

Exhibit A

HCP, INC. SETTLEMENT AND RELEASE AGREEMENT

This Settlement and Release Agreement (the “**Agreement**”) is dated as of **February 4, 2010** and entered into pursuant to Rule 9019 of the Federal Rules of Bankruptcy Procedure (“**Bankruptcy Rules**”). This Agreement is made by and among Erickson Retirement Communities, LLC, Erickson Construction, LLC, Erickson Group, LLC, Houston Campus, LP, Novi Campus, LLC, Senior Campus Services, LLC, Warminster Campus GP, LLC, and Warminster Campus, LP (collectively, the “**Debtors**”), on the one hand 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**”), on the other hand (all parties referenced above, collectively, the “**Settling Parties**”). Subject to Court approval, 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 controls, among other properties, the subsidiaries Warminster Campus LP, Novi Campus LLC, and Houston Campus LP, 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 completion.

C. WHEREAS in June, 2003, CNL Retirement ER3, LP, now known as HCP ER3, LP, a wholly-owned subsidiary of HCP, entered into a transaction with the Debtor Warminster Campus LP (the “**Warminster Debtor**”) to purchase the land upon which the Warminster campus resides and to lease this property back to the Warminster Debtor pursuant to the terms of the Amended and Restated Ground Lease Agreement dated June 2, 2003 (the “**Warminster Ground Lease**”).

D. WHEREAS in March of 2004, CNL Retirement ER2, LP, now known as HCP ER2, LP, a wholly-owned subsidiary of HCP, entered into a transaction with the Debtor Novi Campus LLC (the “**Novi Debtor**”) to purchase the land upon which the Novi campus resides and to lease this property back to the Novi Debtor pursuant to the terms of the Amended and Restated Ground Lease Agreement dated March 30, 2004 (the “**Novi Ground Lease**”).

E. WHEREAS in November of 2004, CNL Retirement ER6, LP, now known as HCP ER6, LP, a wholly-owned subsidiary of HCP, entered into a transaction with the Debtor

Houston Campus LP (the “**Houston Debtor**”) to purchase the land upon which the Houston campus resides and to lease this property back to the Houston Debtor pursuant to the terms of the Ground Lease Agreement dated November 18, 2004 (the “**Houston Ground Lease**” and collectively with the Warminster Ground Lease and the Novi Ground Lease, the “**Ground Leases**”).

F. WHEREAS on November 12, 2009, the Debtors filed the Debtors’ Plan and the Disclosure Statement for the Debtors’ Joint Plan of Reorganization under Chapter 11 of the Bankruptcy Code, and on December 30, 2009 the Debtors filed an Amended Joint Plan of Reorganization and Disclosure Statement (individually the “**Plan**” and the “**Disclosure Statement**”). The Debtors’ Plan and the Recharacterization Proceedings (as defined below) propose that the HCP Entities’ legal interest be recharacterized as secured debt and be eliminated.

G. WHEREAS on December 10, 2009, HCP filed an Expedited Motion for an Order Authorizing 2004 Examinations of the Debtors (the “**Motion Authorizing 2004 Exams**”), seeking to examine the Debtors in order to determine whether there are agreements or understandings between the Debtors and the not-for-profit entities which are the borrowers under the senior Community Loans, or between the Debtors and the proposed Buyer, Redwood Capital Investments LLC (“**Redwood**”), that have not fully been disclosed. The Court granted this Expedited Motion, a hearing was held on December 18, 2009 and an Order was entered on December 21, 2009 requiring the Debtors to produce all documents responsive to the specific document requests from the HCP Entities.

H. WHEREAS on December 14, 2009, the HCP Entities filed a Joint Motion with campus mezzanine lenders Michigan Retirement System Entities and MSRESS III Entities for an Order Appointing an Examiner Pursuant to 11 U.S.C. §1104 (the “**Joint Motion for Appointment of an Examiner**”). The hearing for this motion was initially scheduled for January 13, 2010 but has been continued to February 5, 2010.

I. WHEREAS on December 22, 2009 the Debtors filed adversary proceeding complaints for the Novi, Houston and Warminster campuses seeking a declaratory judgment that the sale/leaseback transactions with the HCP Entities be recharacterized as financing agreements and not lease arrangements [Docket Nos. 556, 557 and 558] (the “**Recharacterization Proceedings**”).

J. WHEREAS on December 23, 2009, at the conclusion of the sale auction, Redwood agreed to pay \$365 million in cash for the Debtors’ assets. The terms of the transaction are still subject to court approval.

K. WHEREAS, on January 11, 2010, the HCP Entities filed three Proofs of Claim with the Bankruptcy Court to reflect the significant obligations owed to them as of the Petition Date. These Proofs of Claim listed \$19,500,000 in Ground Lease obligations for the Warminster property, \$17,000,000 in Ground Lease obligations for the Novi property and \$23,000,000 in Ground Lease obligations for the Houston property. The aggregate obligations owed to the HCP Entities, as evidenced by the Proofs of Claims, totals \$59,500,000.

L. WHEREAS the HCP Entities assert legal ownership of the land upon which the Warminster, Novi and Houston campuses reside, pursuant to the respective sale-leaseback transactions described above.

M. WHEREAS the Debtors and the HCP Entities have agreed to settle and release their claims against each other upon the terms and conditions 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

1.1 Cash Payment. The Debtors hereby consent and agree that upon the later of the Effective Date of the Revised Plan (as defined below) or the closing of the Redwood sale pursuant to the Revised Plan the Debtors shall make a cash payment to HCP of \$8,200,000 which shall be allocated to repayment of the Warminster obligations owed to the HCP Entities.

1.2 Reserve Deposits. The HCP Entities shall also be permitted to retain and no party shall seek the return of those certain Reserve Deposits currently held for each of the three campuses (defined in the Ground Lease for each respective property) as well as any rents paid to the HCP Entities after the commencement of the Erickson Entities bankruptcy cases. The balances for these Reserve Deposits as of December 31, 2009, consist of approximately the following amounts:

(a)	Warminster campus:	\$1,627,695.69
(b)	Novi campus:	\$1,414,302.75
(c)	Houston campus:	\$1,952,026.92
	Total:	\$4,994,025.36

The Debtors hereby release any interest in Reserve Deposits on the Effective Date.

1.3 Lender Consents. The Debtors agree to use their best efforts to secure the requisite consents from the lenders at each of the relevant campuses for the payments referenced in this Section 1.

Section 2. WITHDRAWAL OF CLAIMS AND RELEASES

2.1 Withdrawal of HCP's Claims and Covenant Not to File Further Claims. Upon the Effective Date, the HCP Entities shall take such steps and file such documents as are necessary to cause the withdrawal of the Proofs of Claim filed with respect to the Ground Leases held by the HCP Entities for the Houston campus, the Novi campus and the Warminster campus. The HCP Entities covenants that they will not file any additional proofs of claim or adversary proceedings in the Erickson Entities bankruptcy cases related to its Ground Leases held on these three campuses. This withdrawal ***shall not*** however, affect the HCP Entities' participation

interest in the construction loan on the Houston campus (the “**Houston Participation Interest**”) which shall continue unaffected by this Agreement.

2.2 Withdrawal of all of HCP’s Motions and Objections in the Erickson Bankruptcy Proceedings. Upon the Effective Date, the HCP Entities shall take such steps and file such documents as are necessary to cause the withdrawal of:

(a) HCP’s Joinder to the PNC Objection to the DIP Motion as well as its Joinder to the PNC Objection to the Bid Procedures.

(b) HCP’s Motion Authorizing 2004 Exams. The HCP Entities also covenants that they will not proceed with any 2004 Exams already scheduled.

(c) HCP’s participation in the Joint Motion for Appointment of an Examiner. HCP’s withdrawal shall only serve to remove HCP’s participation in the joint motion and shall not be deemed withdrawal of the entire motion.

2.3 HCP agrees to transfer legal ownership of the properties. HCP covenants to convey legal title by quitclaim deed, in a form reasonably acceptable to the Debtors and Redwood, as directed in the Revised Plan (as defined below), on the parcels of real property related to the Warminster, Novi and Houston Ground Leases as more particularly described in the respective real estate purchase and sale agreements, as soon as reasonably practicable after the Effective Date, the delivery of the \$8.2 million cash payment in Section 1.1, and the confirmation of the Revised Plan, consistent with this Agreement.

2.4 Withdrawal of the Debtors’ Complaints for Declaratory Judgment. Upon the Effective Date, the Debtors shall take such steps and file such documents as are necessary in the adversary proceedings to cause the withdrawal and dismissal of the Recharacterization Proceedings. The Debtors further covenant that they will not proceed with any further efforts to recharacterize the HCP Entities’ Ground Lease transactions.

2.5 Joint Release of All Other Claims. Upon the Effective 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 or unknown, suspected or unsuspected, fixed or contingent, and whether arising under state statutory law, federal statutory law, state common law, federal common law or otherwise, which arise out of any of the HCP Entities’ claims, on the three campuses or any other interest or former interest held by HCP or any of the HCP Entities or HCP affiliates or former affiliates, against the Debtors or their non-debtor affiliates, other than the obligations set forth in this Agreement;

provided, however, that in no event shall this release constitute a release or waiver of the HCP Entities' Houston Participation Interest.

2.6 9019 Motion. The Debtors, its agents and successors-in-interest shall file a motion with the Bankruptcy Court pursuant to Rule 9019 of the Bankruptcy Rules on or before February 12, 2010, seeking approval of this Agreement and the entry of the Final Orders (as this term is defined in Section 5.1(b), below) (the "**9019 Motion**"). If the Debtors fail to file the 9019 Motion on or before February 12, 2010, HCP shall have the right to terminate this Agreement in its sole and absolute discretion in accordance with Section 5.3.

Section 3. APPROVALS

3.1 Revised Plan of Reorganization. Approval for this Agreement by the Bank Groups at the various campuses will be accomplished by voting on a revised Plan of Reorganization (the "**Revised Plan**") that incorporates and reflects these terms. By the terms of this Agreement, the Debtors shall not propose or support any plan that does not include this provision. If this provision is not approved through the voting procedures of the bankruptcy proceedings, this Agreement shall be null and void.

3.2 Lender Support. This Agreement is conditioned on the agents and bank groups at Warminster, Novi and Houston supporting all aspects of this settlement including voting in favor of the Revised Plan that incorporates the terms of this Agreement and any other mutually acceptable terms. This Agreement shall not be effective until the Lender Support Agreement attached as Exhibit A (the "**Lender Support Agreement**") has been fully executed.

Section 4. MUTUAL REPRESENTATIONS, COVENANTS AND WARRANTIES

Each of the Settling Parties represents, warrants and agrees with the other Settling Parties as follows:

4.1 Independent Advice. It has received independent legal advice from its attorneys with respect to each of the matters contained herein, including the advisability of making the settlement provided herein, executing the Agreement and the transactions contemplated thereby.

4.2 Reliance. Except as expressly stated in this Agreement, neither it nor any of its officers, members, managers, agents, partners, employees, representatives, or attorneys has made any statement or representation to any person regarding any fact relied upon in entering into this Agreement, and it is not relying upon any statement, representation or promise of any person (or of any officer, agent, employee, representative, or attorney for any other person) in executing this Agreement. Rather, except as expressly set forth in this Agreement, each Settling Party is relying exclusively on its own diligence and investigation.

4.3 Diligence and Investigation. It has made such investigation of the facts pertaining to this Agreement and of all the matters pertaining thereto as it deems necessary.

4.4 Understanding. It has read this Agreement and understands the contents hereof.

4.5 No Assignment. There has been no assignment, sale or transfer, by operation of

law or otherwise, of such parties' interests or any claim, right, cause of action, demand, obligation, liability or interest released by it as provided herein.

Section 5. CONDITIONS OF SETTLEMENT, EFFECT OF DISAPPROVAL, CANCELLATION OR TERMINATION

5.1 Effective Date. This Agreement shall become effective on the first date on which each of the following has occurred:

(a) **Execution.** This Agreement has been fully executed;

(b) **Lender Support Agreement.** The Lender Support Agreement has been fully executed; and

(c) **Final Orders.** The Bankruptcy Court has entered orders substantially granting final approval of this Agreement and confirming the Revised Plan, neither the operation nor effect of which has been reversed, stayed, modified or amended, and as to which order, or any revision, modification or amendment thereto, the time to appeal or seek review or rehearing has expired and as to which no appeal or petition for review or rehearing has been taken or is pending (each a "**Final Order**" and together, the "**Final Orders**"). A Final Order shall also consist of an order to which an appeal, notice of appeal, motion to amend or make additional findings of fact, motion to alter or amend judgment, motion for rehearing or motion for new trial has been filed, or the time to do any of the foregoing has not yet expired, but as to which the Settling Parties, in their sole and absolute discretion, jointly elect to declare this Agreement effective.

5.2 Termination Date.

(a) If this Agreement is not effective by May 30, 2010, unless such date is extended by a writing signed by all Settling Parties (the "**Termination Date**"), then this Agreement shall become null and void, subject to and in accordance with Section 5.3, below, and the Settling Parties shall be returned to the status *quo ante* as if this Agreement had never been executed.

(b) If the Court does not enter the Final Orders, or if the Court enters a Final Order and appellate review is sought and, on such review, the entry of the Final Order is finally vacated, modified or reversed, then this Agreement and the settlement incorporated herein shall be cancelled and terminated, unless all parties who are adversely affected thereby, in their sole discretion within ten (10) days from the date of the mailing of such ruling to such parties, provide written notice to all other parties hereto of their intent to proceed with the settlement under the terms of the Final Order as modified by the Court or on appeal; ***provided, however,*** that no order of the Court concerning any modification or reversal on appeal of such order, shall constitute grounds for cancellation or termination of this Agreement by any Settling Party.

5.3 Effect of Termination. Unless otherwise ordered by the Court, in the event that this Agreement shall not become effective on or prior to the Termination Date or this Agreement should terminate, or be cancelled, or otherwise fail to become effective for any reason, including, without limitation, in the event that the settlement as described herein is not approved by the

Court or the Final Order is reversed or vacated following any appeal taken therefrom, then:

(a) the Settling Parties shall be restored to their respective positions as of January 22, 2010 with all of their respective claims and defenses, preserved as they existed on that date, including, without limitation, the Proofs of Claim filed with respect to the Ground Leases held by the HCP Entities for the Houston campus, the Novi Campus and the Warminster campus, and all claims and defenses in the Recharacterization Proceedings. The Settling Parties shall take such steps and file such documents as are necessary to cause such claims and defenses to be restored.; and

(b) the terms and provisions of this Agreement shall be null and void and shall have no further force or effect with respect to the Settling Parties, and neither the existence nor the terms of this Agreement (nor any negotiations preceding this Agreement nor any acts performed pursuant to, or in furtherance of, this Agreement) shall be used in any action or proceeding for any purpose; and

(c) any judgment or order entered by the Court in accordance with the terms of this Agreement shall be treated as vacated, *nunc pro tunc*.

Section 6. NO ADMISSIONS

6.1 No Admissions. The Settling Parties intend this Agreement and the settlement described herein to be a final and complete resolution of all disputes between them with respect to the HCP Entities' Ground Lease claims, and it shall not be deemed an admission by any Settling Party as to the merits of any claim or defense with respect to the Ground Lease claims.

6.2 Agreement Inadmissible. Neither this Agreement nor the settlement, nor any act performed or document executed pursuant to or in furtherance of this Agreement or the settlement is, or may be deemed to be or may be used as an admission of, or evidence of, any liability, fault or omission of the Settling Parties in any civil, criminal or administrative proceeding in any court, administrative agency or other tribunal. Neither this Agreement nor the settlement, nor any act performed or document executed pursuant to or in furtherance of this Agreement or the settlement shall be admissible in any proceeding for any purpose, except to seek approval of or to enforce the terms of the settlement.

6.3 Recitals Not Binding. In the event that the settlement is terminated or does not receive preliminary or final court approval, the Recitals set forth in the agreement shall not constitute binding admissions, statements against interest or be admissible as evidence in any proceedings between or involving one or more of the Parties to establish any fact, waiver, estoppel, contention, assertion or allegation of any kind or nature whatsoever.

Section 7. MISCELLANEOUS PROVISIONS

7.1 Intent/Further Assurances. The Settling Parties: (a) acknowledge that it is their intent to consummate this Agreement; and (b) agree to cooperate to the extent reasonably necessary to effectuate and implement all terms and conditions of this Agreement and to exercise their best efforts to accomplish the foregoing terms and conditions of this Agreement.

7.2 Avoidability. In the event that the settlement is terminated or does not receive preliminary or final court approval, or any part of the consideration under this Agreement is determined to be a voidable transfer or similar transaction by a final order of a court of competent jurisdiction then the HCP Entities shall have the right to terminate the settlement, which shall have the effect provided in Section 5.3 of this Agreement.

7.3 Good Faith. The Settling Parties agree that the Agreement as described herein were negotiated in good faith by the Settling Parties, and reflect a settlement that was reached voluntarily after consultation with competent legal counsel.

7.4 Disclosure. Nothing in this Agreement shall prohibit any comment on the accuracy of any public description of the settlement.

7.5 Integration. Any exhibits to this Agreement are material and integral parts hereof and are fully incorporated herein by this reference.

7.6 Amendments. This Agreement may be amended or modified only by a written instrument signed by or on behalf of all Settling Parties, as the case may be, or their respective successors-in-interest.

7.7 Authority. Each counsel or other person executing this Agreement or any of its exhibits on behalf of any party hereto hereby warrants that such person has the full authority to do so.

7.8 Counterparts. This Agreement may be executed by facsimile and in one or more counterparts. All executed counterparts and each of them shall be deemed to be one and the same instrument. Counsel for the parties to this Agreement shall exchange among themselves original signed counterparts and a complete set of executed counterparts shall be filed with the Court.

7.9 Successors and Assigns. This Agreement shall be binding upon, and inure to the benefit of, the successors and assigns of the parties hereto, including any corporation or other entity into or with which any party merges, consolidates or reorganizes.

7.10 Jurisdiction. The United States Bankruptcy Court for the Northern District of Texas, Dallas Division, shall retain jurisdiction with respect to implementation and enforcement of the terms of this Agreement, and all parties hereto submit to the jurisdiction of such Bankruptcy Court for purposes of implementing and enforcing the settlement embodied in this Agreement.

7.11 Governing Law. This Agreement and any exhibits hereto shall be considered to have been negotiated, executed and delivered, and to be wholly performed, in the State of Texas, and the rights and obligations of the parties to this Agreement shall be construed and enforced in accordance with, and governed by, the internal, substantive laws of the State of Texas without giving effect to that State's choice of law principles.

7.12 Interpretation. The Settling Parties, including their counsel, have participated in the preparation of this Agreement, and this Agreement is the result of the joint efforts of the

Settling Parties. This Agreement has been accepted and approved as to its final form by all Settling Parties and upon the advice of their respective counsel. Accordingly, any uncertainty or ambiguity existing in this Agreement shall not be interpreted against any Settling Party as a result of the manner of the preparation of this Agreement. Each Settling Party agrees that any statute or rule of construction providing that ambiguities are to be resolved against the drafting Settling Party shall not be employed in the interpretation of this Agreement and are hereby waived.

7.13 Entire Agreement. This Agreement constitutes the entire agreement between the Settling Parties and no representations, warranties or inducements have been made to any party concerning this Agreement or any of its exhibits other than the representations, warranties and covenants contained and memorialized in such documents. It is understood by the Settling Parties that, except for the matters expressly represented herein, the facts or law with respect to which this Agreement is entered into may turn out to be other than or different from the facts now known to each party or believed by such party to be true; each party therefore expressly assumes the risk of the facts or law turning out to be so different, and agrees that this Agreement shall be in all respects effective and not subject to termination by reason of any such different facts or law. The prevailing party in any dispute under this Agreement shall be entitled to its attorneys' fees and costs.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed.

THE DEBTORS

Erickson Retirement Communities, LLC

Name: Gerald F. Doherty
Title: Executive Vice President

4/22/2010
Date:

Erickson Construction, LLC

By: Erickson Retirement Communities, LLC, its sole Member

Name: Gerald F. Doherty
Title: Executive Vice President

4/22/2010
Date:

Erickson Group, LLC

Name: Gerald F. Doherty
Title: Secretary

4/22/2010
Date:

Senior Campus Services, LLC

By: Erickson Retirement Communities, LLC, its sole Member

Name: Gerald F. Doherty
Title: Executive Vice President

4/22/2010
Date:

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Houston Campus, LP

By: Senior Campus Services, LLC, its general partner

By: Erickson Retirement Communities, LLC, its sole Member

4/22/2010

Name: Gerald F. Doherty
Title: Executive Vice President

Date:

Novi Campus, LLC

By: Erickson Retirement Communities, LLC, its sole Member

4/22/2010

Name: Gerald F. Doherty
Title: Executive Vice President

Date:

Warminster Campus GP, LLC

By: Erickson Retirement Communities, LLC, its sole Member

4/22/2010

Name: Gerald F. Doherty
Title: Executive Vice President

Date:

Warminster Campus, LP

By: Warminster Campus GP, LLC, its General Partner

By: Erickson Retirement Communities, LLC, its sole Member

4/22/2010

Name: Gerald F. Doherty
Title: Executive Vice President

Date:

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HCP ENTITIES

HCP, INC.

Susan M. Tate
Name: SUSAN M. TATE
Title: EXECUTIVE VICE PRESIDENT

2/4/2010
Date:

HCP ER2, LP

Susan M. Tate
Name: SUSAN M. TATE
Title: EXECUTIVE VICE PRESIDENT

2/4/2010
Date:

HCP ER3, LP

Susan M. Tate
Name: SUSAN M. TATE
Title: EXECUTIVE VICE PRESIDENT

2/4/2010
Date:

HCP ER6, LP

Susan M. Tate
Name: SUSAN M. TATE
Title: EXECUTIVE VICE PRESIDENT

2/4/2010
Date: