

UNITED STATES BANKRUPTCY COURT Northern District of Texas		PROOF OF CLAIM
Name of Debtor: ERICKSON CONSTRUCTION, LLC		Case Number: 09-37016
NOTE: This form should not be used to make a claim for an administrative expense arising after the commencement of the case. A request for payment of an administrative expense may be filed pursuant to 11 U.S.C. § 503.		
Name of Creditor (the person or other entity to whom the debtor owes money or property): Arvest Bank, Successor In Interest To SolutionsBank		☐ Check this box to indicate that this claim amends a previously filed claim. Court Claim Number: _____ (If known) Filed on: _____
Name and address where notices should be sent: Arvest Bank 7401 West 135th Street, Overland Park, KS 66223 Attn: Norm Messner, Senior Vice President Telephone number: (913) 239-1553		
Name and address where payment should be sent (if different from above): PNC Bank, National Association, As Collateral And Administrative Agent Mail Stop: C3-CA01-19-1, Two Hopkins Plaza, 19th Floor, Baltimore, MD 21201 Attn: Wendy Andrus, Vice President Telephone number: (410) 237-5923		
1. Amount of Claim as of Date Case Filed: \$ <u>4,858,166.55**</u> If all or part of your claim is secured, complete item 4 below; however, if all of your claim is unsecured, do not complete item 4. If all or part of your claim is entitled to priority, complete item 5. ☒ Check this box if claim includes interest or other charges in addition to the principal amount of claim. Attach itemized statement of interest or charges.		5. Amount of Claim Entitled to Priority under 11 U.S.C. §507(a). If any portion of your claim falls in one of the following categories, check the box and state the amount. Specify the priority of the claim. ☐ Domestic support obligations under 11 U.S.C. §507(a)(1)(A) or (a)(1)(B). ☐ Wages, salaries, or commissions (up to \$10,950*) earned within 180 days before filing of the bankruptcy petition or cessation of the debtor's business, whichever is earlier – 11 U.S.C. §507 (a)(4). ☐ Contributions to an employee benefit plan – 11 U.S.C. §507 (a)(5). ☐ Up to \$2,425* of deposits toward purchase, lease, or rental of property or services for personal, family, or household use – 11 U.S.C. §507 (a)(7). ☐ Taxes or penalties owed to governmental units – 11 U.S.C. §507 (a)(8). ☐ Other – Specify applicable paragraph of 11 U.S.C. §507 (a)(____). Amount entitled to priority: \$ _____ <i>*Amounts are subject to adjustment on 4/1/10 and every 3 years thereafter with respect to cases commenced on or after the date of adjustment.</i>
2. Basis for Claim: <u>SEE ATTACHED</u> (See instruction #2 on reverse side.)		
3. Last four digits of any number by which creditor identifies debtor: _____ 3a. Debtor may have scheduled account as: _____ (See instruction #3a on reverse side.)		
4. Secured Claim (See instruction #4 on reverse side.) Check the appropriate box if your claim is secured by a lien on property or a right of setoff and provide the requested information. Nature of property or right of setoff: ☒ Real Estate ☐ Motor Vehicle ☒ Other Describe: SEE ATTACHED Value of Property: \$ _____ Annual Interest Rate _____ % Amount of arrearage and other charges as of time case filed included in secured claim, if any: \$ <u>SEE ATTACHED</u> Basis for perfection: <u>SEE ATTACHED</u> Amount of Secured Claim: \$ <u>4,858,166.55</u> Amount Unsecured: \$ _____		
6. Credits: The amount of all payments on this claim has been credited for the purpose of making this proof of claim. 7. Documents: Attach redacted copies of any documents that support the claim, such as promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, judgments, mortgages, and security agreements. You may also attach a summary. Attach redacted copies of documents providing evidence of perfection of a security interest. You may also attach a summary. (See instruction 7 and definition of "redacted" on reverse side.) DO NOT SEND ORIGINAL DOCUMENTS. ATTACHED DOCUMENTS MAY BE DESTROYED AFTER SCANNING. If the documents are not available, please explain:		
Date: <u>2/22/10</u> Signature: The person filing this claim must sign it. Sign and print name and title, if any, of the creditor or other person authorized to file this claim and state address and telephone number if different from the notice address above. Attach copy of power of attorney, if any. ARVEST BANK, SUCCESSOR IN INTEREST TO SOLUTIONSBANK By: Norm Messner, Senior Vice President		FOR COURT USE ONLY

Penalty for presenting fraudulent claim: Fine of up to \$500,000 or imprisonment for up to 5 years, or both. 18 U.S.C. §§ 152 and 3571.

**** Post-petition amounts also set forth in the attached Rider.**

Erickson Ret. Comm. LLC



01252

RIDER TO PROOF OF CLAIM

In re Kansas Campus, LLC, Case No. 09-37024
In re Erickson Retirement Communities, LLC, Case No. 09-37010
In re Erickson Group, LLC, Case No. 09-37015
In re Erickson Construction, LLC, Case No. 09-37016

KANSAS CAMPUS, LLC ("**Kansas**"), ERICKSON RETIREMENT COMMUNITIES, LLC ("**ERC**"), ERICKSON GROUP, LLC ("**Erickson Group**"), ERICKSON CONSTRUCTION, LLC ("**Erickson Construction**") are each indebted to Arvest Bank, Successor In Interest to SolutionsBank, Bank of America, N.A., Capmark Bank, Commerce Bank, N.A., Compass Bank, As Successor In Interest to Guaranty Bank, Hillcrest Bank, PNC Bank, National Association, Successor to Mercantile-Safe Deposit and Trust Company, and Wilmington Trust FSB, each in its capacity as a Lender (each a "**Lender**" and collectively, "**Lenders**"), and PNC Bank, National Association, Successor to Mercantile-Safe Deposit and Trust Company, in its capacity as Collateral and Administrative Agent for the Lenders ("**Administrative Agent**," and together with the Lenders, collectively, "**Banks**"), under and/or in connection with a revolving loan facility ("**Construction Loan**") that the Lenders extended to Kansas.

PNC Bank, National Association, files this proof of claim on its own behalf in its capacity as a Lender and in its capacity as Administrative and Collateral Agent for the Banks pursuant to the protocol set forth in that Order Granting Joint Motion to Establish Protocol Under Federal Rules of Bankruptcy Procedure 3001 and 2019 for Filing Proofs of Claim entered on or about February 8, 2010 ("**Claims Protocol Order**"). Also in accordance with the Claims Protocol Order, the Exhibits described in this Rider to Proof of Claim and the agreements, instruments, documents, and other writings which constituting such Exhibits to this Rider to Proof of Claim are submitted to the Court in electronic format on a CD-ROM ("**Exhibit CD**") enclosed with the Proof of Claim filed by the Administrative Agent ("**Administrative Agent's Claim**") and are incorporated herein by reference.

1. The obligations of Kansas, ERC, Erickson Group, and Erickson Construction under and in connection with the Construction Loan are evidenced by, among other things:

a. The following Amended and Restated Revolving Loan Notes each dated April 20, 2007 (each a "**Revolving Loan Note**" and collectively, "**Revolving Loan Notes**") executed and delivered by Kansas and in the respective amounts and payable to the order of the respective Lender set forth below:

- i. Revolving Loan Note in the stated principal amount of \$5,000,000.00 payable to the order of Arvest Bank, Successor In Interest to SolutionsBank;
- ii. Revolving Loan Note in the stated principal amount of \$10,000,000.00 payable to the order of Bank of America, N.A.;
- iii. Revolving Loan Note in the stated principal amount of \$10,000,000.00 payable to the order of Capmark Bank;
- iv. Revolving Loan Note in the stated principal amount of \$10,000,000.00 payable to the order of Commerce Bank, N.A.;

- v. Revolving Loan Note in the stated principal amount of \$10,000,000.00 payable to the order of Compass Bank, As Successor In Interest to Guaranty Bank;
- vi. Revolving Loan Note in the stated principal amount of \$5,000,000.00 payable to the order of Hillcrest Bank;
- vii. Revolving Loan Note in the stated principal amount of \$10,000,000.00 payable to the order of PNC Bank, National Association, Successor To Mercantile-Safe Deposit and Trust Company; and
- viii. Revolving Loan Note in the stated principal amount of \$5,000,000.00 payable to the order of Wilmington Trust FSB.

b. The Construction Loan Agreement dated as of April 3, 2007, by and between Kansas, the Administrative Agent, and the Lenders parties thereto from time to time, as amended and modified pursuant to the First Comprehensive Amendment to Loan Documents dated as of April 20, 2007, Assignment and Acceptances dated to be effective as of April 20, 2007 with respect to each of the Lenders listed above, the Second Comprehensive Amendment to Loan Documents dated as of June 20, 2008, the Waiver Agreement dated as of February 20, 2009, the Second Waiver Agreement dated as of April 30, 2009, the Standstill Agreement dated as of June 1, 2009, the Forbearance Agreement made to be effective as of 12:00 PM (EST) on June 30, 2009, and the Second Forbearance Agreement made to be effective as of 12:00 PM (EST) on July 10, 2009 (all of the foregoing, as so amended, modified, assumed and assigned, collectively, "**Construction Loan Agreement**").

c. The Guaranty Agreement dated as of April 3, 2007 by and between ERC and the Administrative Agent for the Lenders ("**Guaranty**").

d. The Subordination Agreement dated as of April 3, 2007 in favor of the Administrative Agent for the Lenders by Erickson Construction as creditor and by Kansas and ERC ("**Erickson Construction Subordination**").

e. The Subordination Agreement dated as of April 3, 2007 in favor of the Administrative Agent for the Lenders by Erickson Group, John C. Erickson and Nancy A. Erickson, as creditors, and by Kansas and ERC ("**Erickson Group Subordination**").

True and correct copies of the Revolving Loan Notes, the Construction Loan Agreement, and the Guaranty are provided on the Exhibit CD as **Exhibit 1**, **Exhibit 2**, and **Exhibit 3**, respectively. The Erickson Construction Subordination together with other documents comprising the Erickson Construction Subordination Documents (defined below) are provided on the Exhibit CD as **Exhibit 4**. The Erickson Group Subordination together with other documents comprising the Erickson Group Subordination Documents (defined below) are provided on the Exhibit CD as **Exhibit 5**.

2. The indebtedness and obligations that are owed to the Banks by Kansas, ERC, Erickson Construction, and Erickson Group under the Revolving Loan Notes, the Construction Loan Agreement, the Guaranty, the Erickson Construction Subordination, and the Erickson Group Subordination, are secured by, *inter alia*, various assets of Kansas, ERC, Erickson Group, Erickson Construction, and others (collectively, "**Collateral**"), including, without limitation:

a. a first-priority, duly perfected pledge and security interest and lien in, to and against 100% of the membership and other equity interests in Kansas ("**Pledged Interests**"), including but not limited to all certificates and entries on the books and records of any financial intermediary pertaining to the Pledged Interests, all dividends, distributions, cash, warrants, rights, instruments and other property or proceeds from time to time received, receivable or otherwise distributed in respect of or in exchange for any or all of the Pledged Interests, all additional interests in, and all securities convertible into, and any warrants, options and other rights to purchase or otherwise acquire interests in any issuer of the Pledged Interests from time to time, and all cash and non-cash proceeds and products of any of the foregoing, pursuant to, and as described in and evidenced by (i) the Member Interest Pledge Agreement dated as of April 3, 2007 by and between ERC, as pledgor, and the Administrative Agent, as secured party ("**Pledge Agreement**"), and (ii) various ERC Financing Statements (as defined below), including but not limited to the UCC-1 Financing Statement against ERC, as debtor, in favor of the Administrative Agent, as secured party, recorded among the financing statement records of the Maryland State Department of Assessments and Taxation as filing no. 181304595, Liber U00513, folio 0848.

b. first-priority, duly perfected mortgage liens, security interests, pledges, assignments, and other liens in, to and against all of the tangible and intangible assets, property rights, and benefits of Kansas, and all cash and non-cash proceeds and products thereof, pursuant to, and as described in and evidenced by, the following:

i. first-priority, duly perfected mortgage liens, security interests, grants, pledges, assignments, and other liens in, to and against all of the real property, improvements, fixtures, and related rights and properties comprising the retirement community generally known or to be known as "**Tallgrass Creek**" ("**Retirement Community**") and located upon the land consisting of approximately 65 acres located at 7100 West 141st Street, City of Overland Park, Johnson County, Kansas and more particularly described in Exhibit A attached to the Mortgage (as defined below) ("**Land**"), all leases, rents, profits arising from the aforesaid property, and all other rights, titles, and interests of Kansas in and to such property pursuant to, and as described in and evidenced by: (A) the Amended and Restated Mortgage, Assignment of Rents and Leases, Security Agreement and Fixture Filing dated as of April 3, 2007 by and between Kansas and the Administrative Agent for the Lenders (as amended, "**Mortgage**"), recorded among the Land Records of Johnson County, Kansas as instrument no. 20070406-0002476, in Book 200704, page 002476, amending and restating in its entirety the Mortgage, Security Agreement and Fixture Filing by and between Kansas and the Administrative Agent recorded among the Land Records of Johnson County, Kansas as instrument no. 20060511-0004515, in Book 200605, page 4515; (B) the Assignment of Rents and Leases dated as of April 3, 2007 by Kansas to the Administrative Agent for the Lenders, recorded among the Land Records of Johnson County, Kansas as instrument no. 20070406-0002477 in Book 200704, page 002477; (C) the Environmental Compliance Certificate and Agreement dated as of April 3, 2007 by Kansas and ERC, in favor of the Administrative Agent for the Lenders; and (D) and the various Financing Statements (as defined below) (all of the foregoing, as amended and/or restated, collectively, "**Mortgage Security Documents**");

ii. first-priority, duly perfected security interests, pledges, grants, assignments, and other liens in, to and against all of Kansas's assets, including, without limitation, all accounts (including but not limited to accounts receivable and notes receivable arising from loans made to, or from the lease of property to, Tenant (as defined below), and all receivables arising out of the use of any credit or charge card), equipment, fixtures, inventory, chattel paper, general intangibles (including but not limited to patents, trademarks, copyrights, and other intellectual property, tax refunds or claims, general or limited partnership interests or limited liability company interests), cash and deposits, deposit accounts, bank accounts, instruments, documents, goods, motor vehicles, letter-of-credit rights and any other rights under letters of credit, investment property, commercial tort claims, and supporting obligations, "**Licenses,**" "**Residence and Care Agreements,**" "**Funds,**" "**TDD Rights and Proceeds,**" "**Borrower Collateral Account,**" and "**Entrance Deposits**" (as such terms are defined and described in the Security Agreement, defined below), all rights, titles, and interests of Kansas under the "**Community Documents,**" "**Lease,**" "**Working Capital Loan Documents,**" "**Community Loan Documents,**" "**Management Agreement,**" and "**Development Agreement**" (as such terms are defined and described in the Construction Loan Agreement), including all amounts received or due thereunder, including all proceeds which Kansas is entitled to receive under the Community Loan Documents, all right, title, and interest of Kansas in, to, under and in connection with the "Special Assessment Bonds," including the rights of redemption of same, "Redemption Request," "TDD Improvements," "TDD Financing," and other rights, remedies, powers, and privileges as more specifically set forth in the Agreement Regarding Special Redemption dated as of April 3, 2007 by Kansas for the benefit of the Administrative Agent for the Lenders ("**Redemption Agreement**"), all right, title, and interest of Kansas in, to and, and under the Infrastructure, Development and Indemnity Agreement dated as of December 12, 2006 ("**Infrastructure Development Agreement**"), and all cash and non-cash proceeds and products of all of the foregoing, all pursuant to, and as described in and evidenced by: (A) the Security Agreement, Pledge and Collateral Assignment of Licenses and Residence and Care Agreements dated as of April 3, 2007 by Kansas and ERC in favor of the Administrative Agent for the Lenders ("**Security Agreement**"); (B) the Mortgage Security Documents; (C) the UCC-1 Financing Statement against Kansas, as debtor, in favor of the Administrative Agent, as secured party, recorded among the financing statement records of the Maryland State Department of Assessments and Taxation as filing no. 181276344, in Liber U00468, folio 1363, amended pursuant to the UCC Financing Statement recorded among the financing statement records of the Maryland State Department of Assessments and Taxation in Liber U00513, folio 0842, and the UCC-1 Financing Statement against Kansas, as debtor, in favor of the Administrative Agent, as secured party, recorded among the Land Records of Johnson County, Kansas as instrument no. 20060511-0004516, Book 200605, page 004516, amended pursuant to the UCC Financing Statement Amendment recorded among the Land Records of Johnson County, Kansas as instrument no. 20070406-0002478, Book 200704, page 002478 (collectively, "**Financing Statements**"); (D) the Redemption Agreement; and (E) Consent of City to

Assignment of Development Agreement dated as of April 3, 2007 by the City of Overland Park, Kansas and the Acknowledgment of Construction Lender by the City of Overland Park, Kansas, in connection with the assignment by Kansas to the Administrative Agent of all of its right, title, and interest in and to the Infrastructure Development Agreement, acknowledged by Tenant and ERC (together with the Infrastructure Development Agreement, "**Overland Park Development Documents**"); and

iii. first-priority, duly perfected security interests, pledges, grants, assignments, and other liens in, to and against all "**Project Documents**," as such term is defined in the Assignment of Project Documents (as defined below), and all right, title, and interest under the Completion Agreements (as defined below), including but not limited to, all architectural, engineering, and similar plans, specifications, drawings and reports, including all copyrights relating to the foregoing, surveys, plats, permits and the like, all contracts for design, construction, operation and maintenance of, or provision of services to, the Retirement Community and/or the Land, all sewer taps and allocations, agreements for utilities, bonds, letters or credit and the like, all relating to the Land and the Retirement Community, all plans and specifications prepared by Nordstrom Samson Associates in connection with the construction of the Retirement Community, together with all additions thereto and replacements, substitutions and modifications thereof, and all design, marketing and construction concepts, residence and care forms, leasing forms belonging to Kansas, or ERC, or used in connection with the Land or the Retirement Community, but not the assignor's burdens or obligations thereunder, pursuant to, and as described in and evidenced by: (A) the Collateral Assignment of Project Documents dated as of April 3, 2007 by Kansas and ERC to the Administrative Agent for the Lenders ("**Assignment of Project Documents**"); (B) General Contractor's Agreement to Complete dated April 3, 2007 by Erickson Construction for the benefit of the Administrative Agent for the Lenders, the Architect's Agreement to Complete dated as of April 3, 2007 by Nordstrom Samson Associates for the benefit of the Administrative Agent for the Lenders, the Engineer's Agreement to Complete dated as of April 3, 2007 by V3 Companies, Ltd. for the benefit of the Administrative Agent for the Lenders, the Landscape Architect's Agreement to Complete dated as of April 3, 2007 by Hitchcock Design Group for the benefit of the Administrative Agent for the Lenders, (collectively, "**Completion Agreements**"); (C) Mortgage Security Documents; (D) Security Agreement; and (E) the Financing Statements.

c. first-priority, duly perfected security interests, pledges, assignments, and other liens in, to and against all tangible and intangible assets of Tallgrass Creek, Inc. ("**Tenant**"), including but not limited to all inventory, accounts (including but not limited to accounts receivable and notes receivable arising from loans made, or from leases entered into between Tenant and Kansas, and all receivables arising out of the use of any credit or charge card), general intangibles (including but not limited to patents, trademarks, copyrights, and other intellectual property, tax refunds or claims, general or limited partnership interests or limited liability company interests), chattel paper, equipment, fixtures, cash and deposits, bank accounts, deposit accounts, documents, goods, motor vehicles, letter-of-credit rights and any other rights

under letters of credit, instruments, investment property, commercial tort claims, supporting obligations, "**Entrance Deposits**," including but not limited to "**Initial Entrance Deposits**" and advances from the proceeds of Initial Entrance Deposits, all right, title, and interest of the Tenant in and to all "**Residence and Care Agreements**," "**Funds**," "**Borrower Collateral Account**," and all payments due thereunder, and "**Licenses**," including but not limited to, certificates of need, operating permits, franchises and other governmental authorizations and approvals now or hereafter existing with respect to the acquisition, construction, renovation, expansion, leasing, ownership and/or operation of the Retirement Community, including, but not limited to, all certificates of need, licenses and other authorizations of any kind in connection with any nursing home or other health care facilities which are a part of the Retirement Community, any and all licenses issued by any governmental authority relating to the operation of food and beverage facilities and/or amenities, any and all third party payment contracts under which payment may be made for services rendered at the Retirement Community, and any and all personalty of the Tenant located on the property and utilized in connection with the operation or maintenance of the Retirement Community, and all additions to, modifications of and substitutions for any of the foregoing, and all cash and non-cash proceeds and products of all of the foregoing, as defined and described in, evidenced by, and granted by Tenant to Kansas pursuant to, the Community Loan Agreement, the Working Capital Loan Documents, the Lease, and the Security Agreement, Pledge and Collateral Assignment of Licenses and Residence and Care Agreements dated as of dated April 3, 2007 by the Tenant in favor of Kansas ("**Tenant Security Agreement**"), all of which were collaterally assigned by Kansas to the Administrative Agent for the Lenders, and as evidenced by the UCC-1 Financing Statement against the Tenant, as debtor, in favor of Kansas, as secured party, recorded among the financing statement records of the Maryland State Department of Assessments and Taxation as filing no. 181304597, Liber U00513, folio 0854 and assigned by Kansas to the Administrative Agent for the Lenders pursuant to the UCC Financing Statement Amendment recorded among the financing statement records of the Maryland State Department of Assessments and Taxation in Liber U00516, folio 1077 and the UCC-1 Financing Statement against the Tenant, as debtor, in favor of Kansas, as secured party, recorded among the Land Records of Johnson County, Kansas as instrument no. 20070406-0002480, Book 200704, page 002480, assigned by Kansas to the Administrative Agent pursuant to the UCC Financing Statement Amendment recorded among the Land Records of Johnson County, Kansas as instrument no. 20070406-0002481, in Book 200704, page 002481 (together with the Tenant Security Agreement, collectively, "**Tenant Security Documents**"), all pursuant to and as further described and evidenced by in: (A) the Security Agreement; (B) the Financing Statements; (C) the Consent of Tallgrass Creek, Inc. dated as of March 30, 2007 ("**Tallgrass Consent**"); and (D) Agreement Regarding Bank Branch dated as of March 30, 2007 by Tenant ("**Bank Branch Agreement**").

d. first-priority, duly perfected security interests, pledges, assignments, and other liens in, to and against the following tangible and intangible assets, property rights, and benefits of ERC, and all cash and non-cash proceeds and products thereof, pursuant to, and as described in and evidenced by the following:

i. first-priority, duly perfected security interests, pledges, assignments, and other liens in, to and against all of ERC's right, titles, and interests in the Management Agreement (including all extensions, replacements and substitutes) between the Tenant and ERC (or any future manager of the Retirement Community) for the Retirement Community, the Lease, the Working

Capital Loan Documents, the Community Documents, and the Community Loan Documents, and any and all documents and agreements (including but not limited to the Development Agreement) by and between or among Kansas, the Tenant, ERC (or any successor manager) and any other person or entity relating to the construction, leasing, occupancy and/or operation of the Retirement Community, and including, without limitation, any proceeds of loans which ERC is entitled to receive under the Community Loan Documents (including advances from Initial Entrance Deposits), pursuant to, and as described in and evidenced by: (A) the Security Agreement; and (B) various UCC-1 Financing Statements against ERC, as debtor, in favor of the Administrative Agent, as secured party, recorded among the financing statement records of the Maryland State Department of Assessments and Taxation as filing no. 181304595, Liber U00513, folio 0848, and among the Land Records of Johnson County, Kansas as instrument no. 20070406-0002479, Book 200704, page 002479 (collectively, **"ERC Financing Statements"**);

ii a first-priority, duly perfected security interest and lien in, to and against all of ERC's assets, including but not limited to, accounts (including but not limited to accounts receivable and notes receivable arising from loans made to, or from the lease of property to, the Tenant and all receivables arising out of the use of any credit or charge card), equipment, fixtures, inventory, chattel paper, general intangibles (including but not limited to patents, trademarks, copyrights, and other intellectual property, tax refunds or claims, general or limited partnership interests or limited liability company interests), licenses, cash and deposits, bank accounts, deposit accounts, instruments, documents, goods, motor vehicles, letter-of-credit rights and any other rights under letters of credit, investment property, commercial tort claims, and supporting obligations, **"Licenses," "Residence and Care Agreements," "Commercial Tort Claims," "Funds," "TDD Rights and Proceeds," "Borrower Collateral Account,"** and **"Entrance Deposits"** (as such terms are defined and described in the Security Agreement), all rights, titles, and interests of ERC under the **"Community Documents," "Lease," "Working Capital Loan Documents," "Community Loan Documents," "Management Agreement,"** and **"Development Agreement"** (as such terms are defined and described in the Construction Loan Agreement), including all amounts received or due thereunder, including all proceeds which ERC is entitled to receive under the Community Loan Documents, and all cash and non-cash proceeds and products of all of the foregoing, to the extent that the same are located at, or are used solely in connection with, or relate to, or arise from the Retirement Community, and the development, financing, and operation of the Retirement Community (excluding certain computer systems) pursuant to, and as described in and evidenced by: (A) the Security Agreement; and (B) the ERC Financing Statements; and

iii. first-priority, duly perfected security interests, pledges, assignments, and other liens in, to and against all Project Documents, and all right, title and interest under the Completion Agreements, including but not limited to, all architectural, engineering, and similar plans, specifications, drawings and reports, including all copyrights relating to the foregoing, surveys, plats, permits and the like, all contracts for design, construction, operation and

maintenance of, or provision of services to, the Retirement Community and/or Land, all sewer taps and allocations, agreements for utilities, bonds, letters or credit and the like, all relating to the Land and the Retirement Community, all plans and specifications prepared by Nordstrom Samson Associates in connection with the construction of the Retirement Community, together with all additions thereto and replacements, substitutions and modifications thereof, and all design, marketing and construction concepts, residence and care forms, leasing forms belonging to Kansas or ERC or used in connection with Land or the Retirement Community, but not the assignor's burdens or obligations thereunder, pursuant to, and as described in and evidenced by: (A) the Assignment of Project Documents; (B) the Completion Agreement; (C) the Security Agreement; (D) the ERC Financing Statements..

f. All right, title, and interests of the Banks pursuant to, and as described in and evidenced by, and all claims against John C. Erickson, Nancy A. Erickson, and Erickson Group under, the Erickson Group Subordination, and the duly perfected security interests, pledges, assignments, and other liens held by the Administrative Agent for the Lenders in and to the "Subordinated Indebtedness," as defined in the Erickson Group Subordination, and all proceeds thereof, and all rights and interests of John C. Erickson, Nancy A. Erickson, and/or Erickson Group in any of the "Subordinated Documents," as such term is defined in the Erickson Group Subordination, and as described in the UCC-1 Financing Statement against John C. Erickson and Nancy A. Erickson, as debtors, in favor of the Administrative Agent, as secured party, recorded among the financing statement records of the Maryland State Department of Assessments and Taxation as filing no. 181304602, Liber U00513, folio 866, and among the financing statement records of the Florida Secured Transactions Registry as document no. 200705792704, and the UCC-1 Financing Statement against Erickson Group, as debtor, in favor of the Administrative Agent, as secured party, recorded among the financing statement records of the Maryland State Department of Assessments and Taxation as filing no. 181304605, Liber U00513, folio 872 (together with the Erickson Group Subordination, collectively, "**Erickson Group Subordination Documents**").

g. All right, title and interests of the Banks pursuant to and as described in, and all claims against Tenant under, a Subordination Agreement dated as of April 3, 2007 ("**Tallgrass Creek Subordination**") by Tenant, and the duly perfected security interests, pledges, assignments, and other liens held by the Administrative Agent for the Lenders in and to the "Subordinated Indebtedness," as defined in the Tallgrass Creek Subordination, and all proceeds thereof, and all rights and interests of Tenant in any of the "Subordinated Documents," as defined in the Tallgrass Creek Subordination, and as described in the UCC-1 Financing Statement against Tenant, as debtor, in favor of the Administrative Agent, as secured party, recorded among the financing statement records of the Maryland State Department of Assessments and Taxation as filing no. 181304599, and all right, title and interest of the Tenant in, to and under the Junior Mortgage (as such term is defined below) pursuant to the Collateral Assignment of Junior Mortgage dated as of April 3, 2007 by the Tenant to the Administrative Agent for the Lenders recorded among the Land Records of Johnson County, Kansas, as instrument no. 20070406-0002483 in Book 200704, page 002483 (collectively, "**Tallgrass Creek Subordination Documents**").

h. All right, title and interest of the Banks pursuant to and as described in and evidenced by, and all claims against the Tenant under, a Tenant Subordination Agreement dated as of April 3, 2007 ("**Tenant Subordination**") by Tenant, and pursuant to and as described in the Curative Rights Agreement dated as of April 3, 2007 by Tenant, with the consent and joinder of Kansas and ERC, for the benefit of the Administrative Agent for the Lenders (together with the Tenant Subordination, collectively, "**Tenant Subordination Documents**").

i. All right, title and interests of the Banks pursuant to, and as described in and evidenced by, and all claims against Erickson Construction under, the Erickson Construction Subordination, and the duly perfected security interests, pledges, assignments, and other liens held by the Administrative Agent for the Lenders in and to the "Subordinated Indebtedness" as defined in the Erickson Construction Subordination, and all proceeds thereof, and all rights of Erickson Construction in any of the "Subordinated Documents," as such term is defined in the Erickson Construction Subordination, and as described in the UCC-1 Financing Statement against Erickson Construction, as debtor, in favor of the Administrative Agent, as secured party, recorded among the financing statement records of the Maryland State Department of Assessments and Taxation as filing no. 181304609, Liber U00513, folio 0894 (together with the Erickson Construction Subordination, collectively, "**Erickson Construction Subordination Documents**").

j. All right, title, and interest of the Banks pursuant to, and as described in and evidenced by, and all claims against MSRESS III Kansas Campus, L.P. ("**MSRESS III**") under: (A) the Subordination and Standstill Tri-Party Agreement dated as of April 3, 2007 ("**Tri-Party Agreement**"), recorded among the Land Records of Johnson County, Kansas as instrument no. 20070406-0002487, Book 200704, page 002487 among the Administrative Agent for the Lenders, Kansas, and MSRESS III, *inter alia*, subordinating to the rights and interests of the Banks under the Construction Loan Agreement and the "Loan Documents" (as such term is defined in the Construction Loan Agreement), all of the rights and interests of MSRESS III under the "Junior Loan Documents" (as defined in the Tri-Party Agreement), including but not limited to the liens granted to MSRESS III with respect to the Retirement Community and the Land to the liens held by Administrative Agent for the Lenders, subordinating payment of the "Subordinated Obligations" (as defined in the Tri-Party Agreement) to the prior payment in full of the Construction Loan and subordinating the terms, conditions and covenants of the Junior Loan Documents to the terms, conditions and covenants of the Construction Loan Agreement and the "Loan Documents" as defined in the Construction Loan Agreement; and (B) the security interests, pledges, assignments, and other liens held by the Administrative Agent for the Lenders in and to all rights of MSRESS III in, to and under the Junior Loan Documents, including, without limitation, the Loan Agreement dated April 3, 2007 by and between Kansas and MSRESS III, the Promissory Note dated April 13, 2007 in the originally stated principal amount of Twenty-Five Million Dollars (\$25,000,000.00) by Kansas and payable to the order of MSRESS III, the Mortgage, Assignment of Rents and Leases, Security Agreement and Fixture Filing dated April 3, 2007 recorded among the Land Records of Johnson County, Kansas as instrument no. 20070406-0002485, Book 200704, page 002485, the Member Interest Pledge Agreement dated April 3, 2007 by ERC for the benefit of MSRESS III, and all rights and interests of MSRESS III thereunder, as further described in the Tri-Party Agreement, and in the UCC-1 Financing Statements against MSRESS III, as debtor, in favor of the Administrative Agent, as secured party, recorded among the financing statement records of the Delaware

Secretary of State as document no. 20071536852 (together with the Tri-Party Agreement, collectively, "**Mezzanine Lender Subordination Documents**").

True and correct copies of the Pledge Agreement and ERC Financing Statements, Mortgage Security Documents, Security Agreement and Financing Statements, Redemption Agreement, Overland Park Development Documents, Assignment of Project Documents, Completion Agreements, Tenant Security Documents, Tallgrass Consent, Bank Branch Agreement, Tallgrass Creek Subordination Documents, Tenant Subordination Documents and Mezzanine Lender Subordination Documents are provided on the Exhibit CD as **Exhibit 6**, **Exhibit 7**, **Exhibit 8**, **Exhibit 9**, **Exhibit 10**, **Exhibit 11**, **Exhibit 12**, **Exhibit 13**, **Exhibit 14**, **Exhibit 15**, **Exhibit 16**, **Exhibit 17**, and **Exhibit 18** respectively.

A true and correct copy of the form of Residence and Care Agreement (defined above) is provided on the Exhibit CD as **Exhibit 19**. The Lease (defined above) includes, without limitation, the Master Lease and Use Agreement dated as of October 20, 2006 by and between Kansas and the Tenant, and the Memorandum of Master Lease dated to be effective as of April 3, 2007 by and between Kansas and the Tenant, copies of which are provided on the Exhibit CD as **Exhibit 20**. The Working Capital Loan Documents (defined above) include without limitation, the Working Capital Loan Agreement dated as of October 20, 2006 by and between the Tenant and Kansas, the Working Capital Promissory Note dated as of October 20, 2006 by the Tenant and payable to the order of Kansas in the originally stated principal amount of Thirty Million Dollars (\$30,000,000.00), the Lockbox Account Agreement dated as of October 20, 2006 by and between the Tenant, as assignor, and Kansas, as secured party, copies of which are provided on the Exhibit CD as **Exhibit 21**. The Community Loan Documents (defined above), include without limitation, the Community Loan Agreement dated as of October 20, 2006 by and between the Tenant and Kansas, the Community Loan Note dated as of October 20, 2006 by Kansas and payable to the order of Tenant in the originally stated principal amount of Three Hundred Eighteen Million, Two Hundred Sixty-Two Thousand Dollars (\$318,262,000.00), the Mortgage and Security Agreement dated as of April 3, 2007 ("**Junior Mortgage**") by Kansas to the Tenant recorded among the Land Records of Johnson County, Kansas as instrument no. 20070406-0002482, book 200704, page 0002482, copies of which are provided on the Exhibit CD as **Exhibit 22**. The Management Agreement (defined above) includes, without limitation, the Management and Marketing Agreement dated as of October 20, 2006 between the Tenant and ERC, a copy of which is provided on the Exhibit CD as **Exhibit 23**. The Development Agreement (defined above) includes, without limitation, the Development Agreement dated as of October 20, 2006 by and between Kansas and ERC, as amended pursuant to the Tallgrass Creek First Amendment to Development Agreement dated as of April 3, 2007, a copy of which is provided on the Exhibit CD as **Exhibit 24**.

The Revolving Loan Notes, the Construction Loan Agreement, the Guaranty, the Erickson Construction Subordination Documents, the Erickson Group Subordination Documents, the Pledge Agreement, ERC Financing Statements, Mortgage Security Documents, Security Agreement and Financing Statements, Redemption Agreement, Overland Park Development Documents, Assignment of Project Documents, Completion Agreements, Tenant Security Documents, Tallgrass Consent, Bank Branch Agreement, Tallgrass Creek Subordination Documents, Tenant Subordination Documents, Mezzanine Lender Subordination Documents, Community Documents, Lease, Working Capital Loan Documents, Community Loan Documents, Management Agreement, Development Agreement, and the agreements,

instruments, and documents referenced therein or executed in connection therewith, are collectively referred to herein as the "Loan Documents".

Prior to October 19, 2009 (the "Petition Date"), Kansas defaulted on its payment obligations to the Banks under the terms and conditions of the Loan Documents. As of Petition Date, the amounts owed to each Bank under the Loan Documents, exclusive of attorneys' fees and expenses, were not less than the following:

1. Arvest Bank, Successor In Interest To SolutionsBank

Principal:	\$ 4,779,116.90
Interest:	\$ 65,049.09
Late Charges:	\$ 2,834.28
Legal Fees and Expenses	
(Counsel for Administrative Agent):	\$ 6,064.81
(Counsel for Arvest Bank):	\$
Professional Fees (non-legal):	\$ 4,930.01
Lien Searches:	\$ 56.39
Title Check Expenses:	\$ 115.07
Total (as of Petition Date):	<u>\$ 4,858,166.55</u>

(Interest rate as of Petition Date = 3.5% [PNC prime rate of 3.25% + .25%])
(Per diem interest as of Petition Date = \$464.64)

2. Bank of America, N.A.

Principal:	\$ 9,558,240.52
Interest:	\$ 130,098.28
Late Charges:	\$ 5,668.57
Legal Fees and Expenses	
(Counsel for Administrative Agent):	\$ 12,129.62
(Counsel for Bank of America, N.A.):	\$ 17,391.83
Professional Fees (non-legal):	\$ 9,860.02
Lien Searches:	\$ 112.77
Title Check Expenses:	\$ 230.15
Total (as of Petition Date):	<u>\$9,733,731.76</u>

(Interest rate as of Petition Date = 3.5% [PNC prime rate of 3.25% + .25%])
(Per diem interest as of Petition Date = \$929.27)

3. Capmark Bank

Principal:	\$ 9,558,240.53
Interest:	\$ 130,098.28
Late Charges:	\$ 5,668.57
Legal Fees and Expenses	
(Counsel for Administrative Agent):	\$ 12,129.62
(Counsel for Capmark Bank):	\$ _____
Professional Fees (non-legal):	\$ 9,860.02
Lien Searches:	\$ 112.77
Title Check Expenses:	\$ 230.15
Total (as of Petition Date):	<u>\$9,716,339.94</u>

(Interest rate as of Petition Date = 3.5% [PNC prime rate of 3.25% + .25%])
(Per diem interest as of Petition Date = \$929.27)

4. Commerce Bank, N.A.

Principal:	\$ 9,558,069.15
Interest:	\$ 130,095.94
Late Charges:	\$ 5,668.47
Legal Fees and Expenses	
(Counsel for Administrative Agent):	\$ 12,129.41
(Counsel for Commerce Bank, N.A.):	\$ 94,032.62
Professional Fees (non-legal):	\$ 9,859.84
Lien Searches:	\$ 112.77
Title Check Expenses:	\$ 230.15
Total (as of Petition Date):	<u>\$ 9,810,198.35</u>

(Interest rate as of Petition Date = 3.5% [PNC prime rate of 3.25% + .25%])
(Per diem interest as of Petition Date = \$929.26)

5. Compass Bank, As Successor In Interest To Guaranty Bank

Principal:	\$ 9,558,240.52
Interest:	\$ 130,098.28
Late Charges:	\$ 5,668.57
Legal Fees and Expenses	
(Counsel for Administrative Agent):	\$ 12,129.62
(Counsel for Compass Bank):	\$ _____
Professional Fees (non-legal):	\$ 9,860.02
Lien Searches:	\$ 112.77
Title Check Expenses:	\$ 230.15
Total (as of Petition Date):	<u>\$ 9,716,339.93</u>

(Interest rate as of Petition Date = 3.5% [PNC prime rate of 3.25% + .25%])
(Per diem interest as of Petition Date = \$929.27)

6. Hillcrest Bank

Principal:	\$ 4,779,116.90
Interest:	\$ 65,049.09
Late Charges:	\$ 2,834.28
Legal Fees and Expenses	
(Counsel for Administrative Agent):	\$ 6,064.81
(Counsel for Hillcrest Bank):	\$
Professional Fees (non-legal):	\$ 4,930.01
Lien Searches:	\$ 56.39
Title Check Expenses:	\$ 115.07
Total (as of Petition Date):	<u>\$ 4,858,166.55</u>

(Interest rate as of Petition Date = 3.5% [PNC prime rate of 3.25% + .25%])
(Per diem interest as of Petition Date = \$464.64)

7. PNC Bank, National Association, Successor To Mercantile-Safe Deposit And Trust Company

Principal:	\$ 9,725,739.74
Interest:	\$ 132,378.12
Late Charges:	\$ 5,767.90
Legal Fees and Expenses	
(Counsel for Administrative Agent):	\$ 12,342.18
(Counsel for PNC Bank, N.A.):	\$
Professional Fees (non-legal):	\$ 10,032.81
Lien Searches:	\$ 114.75
Title Check Expenses:	\$ 234.18
Total (as of Petition Date):	<u>\$ 9,886,609.68</u>

(Interest rate as of Petition Date = 3.5% [PNC prime rate of 3.25% + .25%])
(Per diem interest as of Petition Date = \$945.56)

8. Wilmington Trust FSB

Principal:	\$ 4,779,117.25
Interest:	\$ 65,049.09
Late Charges:	\$ 2,834.28
Legal Fees and Expenses	
(Counsel for Administrative Agent):	\$ 6,064.81
(Counsel for Wilmington Trust FSB):	\$
Professional Fees (non-legal):	\$ 4,930.01
Lien Searches:	\$ 56.39
Title Check Expenses:	\$ 115.07
Total (as of Petition Date):	<u>\$4,858,166.90</u>

(Interest rate as of Petition Date = 3.5% [PNC prime rate of 3.25% + .25%])
(Per diem interest as of Petition Date = \$464.64)

As of the Petition Date, the total aggregate amounts owed to the Banks under the Loan Documents, exclusive of attorneys' fees and expenses, were not less than the following:

Principal:	\$ 62,295,881.51
Interest:	\$ 847,916.17
Late charges:	\$ 36,944.92
Legal fees and expenses	
(Counsel for Administrative Agent):	\$ 79,054.89
(Counsel for Other Lenders):	\$ 111,424.45
Professional fees (non-legal):	\$ 64,262.73
Other fees and charges:	\$ 2,235.00
Total (as of Petition Date):	<u>\$63,437,719.67</u>

(Interest rate as of Petition Date = 3.5% [PNC prime rate of 3.25% + .25%])
(Per diem interest as of Petition Date = \$6,056.54)

As of December 31, 2009, additional amounts owed to each Bank under Loan Documents, were as follows:

1. Arvest Bank, Successor In Interest To SolutionsBank

Interest:	\$ 33,918.43
Late Charges:	\$ 1,417.14
Legal Fees and Expenses	
(Counsel for Administrative Agent):	\$ 7,503.60
(Counsel for Arvest Bank):	\$
Professional Fees (non-legal):	\$ 4,048.33
Appraisal Fees:	\$ 1,150.75
Other Fees and Expenses:	\$ 0.00
Total (10/19/09 – 12/31/09):	<u>\$ 48,038.25</u>

(Interest rate as of Petition Date = 3.5% [PNC prime rate of 3.25% + .25%])
(Per diem interest as of Petition Date = \$464.64)

2. Bank of America, N.A.

Interest:	\$ 67,836.91
Late Charges:	\$ 2,834.28
Legal Fees and Expenses	
(Counsel for Administrative Agent):	\$ 15,007.22
(Counsel for Bank of America, N.A.):	\$ 1,118.90
Professional Fees (non-legal):	\$ 8,096.66
Appraisal Fees:	\$ 2,301.49
Other Fees and Expenses:	\$ 0.00
Total (10/19/09 – 12/31/09):	<u>\$ 97,195.27</u>

(Interest rate as of Petition Date = 3.5% [PNC prime rate of 3.25% + .25%])
(Per diem interest as of Petition Date = \$929.27)

3. Capmark Bank

Interest:	\$ 67,836.91
Late Charges:	\$ 2,834.28
Legal Fees and Expenses	
(Counsel for Administrative Agent):	\$ 15,007.22
(Counsel for Capmark Bank):	\$ 1,452.25
Professional Fees (non-legal):	\$ 8,096.66
Appraisal Fees:	\$ 2,301.49
<u>Other Fees and Expenses:</u>	<u>\$ 0.00</u>
Total (10/19/09 – 12/31/09):	<u>\$ 97,528.81</u>

(Interest rate as of Petition Date = 3.5% [PNC prime rate of 3.25% + .25%])
(Per diem interest as of Petition Date = \$929.27)

4. Commerce Bank, N.A.

Interest:	\$ 67,835.70
Late Charges:	\$ 2,834.23
Legal Fees and Expenses	
(Counsel for Administrative Agent):	\$ 15,006.95
(Counsel for Commerce Bank, N.A.):	\$ 26,752.27
Professional Fees (non-legal):	\$ 8,096.51
Appraisal Fees:	\$ 2,301.45
<u>Other Fees and Expenses:</u>	<u>\$ 0.00</u>
Total (10/19/09 – 12/31/09):	<u>\$122,827.11</u>

(Interest rate as of Petition Date = 3.5% [PNC prime rate of 3.25% + .25%])
(Per diem interest as of Petition Date = \$929.26)

5. Compass Bank, As Successor In Interest To Guaranty Bank

Interest:	\$ 67,836.91
Late Charges:	\$ 2,834.28
Legal Fees and Expenses	
(Counsel for Administrative Agent):	\$ 15,007.22
(Counsel for Compass Bank):	\$ 5,858.15
Professional Fees (non-legal):	\$ 8,096.66
Appraisal Fees:	\$ 2,301.49
<u>Other Fees and Expenses:</u>	<u>\$ 0.00</u>
Total (10/19/09 – 12/31/09):	<u>\$101,934.71</u>

(Interest rate as of Petition Date = 3.5% [PNC prime rate of 3.25% + .25%])
(Per diem interest as of Petition Date = \$929.27)

6. Hillcrest Bank

Interest:	\$ 33,918.43
Late Charges:	\$ 1,417.14
Legal Fees and Expenses	
(Counsel for Administrative Agent):	\$ 7,503.60
(Counsel for Hillcrest Bank):	\$
Professional Fees (non-legal):	\$ 4,048.33
Appraisal Fees:	\$ 1,150.75
Other Fees and Expenses:	\$ 0.00
Total (10/19/09 – 12/31/09):	<u>\$48,038.25</u>

(Interest rate as of Petition Date = 3.5% [PNC prime rate of 3.25% + .25%])
(Per diem interest as of Petition Date = \$464.64)

7. PNC Bank, National Association, Successor To Mercantile-Safe Deposit And Trust Company

Interest:	\$ 69,025.69
Late Charges:	\$ 2,883.95
Legal Fees and Expenses	
(Counsel for Administrative Agent):	\$ 15,270.21
(Counsel for PNC Bank, N.A.):	\$
Professional Fees (non-legal):	\$ 8,238.55
Appraisal Fees:	\$ 2,341.83
Other Fees and Expenses:	\$ 0.00
Total (10/19/09 – 12/31/09):	<u>\$ 97,760.23</u>

(Interest rate as of Petition Date = 3.5% [PNC prime rate of 3.25% + .25%])
(Per diem interest as of Petition Date = \$945.56)

8. Wilmington Trust FSB

Interest:	\$ 33,918.43
Late Charges:	\$ 1,417.14
Legal Fees and Expenses	
(Counsel for Administrative Agent):	\$ 7,503.60
(Counsel for Wilmington Trust FSB):	\$
Professional Fees (non-legal):	\$ 4,048.33
Appraisal Fees:	\$ 1,150.75
Other Fees and Expenses:	\$ 0.00
Total (10/19/09 – 12/31/09):	<u>\$48,038.25</u>

(Interest rate as of Petition Date = 3.5% [PNC prime rate of 3.25% + .25%])
(Per diem interest as of Petition Date = \$464.64)

As of December 31, 2009, the aggregate additional amounts owed to the Banks under Loan Documents, were not less than the following:

Interest:	\$ 442,127.42
Late Charges:	\$ 18,472.46
Legal fees and expenses	
(Counsel for Administrative Agent):	\$ 97,809.62
(Counsel for Other Lenders):	\$ 35,181.37
Professional fees (non-legal):	\$ 52,770.02
<u>Appraisal fees:</u>	<u>\$ 15,000.00</u>
Total (10/19/09 – 12/31/09):	<u>\$ 661,360.89</u>

*(Interest rate as of Petition Date = 3.5% [PNC prime rate of 3.25% + .25%])
(Per diem interest as of Petition Date = \$6,056.54)*

In addition to the foregoing amounts, the Banks, individually and collectively, reserve the right to collect as part of their respective claims against Kansas, ERC, Erickson Construction, and Erickson Group, in accordance with the terms of the Loan Documents and applicable law (i) all post-petition interest and late charges that accrue under the Loan Documents after the Petition Date, and (ii) all pre-petition and post-petition attorneys' fees and expenses that any or all of the Banks has incurred and hereafter incurs as a result of the filing of this bankruptcy case, the defaults existing under the Loan Documents and the enforcement of rights and remedies of any and all of the Banks under the Loan Documents., including, but not limited to, continuing interest, reasonable fees, costs and charges pursuant to 11 U.S.C. §506B.

The Banks, individually and collectively, reserve the right to periodically supplement and/or amend this Proof of Claim from time to time and to assert an unsecured claim in this bankruptcy case to the extent that the value of the Collateral is insufficient to satisfy the Banks' claims against Kansas, ERC, Erickson Construction, and Erickson Group under the Loan Documents. The Banks, individually and collectively, also reserve the right to amend and/or supplement this Proof of Claim in all other respects and to add additional claims of any nature whatsoever, including but not limited to claims entitled to administrative priority.

In accordance with the Claims Protocol Order, the Administrative Agent is an "authorized agent" within the meaning of Federal Rule of Bankruptcy Procedure 3001(b) who may file a proof of claim on behalf of the Banks with respect to the Loan Documents. Notwithstanding the foregoing, any Bank may, but need not, file its own proof(s) of claim for amounts due, which may be duplicative of amounts set forth in the Administrative Agent's Claim if such Bank disagrees with the amount, basis, documentation or any other assertion set forth in the Administrative Agent's Claim or for any other reason.

The filing of this Proof of Claim is not an acknowledgment or admission that the Bankruptcy Court has jurisdiction over the Banks' and/or the Banks' claims against any debtor or non-debtor entity, and the Banks reserve all rights with respect thereto. The Banks do not waive any rights to a jury trial, arbitration or enforcement of a choice of law or venue selection clause by filing this Proof of Claim. The filing of this Proof of Claim is without prejudice to any and all claims, causes of action and remedies that the Banks may have against the debtors or any non-debtors entities, all of which are expressly preserved. This Proof of Claim shall not operate as an admission or waiver of claims, causes of action or remedies that the Banks may have against any of the debtors or non-debtor entities under applicable law. Any of the Banks may file additional, supplemental and/or amended Proofs of Claim, which claims shall be considered a part of this Proof of Claim.

ARVEST[®]

BANK

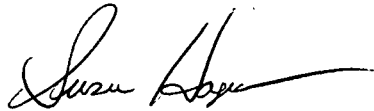
February 23, 2010

BMC Group, Inc.
ATTN: Erickson Retirement Communities, LLC
Claims Processing
18750 Lake Drive East
Chanhassen, MN 55317

Dear Claims Agent:

Please return a stamped copy of each Proof of Claim directly to me marked "**Filed**", in the envelope provided.

Sincerely,



Susie Hagedorn
Sr. Vice President