provide copies to Denver MSRESS of all offers received for the Littleton Out-Parcel upon receipt of any such offers; provided, further, that prior to accepting any offer to purchase the Littleton Out-Parcel received from a third party, the Littleton Agent shall provide to Denver MSRESS no less than forty-eight (48) hours notice of the intent to accept any such offer.

2.3.3 Should the Littleton Agent elect to dispose of the Littleton Out-Parcel under Section 2.3.2(a) above, each of the Littleton Agent, Littleton Lenders and Denver MSRESS reserve their respective rights to credit bid under 11 U.S.C. § 363(k).

2.3.4 Should the Littleton Agent approve a sale to a third party (the "**Approved Sale**") either through the Bankruptcy Sale Process or the Private Sale Process, Denver MSRESS agrees to cooperate in the consummation of such Approved Sale including, but not limited to, releasing its retained mortgage against the Littleton Out-Parcel. Denver MSRESS waives any and all rights it may have a junior lienholder, or otherwise, to object to the manner (including price) of the disposition of the Littleton Out-Parcel, provided that the terms and conditions are complied with.

2.3.5 Payment of Carrying Costs. Until the Littleton Out-Parcel is sold pursuant to the procedures set forth above, any and all costs to maintain and preserve the Littleton Out-Parcel first arising after the transfer of closing of the sale of the Debtors' assets to Redwood, including payment of real estate taxes and insurance (collectively, the "**Carrying Costs**") may, but are not required to, be advanced by the Littleton Agent, the Littleton Lenders and/or Denver MSRESS. Should the Littleton Agent, Littleton Lenders or Denver MSRESS advance any Carrying Costs, the Littleton Agent, Littleton Lenders and/or Denver MSRESS shall

be reimbursed such Carrying Costs as a first priority expense from the proceeds from the sale of the Littleton Out-Parcel.

2.4 Disposition of Proceeds from Sale of Littleton Out-Parcel. Upon consummation of an Approved Sale, the proceeds from such sale shall be paid as follows:

(i) First, to the payment of any transaction costs relating to the sale including, but not limited to, broker's commission, transfer taxes, reasonable attorneys' fees and the reimbursement to the Littleton Agent, Littleton Lenders or Denver MSRESS for the advancement of Carrying Costs;

(ii) Second, to the Littleton Agent, for the benefit of the Littleton Lenders, up to an amount of $6,000,000; and

(iii) Third, the balance (if any) of such proceeds shall be evenly split 50% to the Littleton Agent for the benefit of the Littleton Lenders and 50% to Denver MSRESS up to the amounts of the claims of, respectively, the Littleton Agent and Denver MSRESS.

Section 3. WITHDRAWAL OF CLAIMS AND RELEASES

3.1 Withdrawal of all of Morgan Stanley Entities' Motions and Objections in the Erickson Bankruptcy Proceedings. As a show of good faith, the Morgan Stanley Entities previously withdrew from participation in the Joint Motion for Appointment of an Examiner [Docket No. 520]. Upon the Operative Date, the Morgan Stanley Entities shall take such steps and file such documents as are necessary to cause the withdrawal, with prejudice, of their Motion for Order Authorizing Examination of the Debtors Pursuant to Bankruptcy Rule 2004 [Docket No. 559]. The Morgan Stanley Entities also covenant that they will not proceed with any Rule 2004 exams already scheduled.

3.2 Withdrawal of the Debtors' Complaints for Declaratory Judgment. Upon the Operative Date and the Transfers, the Debtors shall take such steps and file such documents as are necessary in the adversary proceedings to cause the withdrawal and dismissal, with prejudice, of the Recharacterization Proceedings.

3.3 Joint Release of All Other Claims. Upon the Operative Date, each Settling Party expressly, and by operation of the Final Order, on behalf of itself and its predecessors, successors and assigns, hereby fully, forever and finally generally waives, releases and discharges, the other Settling Party, and each of the Settling Parties, and each of their employees, agents, representatives, independent contractors, consultants, experts, attorneys, accountants, trustees, predecessors, successors, heirs, and assigns, and all persons or entities acting by, through or on behalf of any of them, of and from any and all claims, rights, duties, actions, causes of action, torts or tort liability, duty of care liability claims, contracts, damages, losses, debts, obligations, agreements, liabilities, indemnifications, environmental or other regulatory or governmental claims or obligations, attorneys' fees, costs, expenses, settlements, judgments, fines, restitution or forfeitures, of any nature whatsoever, whether asserted or unasserted, known