

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

KATHRYN CASEY, LAURIE CAGNASSOLA,
GERALD COHEN, BETTY FURR, FRANCESCA
GAGLIANO, CAROLYN KLEIN, JOSEPH
MORGAN, RICHARD ROSE, JESSICA SAKS and
KIRK SWANSON, on behalf of themselves and all
others similarly situated,

Plaintiffs,

-against-

WHITEHOUSE ESTATES, INC. KOEPPEL &
KOEPPEL, INC., DUELL 5 MANAGEMENT LLC
d/b/a DUELL MANAGEMENT SYSTEMS, WILLIAM
W. KOEPPEL and EASTGATE WHITEHOUSE
ESTATES, LLC,

Defendants.

Index No. 111723/2011

**STIPULATION AND
AGREEMENT OF
SETTLEMENT**

This stipulation and agreement of settlement (the “Settlement Agreement”) is submitted pursuant to CPLR 908 in furtherance of the settlement of this Action.¹ Subject to preliminary and final approval of the Court, the Settlement is entered into by Plaintiffs and Class Representatives Kathryn Casey, Laurie Cagnassola, Gerald Cohen, Betty Furr, Francesca Gagliano, Carolyn Klein, Joseph Morgan, Richard Rose, Jessica Saks and Kirk Swanson on behalf of themselves and all others similarly situated (“Plaintiffs”), and defendant Eastgate Whitehouse LLC, which is incorrectly referred to as Eastgate Whitehouse Estates, LLC in the caption (“Landlord”), by and through their respective attorneys.

¹ Capitalized terms shall have the meanings ascribed to them below. Except as otherwise set forth herein, all defined terms used in this Stipulation shall include the singular and plural form of the term defined.

The Settlement is intended by Plaintiffs and Landlord to fully and finally compromise, resolve, discharge and settle the Plaintiffs' claims in the Action including, but not limited to, securing a restoration of the future rights and liabilities of the parties pertaining to the issues raised by the Plaintiffs in the Complaint subject to the terms and conditions set forth below and the final approval of the Court.

WHEREAS, the Landlord is the ground lessee under a ground lease originally entered into with First and Fifty Second Corporation, as ground lessor, with respect to the real property located at 939 First Avenue (a/k/a 350 East 52nd Street), New York, New York 10022 (the "Property");

WHEREAS, Barclays Bank PLC ("Barclays") holds, *inter alia*, a duly recorded leasehold mortgage on the Landlord's ground lessee interest in the Property, and the leases and rents therefrom;

WHEREAS, 939 First Avenue LLC (the "Ground Lessor") is the current ground lessor under the Ground Lease;

WHEREAS, the Landlord leases residential units to tenants at the building (the "Building") on the Property;

WHEREAS, on October 14, 2011, Plaintiffs commenced the above-captioned action (the "Action"), before this court (the "Court") as a putative class action challenging Landlord's treatment of certain apartments at the Property as having been deregulated from rent stabilization;

WHEREAS, the Landlord was named as a defendant in the Action;

WHEREAS, Landlord received J-51 tax benefits for the Building between 1991 and 2014;

WHEREAS, the Complaint in the Action, as amended (the "Complaint"), alleges that certain apartment units had been impermissibly deregulated and/or treated as deregulated pursuant to the so-called "high rent vacancy deregulation" and "high rent/high income deregulation"

provisions of the Rent Stabilization Law (the “RSL”) while the Building was participating in the J-51 Program;

WHEREAS, the Complaint seeks as remedies:

- (i) a declaratory judgment declaring that the Plaintiffs’ “apartments are subject to rent stabilization and that Defendants are required to offer renewal leases on forms approved by the DHCR and required by the RSL, at legal regulated rents, or to continue their existing tenancy pursuant to the RCL with legal maximum rents as established by the RCL, that past and future allowable rent be set in a manner consistent with the RSL and that Plaintiffs and putative class members receive compensation for Past Rent Claims and Future Rent Claims”;
- (ii) an injunction enjoining the Landlord from: (a) “issuing any new lease or lease renewal that does not fully comply with the provision of the RSL and RSC”; (b) issuing “a J-51 rider to any existing tenant who was not require to sign a J-51 rider at the inception of his/her tenancy”; and (c) “imposing any rent increases or charges that do not fully comply with the provisions of the RSL and RSC”;
- (iii) damages in the amount of rent overcharges relating to Plaintiffs’ apartments; and
- (iv) an award of legal fees and expenses to Plaintiffs’ counsel.

WHEREAS, on August 6, 2012, this Court entered a Decision and Order certifying the Action as a class action with the class defined as: “All current, former, and future tenants of 350 East 52nd Street whose apartments have been, are currently being, or will be deregulated by or subject to attempts to be deregulated by defendants, their predecessors in interest or their successors in interest, pursuant to Luxury Decontrol, while defendants are or have been in receipt of J-51 tax abatement benefits”;

WHEREAS, on March 28, 2017 this Court entered a Decision and Order (the “Summary Judgment Order”) granting Plaintiffs partial summary judgment declaring that their legal regulated

rent should be calculated according to the RSC's "default formula", and referring the case to a referee for a calculation of damages;

WHEREAS, on April 13, 2021, this Court entered an order (the "Interim Rents Order") granting the motion of the Plaintiffs to reduce the amount of interim use and occupancy to be paid by the Plaintiffs with respect to their apartments during the pendency of this Action based upon the "default rent" formula set forth in the RSC;

WHEREAS, subsequent to entry of the Summary Judgment Order, the Landlord issued certain rental credits (the "Credits") to the Plaintiffs in satisfaction (in whole or part) of their damages in this Action;

WHEREAS, by order dated August 5, 2021, the Appellate Division, First Department (the "First Department") affirmed this Court's Summary Judgment Order (the "Appellate Division Order");

WHEREAS, on August 31, 2021, the Defendants filed a motion with the First Department seeking, *inter alia*, leave to appeal the First Department's order affirming the Summary Judgment Order to the New York Court of Appeals (the "Court of Appeals");

WHEREAS, on October 7, 2021, the First Department entered an order granting the Defendants' motion for leave to appeal the Summary Judgment Order to the Court of Appeals;

WHEREAS, on August 19, 2022 (the "Bankruptcy Petition Date"), the Landlord filed a voluntary Chapter 11 bankruptcy petition (Case No. 22-22635) with the United States Bankruptcy Court for the Southern District of New York (the "Bankruptcy Court"), which had the effect of staying the Action pursuant to Bankruptcy Code § 362 (the "Automatic Stay");

WHEREAS, on November 15, 2022, the Bankruptcy Court entered an order modifying the Automatic Stay to permit the Debtor to prosecute its appeal before the Court of Appeals.

WHEREAS, on April 16, 2023, the Court of Appeals entered an order reversing the Summary Judgment Order;

WHEREAS, the Court of Appeals held that: “Defendants’ deregulation of the apartments was based on [a] “misinterpretation of law” involved in *Regina* and therefore that conduct did not constitute fraud.”

WHEREAS, the Court of Appeals determined that: “for purposes of calculating overcharges, where it is possible to determine the rent ‘actually charged on the base date’ – here October 14, 2007 – that amount should be used and rent increases legally available to defendants pursuant to the RSL during the four-year period should be added” rather than the default formula provided for in the Summary Judgment Order;

WHEREAS, on February 13, 2023, the Bankruptcy Court entered an order approving a stipulation, which directed the Plaintiffs and Barclays, the two largest creditors in Landlord’s bankruptcy case, to engage in a mediation before the Hon. Larry S. Schachner (Retired) “to seek a resolution of the Class Action Plaintiffs’ Claims against the [Landlord] in connection with a potential Chapter 11 Plan to be filed jointly by [Barclays] and the [Plaintiffs]”;

WHEREAS, Barclays will file a Chapter 11 plan (the “Plan”) with the Bankruptcy Court in the Landlord’s bankruptcy case pursuant to Bankruptcy Code § 1121;

WHEREAS, the Plaintiffs will execute a Plan Support Agreement in support of the Plan;

WHEREAS, the Plan provides for the treatment of all claims against the Landlord, including Plaintiffs’ claims in the Action;

WHEREAS, the Plan provides that the Plaintiffs’ claims against the Landlord shall be treated as provided in, and governed by, this Settlement Agreement, subject to this Court’s approval pursuant to CPLR 907 and 908;

WHEREAS, the Plan provides for the sale (the “Sale”) of the Landlord’s ground lessee interest in the Property and the use of the proceeds from the Sale to, among other things, repay the amounts owed to Barclays on its mortgage, and to fund the Pool, which will provide for distributions to Plaintiffs pursuant to the terms of this Settlement Agreement following the Sale and following final approval of the Settlement Agreement by this Court;

WHEREAS, the Plan provides that upon confirmation of the Plan by order of the Bankruptcy Court (the “Confirmation Order”) the Plan Administrator, as defined in the Plan, is authorized to execute this Settlement Agreement on behalf of the Landlord;

WHEREAS, pursuant to the Plan and to avoid the costs, distractions and uncertainties of litigation, Plaintiffs and Landlord have agreed to the resolution of all of the Plaintiffs’ claims in this Action pursuant to the terms and conditions set forth below in this Settlement Agreement that shall be presented to the Court for preliminary approval pursuant to CPLR 907 and final approval pursuant to CPLR 908 after notice to the Class Members;

WHEREAS, on the basis of information available to them, including publicly available information and documentation made available by Landlord, Lead Counsel have determined that the settlement described herein is fair, reasonable, adequate, and in the best interests of the Plaintiffs and the Class.

THEREFORE, IT IS HEREBY STIPULATED AND AGREED, by the undersigned counsel for the parties:

DEFINITIONS

Terms not otherwise defined in this Settlement Agreement shall have the following meanings.

- (a) “Action” means the class action lawsuit titled *Casey, et al. v. Whitehouse Estates, Inc., et al.*, Sup. Ct. N.Y. Co., Index No. 111723/2011.

- (b) “Administration Costs” means all costs and expenses incurred by the Claims Administrator or any other entity relating to the administration of the Settlement, other than Notice Costs.
- (c) “Agreed Past Rent” shall have the meaning ascribed in paragraph 5 and shall be calculated pursuant to the Settlement Formula.
- (d) “Appeal” means an appeal or other judicial review seeking to modify or reverse an order or judgment of the order(s) of this Court approving the Settlement Agreement on an interim or final basis, by any person or entity with standing to do so including, without limitation, any petition or motion including petitions for rehearing or reargument, petitions for rehearing en banc, petitions for leave to appeal, and petitions for certiorari or any other form of review by a court of competent jurisdiction.
- (e) “Attorneys’ Fee Award and Expenses” shall have the meaning ascribed in paragraph 41.
- (f) “Automatic Stay” shall have the meaning ascribed on page 4.
- (g) “Bankruptcy Court” shall have the meaning ascribed on page 4.
- (h) “Bankruptcy Petition Date” shall have the meaning ascribed on page 4.
- (i) “Barclays” shall have the meaning ascribed on page 2.
- (j) “Base Date” pursuant to RSC § 2520.6(f)(1) is the date four years prior to the commencement of this action. This action commenced on October 14, 2011 with the filing of the Summons and Class Action Complaint. Therefore, the “Base Date” is October 14, 2007.
- (k) “Base Date Amount” means rent in effect as of October 14, 2007.
- (l) “Building” shall have the meaning ascribed on page 2.
- (m) “Cash Component” shall have the meaning ascribed in paragraph 19.
- (n) “Claim Form” means the document an Eligible Class Members shall use to file a Past Rent Claim, which shall be agreed upon by the Parties.
- (o) “Claims Administrator” shall have the meaning ascribed in paragraph 38.
- (p) “Class”, “Class Members”, “Rent Credits Class Members” and “Non-Rent Credit Class Members” shall have the meanings ascribed in paragraph 1.

- (q) “Class Period” is the period from October 14, 2007 through the date this Settlement Agreement is executed. Except as otherwise set forth herein, any tenant of the Building paying or that paid a rent greater than the Base Date Amount and subsequent increases as set forth in paragraph 3, during the Class Period is a “Class Member.”
- (r) “Class Representatives” mean Kathryn Casey, Laurie Cagnassola, Gerald Cohen, Betty Furr, Francesca Gagliano, Carolyn Klein, Joseph Morgan, Richard Rose, Jessica Saks and Kirk Swanson.
- (s) “Complaint” shall have the meaning ascribed on page 2.
- (t) “Confirmation Order” shall have the meaning ascribed on page 6.
- (u) “Covered Unit” shall have the meaning ascribed in paragraph 1.
- (v) “Court” shall have the meaning ascribed on page 2.
- (w) “Court of Appeals” shall have the meaning ascribed on page 4.
- (x) “Credits” shall have the meaning ascribed on page 4.
- (y) “Data” means the information set forth in Landlord’s documentation of the rental history of the Units which was previously delivered to, and reviewed by, Plaintiffs Counsel.
- (z) “Defendants” means Whitehouse Estates, Inc., Koeppel & Koeppel, Inc., Duell 5 Management LLC d/b/a Duell Management Systems, William W. Koeppel and the Landlord, which is incorrectly referred to as Eastgate Whitehouse Estates, LLC in the caption of the Action.
- (aa) “Deregulated Units” shall have the meaning ascribed in paragraph 1.
- (bb) “Effective Date” means the earliest date that the Order and Final Judgment shall Become Effective. The Order and Final Judgment shall “Become Effective” on the first day following the last of the following occurrences: (a) the last date to file an Appeal or seek permission to Appeal has expired with no Appeal having been taken or sought; or (b) if any Appeal is taken or sought, the date a remittitur or order is entered by a court (i) affirming the Order and Final Judgment or denying or dismissing any Appeal from the Order and Final Judgment, and any Appeal is finally dismissed or the Order and Final Judgment is finally affirmed with no possibility of subsequent Appeal therefrom, (ii) reversing or modifying the Order and Final Judgment in any non-material respect and (1) the time for any further Appeal has expired without such Appeal having been taken or sought or (2) any further Appeal is finally denied or dismissed or the Order and Final Judgment is

finally affirmed with no possibility of subsequent Appeal therefrom, and (iii) reversing or modifying the Order and Final Judgment in a material respect provided Plaintiffs and Landlord agree in writing to remain bound to the Settlement as reversed or modified and (1) the time for any further Appeal has expired without such Appeal having been taken or sought or (2) any further Appeal is finally dismissed or the Order and Final Judgment is finally affirmed with no possibility of subsequent Appeal therefrom. For purposes of this definition, a reversal or modification shall be deemed “material” if it materially affects any term of this Stipulation.

- (cc) “Eligible Class Member” shall have the meaning ascribed in paragraph 19.
- (dd) “Eligible Renters” means tenants: (a) in Units on the date of the Preliminary Approval Order and their spouses who enter into a lease prior to the Effective Date; and (b) who do not opt-out of the Settlement pursuant to paragraph 46.
- (ee) “Escrow Agent” shall mean Lead Counsel, or an escrow agent designated by them subject to Barclays’ approval in its sole and absolute discretion, who will act as escrow agent pursuant to an escrow agreement.
- (ff) “Expiration Date” shall have the meaning ascribed in paragraph 1.
- (gg) “First Department” shall have the meaning ascribed on page 4.
- (hh) “Future Rent Claims” means the declaration sought by Plaintiffs in the Complaint that future rents should be set at levels in accordance with the RSL and RSC.
- (ii) “Ground Lessor” shall have the meaning ascribed on page 2.
- (jj) “HCR” means the New York State Homes and Community Renewal formerly known as New York State Division of Housing and Community Renewal (“DHCR”).
- (kk) “Incentive Awards to the Named Plaintiff Class Representatives” shall have the meaning ascribed in paragraph 20.
- (ll) “Individual Apartment Improvement Increase” shall mean an adjustment of legal regulated rent pursuant to 9 NYCRR § 2522.4 (a) (1).
- (mm) “Interim Rents Order” shall have the meaning ascribed on page 4.
- (nn) “J-51 Program” means the New York City tax abatement program that was the subject of the Complaint.
- (oo) “J-51 Rider” means the notice accompanying an initial lease or lease renewal pursuant to RSL § 26-504(c).

- (pp) “Landlord” shall have the meaning ascribed on page 1.
- (qq) “Lead Counsel” means William Gribben, Ronald S. Languedoc and the law firm Himmelstein, McConnell, Gribben, Donoghue & Joseph LLP, and Matthew D. Brinckerhoff and the law firm Emery Celli Brinckerhoff Abady Ward & Maazel LLP.
- (rr) “Lease Term” shall have the meaning ascribed in paragraph 4.
- (ss) “Legal Rent” shall have the meaning ascribed in paragraph 10 and as determined in paragraphs 11 and 12.
- (tt) “Long Term Vacancy Increase” shall mean a rent adjustment upon vacancy or succession pursuant to 9 NYCRR § 2522.8 (a) and (b).
- (uu) “Major Capital Improvement” shall mean an adjustment of legal regulated rent pursuant to 9 NYCRR § 2522.4 (a) (2).
- (vv) “Minimum Damages Payment” means a payment of one hundred fifty dollars (\$150).
- (ww) “Net Term Amount” shall have the meaning ascribed in paragraph 7.
- (xx) “Non-Landlord Defendants” means all of the Defendants except for the Landlord.
- (yy) “Non-Payment Deductions” shall have the meaning ascribed in paragraph 7.
- (zz) “Notice” means the notice of the terms of this Settlement Agreement to be given to the Class following Preliminary Approval as described in paragraph 49.
- (aaa) “Notice Costs” shall mean the actual out-of-pocket costs of providing the Notice.
- (bbb) “NPD Objections” shall have the meaning ascribed in paragraph 40.
- (ccc) “Opt-Out” shall have the meaning ascribed in paragraph 46.
- (ddd) “Order and Final Judgment” means the order to be signed by the Court granting final approval of the Settlement, which shall be agreed upon by the Parties.
- (eee) “Order and Final Judgment Date” means the date the Order and Final Judgment is entered in the New York County Clerk’s Office.
- (fff) “Past Damages Amount” shall have the meaning ascribed in paragraph 7.
- (ggg) “Past Rent Claims” means monetary damages sought by Plaintiffs in the Complaint

based on the alleged overcharge of rents for the Covered Units calculated as the difference between the rent that would have been charged had the Units been subject to rent stabilization and the rent actually charged for the Units.

- (hhh) “Plan Administrator” means the person appointed as plan administrator for the Debtor by a Confirmation Order entered by the Bankruptcy Court, which will authorize the Plan Administrator to execute this Settlement Agreement on behalf of the Landlord.
- (iii) “Plaintiffs” means Kathryn Casey, Laurie Cagnassola, Gerald Cohen, Betty Furr, Francesca Gagliano, Carolyn Klein, Joseph Morgan, Richard Rose, Jessica Saks and Kirk Swanson, on behalf of themselves and all others similarly situated.
- (jjj) “Plan” shall have the meaning ascribed to such term on page 5.
- (kkk) “Pool Disbursement” shall have the meaning ascribed in paragraph 22.
- (lll) “Pool” means the Cash Component held in escrow pursuant to this Stipulation.
- (mmm) “Preliminary Approval” shall have the meaning ascribed in paragraph 44.
- (nnn) “Preliminary Approval Date” means the date the Preliminary Approval Order is entered in the New York County Clerk’s Office.
- (ooo) “Preliminary Approval Order” means the order to be signed by the Court granting Preliminary Approval, which shall be agreed upon by the Parties..
- (ppp) “Property” shall have the meaning ascribed on page 2.
- (qqq) “Rent Guideline Board Increase” shall mean an adjustment in the legal regulated rent pursuant to a determination of the Rent Guidelines Board as defined by 9 NYCRR 2520.5 (m).
- (rrr) “Rent Overcharge Claim” shall mean the amount equal to the difference between past rent actually charged and Agreed Past Rent.
- (sss) “Releasing Class Members” shall have the meaning ascribed in paragraph 31.
- (ttt) “Released Parties” shall have the meaning ascribed in paragraph 30.
- (uuu) “Releasing Landlord” shall have the meaning ascribed in paragraph 32.
- (vvv) “Rent Increases” shall have the meaning ascribed in paragraph 14.
- (www) “Rent Adjustment Date” shall have the meaning ascribed in paragraph 4.

- (xxx) “RSC” means the New York City Rent Stabilization Code as amended through June 15, 2019.
- (yyy) “RSL” means the New York City Rent Stabilization Law as amended through June 15, 2019.
- (zzz) “Sale” shall have the meaning ascribed on page 5.
- (aaaa) “Settled Plaintiffs’ Claims” shall have the meaning ascribed in paragraph 33.
- (bbbb) “Settlement Agreement” shall have the meaning ascribed on page 1.
- (cccc) “Settlement Expenditures” means Notice Costs and Administration Costs, collectively.
- (dddd) “Settlement Formula” shall have the meaning ascribed in paragraph 5.
- (eeee) “Settlement Hearing” means the judicial hearing, on a date to be set by the Court, at which the Court will consider all arguments concerning whether the Settlement should be finally approved.
- (ffff) “Settlement Pool” shall have the meaning ascribed in paragraph 19.
- (gggg) “Standard Vacancy Increase” shall mean a rent adjustment upon vacancy or succession pursuant to 9 NYCRR § 2522.8 (a) and (b).
- (hhhh) “Stipulated Order” shall have the meaning ascribed in paragraph 15.
- (iiii) “Summary Judgment Order” shall have the meaning ascribed on page 3.
- (jjjj) “Term Amount” shall have the meaning ascribed in paragraph 7.
- (kkkk) “Unclaimed Funds” shall have the meaning ascribed in paragraph 23.
- (llll) “Unit” means any Building apartment for which a Class Member pays or has paid a market rent during the Class Period.

CLASS CERTIFICATION

1. All previous Court orders concerning class certification in this action are superseded by this Settlement Agreement. A class (the “Class”) will be certified that consists of all persons (the “Class Members”) who occupied an apartment that was treated as deregulated by Landlord while Landlord was receiving J-51 tax benefits (a “Covered Unit”), provided that such a

person was an occupant of a Covered Unit on or after the Base Date but before June 30, 2014; or who took occupancy of a Covered Unit after June 30, 2014, and was treated as an unregulated tenant, but after performing the calculation described above it is determined that their initial rent was below the threshold required for high rent vacancy deregulation. The Covered Units are those units described on Exhibit A. Notwithstanding the foregoing, the following apartments: 1C, 2H, 2K, 3C, 3D, 3E, 3K, 5B, 5C, 5D, 5K, 7C, 7D, 7G, 7K, 8C, 8E, 9D, 9G, 10G, 11D, 11K, 12K, 14C, 14D, 14G, 14J, 15E, 15G, PHB and PHC (the “Deregulated Units”) could have been lawfully deregulated pursuant to high rent vacancy deregulation subsequent to expiration of J-51 on June 30, 2014 and prior to June 14, 2019. It is acknowledged that these Deregulated Units are properly deregulated and landlord may file exit registrations reflecting the date of deregulation. It is agreed that the current tenants of these Deregulated Units are not subject to rent regulation but may remain in occupancy at the current rent stabilized rent set forth in Exhibit A for one (1) year from the Effective Date date of this Settlement Agreement (the “Expiration Date”). At the Expiration Date the landlord may offer the tenant a free market lease at the current market rent or provide a notice of non-renewal at landlord’s option. In addition, Class Members that were no longer tenants prior to March 1, 2023 will be referenced as Non-Rent Credit Class Members and Class Members that are tenants as of March 1, 2023 will be referenced as Rent Credit Class Members.

2. Plaintiffs, all of whom were previously appointed as Class Representatives on August 6, 2012 shall remain Class Representatives for the Class.

3. Lead Counsel that were previously appointed as Lead Counsel shall remain Lead Counsel for the Class.

AMENDMENT OF INTERIM RENTS ORDER

4. To the extent not done by Plaintiffs and the Landlord prior to execution of this

Settlement Agreement, no later than three (3) business days after execution of this Settlement Agreement by the Plan Administrator on behalf of the Landlord, the Plan Administrator, on behalf of the Landlord, and the Plaintiffs shall file a joint stipulation and/or application with the Court seeking to amend the Interim Rents Order and fixing the amount of rent/use and occupancy to be paid for those Covered Units which are currently being leased by Class Members, for the period commencing on the first of the month immediately following the date that the Court enters the order amending the Interim Rent Order (the “Rent Adjustment Date”) in the amounts set forth in Exhibit A of this Settlement Agreement.

SETTLEMENT CONSIDERATION

5. The Settlement Formula. The “Agreed Past Rent” shall be calculated by adding to the Base Date Amount for the period from October 14, 2007 through and including the date this Stipulation is executed: (i) all Standard Vacancy Increases; (ii) all Long Term Vacancy Increases after the Base Date; (iii) all Individual Apartment Improvement Increases after the Base Date; (iv) all Rent Guideline Board Increases after the Base Date; and (v) all other rent adjustments permitted by the RSL and RSC after the Base Date (the “Settlement Formula”).

6. The Legal Rent for each of the apartments leased by those Class Members that are currently tenants at the Building, as of March 1, 2023, as calculated pursuant to the Settlement Formula is set forth in Exhibit A of this Settlement Agreement.

7. Past Damages Amount. (a) If an Eligible Class Member during the Class Period was billed and paid rent in excess of the applicable Agreed Past Rent as shown in the Data for the term of a lease (“Lease Term”), that Eligible Class Member will have a Past Rent Claim that will be calculated using the amount of that excess for that Lease Term (“Term Amount”). If an Eligible Class Member has more than one Lease Term, all of the Term Amounts will be added together and

the sum shall be that Eligible Class Member's "Net Term Amount." The Net Term Amount shall be reduced by any non-payment of rent by the Eligible Class Member (the "Non-Payment Deductions") subject to paragraph 9 as described in this Settlement Agreement and any rent concessions for that Eligible Class Member that are not reflected in the billing used to calculate the Term Amounts and the resulting amount shall be the "Past Damages Amount" for that Eligible Class Member. The Past Damages Amount shall be off-set by any Credits received and previously applied as rent and any amount paid in accordance with the Interim Rent Order subject to paragraph 9.

9. If a Class Representative has a Non-Payment Deduction, any Incentive Award will be used as a credit against the Non-Payment Deduction and shall also be released from the Pool to Barclays. By way of example, if the Eligible Class Member had a twelve-month Lease Term that recited a rent of \$1,500 per month, and the Settlement Formula rent during that Lease Term was \$1,000 per month, but the Eligible Class Member was given one month's free rent during that Lease Term, the Past Damages Amount would be calculated as follows: $[1,500 \times 11 = 16,500] - [11 \times 1,000 = 11,000] = 5,500$. By way of further example, if in addition to the exemplary facts described above, the Eligible Class Member failed to pay two month's rent, then the Past Damages Amount due to the Eligible Class Member for that Lease Term would be calculated as follows: $[1,500 \times 11 = 16,500] - [11 \times 1,000 = 11,000] - [2 \times 1,500 = 3,000] = 2,500$. The Past Damage Amount formula described in this paragraph, including deductions for past non-payment of rent, has been applied to the rental and payment histories of all Non-Rent Credit Class Members and, subject to a Non-Rent Credit Class Member disputing the amount of any non-payment deductions, that amount is \$856,796.56.

8. Multiple Tenancies. If an Eligible Class Member leased more than one Unit during the Class Period, all of the Term Amounts will be combined into one Past Damages Amount.

9. Past Nonpayment of Rent. It is acknowledged that, due to an Interim Rent Order after the granting of the summary judgment motion, Rent Credit Class Members as defined in paragraph 1 above, were billed a default rent and received certain rent Credits. The Interim Rent Order was without prejudice to the parties' rights. The Court of Appeals, on April 16, 2023, issued an order reversing said summary judgment motion holding that the rent should be the rent charged on the Base Date. Thus, as a result of the Court of Appeals determination, Rent Credit Class Members who relied on the rent credits to pay rent and/or paid the default rent, would ordinarily owe the landlord the difference between credit applied toward rent and/or default rent paid and the rent as calculated under this Settlement Agreement. It is further agreed and acknowledged that as a result of the Interim Order, all Rent Credit Eligible Class Members received a greater amount of Credits than each individual tenant was overcharged and as a result the Rent Credit Class Members are ineligible for any further payments. All Past Damages Amounts shall pertain only to the compensation that Non-Rent Credit Class Members are entitled to receive under the Settlement Agreement and shall not impact any amount otherwise due Landlord for nonpayment of rent, except that the Landlord waives and releases any claim to recover money damages against, or evict, a current tenant Rent Credit Class Member for past rent due, provided that such current tenant Rent Credit Class Member is current on all rent obligations due under their lease with the Landlord as of the Rent Adjustment Date. In determining whether non-payment of rent exists with respect to a current tenant Rent Credit Class Member, such Class Member's use of Credits to pay rent for any period after August 1, 2023 shall not be counted as a payment of rent. The Landlord also waives any claim to recover money damages against any past tenant Non-Rent Credit Class Member for non-payment of past rent due.

10. Transferability. Past Damages Amounts and claims for Past Damages Amounts

shall not be assignable or otherwise transferable by Eligible Class Members to any person or entity, although an Eligible Class Member's executor, administrator or trustee (for a trust that is in existence as of the Preliminary Approval Date or is a special needs trust) may file or accept payment of that Class Member's claims.

11. Waiver of Non-Compensatory Damages. The Settlement, Settlement Formula and Past Damages Amounts shall not include any amount based on any claim or calculation of treble damages, any other punitive damages, or fines. All claims for treble damages, punitive damages, fines and interest under the RSL, RSC or any other provision of law are hereby waived and released, except as to Opt-Outs. The Order and Final Judgment shall provide that because this is a class action, an award of treble damages, punitive damages, and fines would be waived if this Action proceeded to trial.

DECLARED RENTS

12. The maximum legal regulated rent permitted to be charged pursuant to the RSL and RSC (the "Legal Rent") for each Covered Unit shall be calculated using the Base Date, and the amount of such rent with respect to each apartment being currently leased by a Plaintiff is included in Exhibit A.

13. The Legal Rent for each Unit shall be determined by increasing the Base Date Amount for each Unit by all of the following that occurred for that Unit from the Base Date to the Order and Final Judgment Date: all Standard Vacancy Increases; all Long Term Vacancy Increases; all Individual Apartment Improvement Increases; all Rent Guideline Board Increases; all Major Capital Improvement Increases; and all other rent increases and adjustments permitted under the Rent Stabilization Law and Code. The maximum legal collectible rent permissible to be charged pursuant to the RSL and RSC for each of the Units shall be calculated by reference to the

Base Date.

14. For purposes of this Stipulation and the Order and Final Judgment, the terms “Standard Vacancy Increases,” “Long Term Vacancy Increases,” “Individual Apartment Improvement Increases,” “Rent Guidelines Board Increases,” and “Major Capital Improvements” shall have the meanings ascribed to them under the RSC and/or RSL (collectively, the “Rent Increases”). Rent Increase calculations for each Unit shall be based on the Data. The absence of any particular back-up documentation in Landlord’s files shall not invalidate any Rent Increase. The cost, scope and necessity of work performed in connection with Individual Apartment Improvement Increases shall be as reflected in Landlord’s records and shall not be subject to challenge by Class Members. Plaintiffs have already had the opportunity prior to moving for Preliminary Approval to conduct discovery pertaining to the Rent Increases and therefore no further confirmatory discovery is necessary.

15. Except as set forth in paragraph 1 above and paragraph 18 below, the Units shall all be subject to the RSL with Class Members entitled to stabilized leases and rents, rights of renewal and succession, and other benefits under the law, such as the provision of the HCR rider with each lease, pursuant to RSL § 26-511 (d). The J-51 benefit period expired June 30, 2014. If a Unit became vacant subsequent to the expiration of the J-51 tax benefit period and the recalculated rent permitted the unit to be deregulated under the applicable deregulated threshold as defined by the RSL, these apartments were deemed deregulated as the application date was set forth in paragraph 1.

16. The stipulated order shall further provide that in the event a Tenant was supplied a J-51 Rider with each lease and lease renewal for a Unit from the inception of the tenancy through the last lease in effect at the expiration of the J-51 period then that Unit will be deemed deregulated

at the expiration of the lease in effect as of the date of this Settlement Agreement if otherwise permitted by law.

17. Legal Rent shall not include any amount based on any claim or calculation of treble damages, any other punitive damages, fines or interest.

18. Notwithstanding anything to the contrary contained in this Settlement Agreement, the Deregulated Units are deregulated apartments under the RSL and RSC. It is established that the legal regulated rent for the aforesaid Deregulated Units reached the threshold prior to June 14, 2019 and subsequent to June 30, 2014.

CASH COMPONENT

19. Each Non-Rent Credit Class Member who has a Past Damages Amount that is positive, and who has not elected to be an Opt-Out (an “Eligible Class Member”), shall be eligible to receive compensation as provided for in paragraphs 20 through 25 below. For this purpose and as otherwise provided for in this Settlement Agreement, \$2,200,000.00 (the “Settlement Pool”) shall be paid first from the proceeds of the closing of the Sale of the Landlord’s interest in the Property pursuant to the Plan to the Escrow Agent, to be held in escrow and distributed pursuant to future order of the Court (the “Cash Component”). No payments will be made to any Class Member or Lead Counsel or any other person or entity for any cost or expense associated, or in connection, with this Settlement Agreement except from the Settlement Pool, and upon Final Approval, the Class Members who have not Opted-Out and their counsel expressly waive and release any right or claim to recover any amount from any other person or entity.

20. The Cash Component shall be used to pay Past Damages Amounts, Minimum Damages Payments, “Incentive Awards to the Named Plaintiff Class Representatives” in the amount of \$10,000 for each Named Plaintiff Class Representative, and Attorneys’ Fee Awards and

Expenses, and all other amounts which may be due pursuant to this Stipulation. Paragraphs 21 through 25 below shall govern the distribution of the funds from the Settlement Pool.

21. The formula for purposes of determining the Past Damages Amount shall be based upon the Settlement Formula, less Non-Payment Deductions and less Credits, as provided in paragraph 7 above. Eligible Class Members who do not Opt-Out affirmatively waive any right to interest, penalties, or fines on these amounts or otherwise except as set forth in this Settlement Agreement.

22. All current tenant Rent Credit Class Members have already received any respective Past Damages Amounts to which they would have been entitled as of the date of this Settlement Agreement. Each Non-Rent Credit Class Member who files a timely claim form who has a positive Past Damages Amount will receive a disbursement from the Pool (a "Pool Disbursement") pursuant to paragraph 7 above in the amount of such Eligible Class Member's Past Damages Amount(s). By virtue of prior Court Orders and the Credits, current Rent Credit Class Members, as described in paragraph 9 above, have been paid all damages and are not entitled to any additional monies including the minimum payment. If a Non-Rent Credit Class Member's Past Damages Amount is equal to or less than one hundred fifty dollars (\$150), such Non-Rent Credit Class Member will nonetheless receive a Minimum Damages Payment of \$150 in lieu of his, her or its Past Damages Amount. For purposes of this Settlement, co-tenants of a single Unit for each Lease Term reflected in the Data shall be considered together as one Class Member. If the Class Member for a particular Lease Term consists of two or more co-tenants, the Past Damages Amount or Minimum Damages Payment will be divided equally among and disbursed proportionally to only those co-tenants who timely submit a Claim Form. Any Non-Payment Deductions also shall be made equally and proportionally from each such co-tenant's disbursement, even if other co-tenants exist but fail to

submit a Claim Form (unless any other co-tenant opts out, in which case all the co-tenants shall be deemed to have opted out pursuant to paragraphs 46 through 48 below, including those co-tenants who timely submit a Claim form). Any disputes among co-tenants concerning the allocation of any distributions under this Settlement Agreement must be addressed and resolved amongst the co-tenants outside the scope of this Settlement Agreement and the existence of any such actual or potential disputes shall not be a basis for objecting to the Settlement Agreement.

23. If, after all the Eligible Class Members that submitted timely claim forms receive 100% of their Past Damages Amount and if there remains any portion of the Pool remaining after the payment of all Court approved Attorneys' Fees and Expenses, Notice Costs and Administrative Costs, and Incentive Awards, if any (the "Unclaimed Funds"), those remaining Unclaimed Funds in the Pool shall be used to make a second payment to all Eligible Class Members that have submitted timely claim forms, on a pro-rata basis (the "Second Payment"). The amount of the Second Payment to each Eligible Class Member that submitted a timely claim form shall not exceed 100% of the amount of Past Damages amount received in the initial payment, e.g., if \$20,000 was initially paid on a particular Eligible Class Member's Past Damages Amount, the Second Payment to such Eligible Class Member cannot exceed \$20,000. Insofar as any money remains in the Pool after the payment of (1) the initial Past Damages Amount to all Eligible Class Members who submit a timely claim form; (2) all Court approved Attorneys' Fees and Expenses, Notice Costs and Administrative Costs, and Incentive Awards; and (3) the Second Payment to each Eligible Class Member that submits a timely claim form, that amount will revert to Barclays, and shall be transferred by the Claims Administrator to Barclays no later than seven (7) days after all other amounts to be paid from the Settlement Pool by the Claims Administrator have been paid in full.

24. If any Unclaimed Funds remain in the Pool one year after the Effective Date for whatever reason, including the failure to cash payment checks disbursed from the Settlement Pool, such funds shall be distributed to Eligible Class Members on a pro-rata basis until Eligible Class Member receive 200% of the Settlement Formula or the cost of additional distributions makes such payments financially infeasible. Any amount remaining in the Settlement Pool 90 days thereafter shall be transferred to Barclays..

25. If the Settlement does not become effective or terminates for any reason, the Settlement Pool shall revert to Barclays less all Notice Costs and Administrative Costs, if any, which shall not exceed \$35,000.

TERMINATION PROVISION/OPT-OUT

26. Any Class Member that timely files an opt-out form and/or request for exclusion will not be bound by any of the terms of this Settlement. Any Class Member who does not timely opt-out or request exclusion will be bound by the terms of this Settlement, but only those Class Members who file timely claim forms will be eligible to receive payments from the Settlement Pool.

27. Landlord, only with Barclays' prior written consent, shall have the right to terminate this Settlement Agreement if either: (a) 20% or more of the Class Members opt-out of the Settlement; or (b) the aggregate dollar amount that Class Members who opt-out of the Settlement would have received under the Settlement Formula (had they not opted out) exceeds 20% of the amount paid by Landlord into the Settlement Pool.

COURT ORDER

28. The Court shall enter orders, in a form approved by Barclays, ensuring the enforceability of the terms of the Settlement Agreement.

29. The Order and Final Judgment shall, among other things, provide for the full and

complete dismissal of the Complaint with prejudice against all Defendants.

RELEASES

30. “Released Parties” means Landlord, all Defendants in the Action, Barclays, the Ground Lessor, any and all purchasers of the Landlord’s interest in the Ground Lease and all of the foregoing entities’ present and former lenders, investors, affiliates, subsidiaries and parent companies, including without limitation, limited liability companies, partnerships and corporations (including those that are minority-owned), and their respective officers, attorneys, members, principals, shareholders, heirs, executors, administrators, directors, managers, partners, employees, agents, consultants, advisors, or representatives, and the successors and assigns of each of the foregoing, including without limitation, any future owner of the Landlord’s interest in the Ground Lease, and any future owner of the fee interest in the Property.

31. “Releasing Class Members” means Plaintiffs, each Settlement Class Member who does not timely and properly opt out of the Settlement, and the heirs, successors, trustees, executors, administrators and assigns of each of them.

32. “Releasing Landlord” means Landlord and its successors and assigns.

33. “Settled Plaintiffs’ Claims” means all statutory, regulatory, common law or other claims, causes of action, suits, administrative proceedings, arbitrations, liabilities, obligations, expenses, costs, penalties, damages, demands, and/or any other remedies of any nature whatsoever, under federal, state, local or any other law, whether legal, equitable or otherwise, arising at any time on or before entry of the Order and Final Judgment, that are based upon or related to, or arise out of, in whole or in part, the facts, transactions, events, occurrences, acts, or failures to act that were or could have been alleged in the Action by Plaintiffs or a Class Member against the Released Parties, including without limitation, damages, penalties, punitive damages, treble damages, liabilities or other remedies relating to (a) residential rents at the Property, (b) the rent-regulated

status of any Unit at the Property, (c) Barclays' interest in the leasehold mortgage on the Property and/or (d) any other claims arising under the RSL or RSC based on any act, event or alleged failure to act prior to the Order and Final Judgment Date, including but not limited to any claim that a tenant was entitled to any particular form of lease, rider, notice, or that the Building or Unit had to be registered with any governmental agency. For the avoidance of any doubt, this release includes any successor liability or other claims by Plaintiffs under RSC § 2526.1 (9 NYCRR §2526.1) or any other law.

34. Subject to the Court's approval of this Stipulation and entry of the Order and Final Judgment, as of the Effective Date: (a) each Releasing Class Member hereby forever waives, releases, and discharges all Settled Plaintiffs' Claims against the Released Parties even if such Releasing Class Member failed to submit a Notice of Claim Form; (b) each Releasing Class Member shall be permanently enjoined from commencing, prosecuting, or continuing any of the Settled Plaintiffs' Claims against the Released Parties even if such Releasing Class Member failed to submit a Notice of Claim Form; and (c) the Releasing Landlord hereby forever releases all Class Members, except Opt-Outs, from all statutory, regulatory, common law or other claims, causes of action, suits, administrative proceedings, arbitrations, liabilities, obligations, expenses, costs, penalties, damages, demands, and/or any other remedies of any nature whatsoever, under federal, state, local or any other law, whether legal, equitable or otherwise, arising at any time on or before entry of the Order and Final Judgment, that are based upon or related to, or arise out of the Action except non-payment of back rent to the extent otherwise set forth in this Settlement Agreement and actions or proceedings pending on, or filed after, the date of this Settlement Agreement for unrelated claims for bodily injury or damage to personal property.

35. In addition to the above release language, the absence of any forms or notices or

registration through the date of the first lease renewal for each Class Member after the Effective Date will not cause the loss of any rent increase or other adverse consequences to Landlord.

RESERVATION OF RIGHTS

36. Except as expressly set forth herein, if the Court fails to grant preliminary approval of the Settlement Agreement by the date that is more than forty-five (45) days after the confirmation of the Plan, or final approval of the Settlement Agreement by the date that is more than 120 days from the date the Court grants preliminary approval, or if the Settlement Agreement is terminated or does not become effective for any reason, then, at Plan Administrator's (on behalf of Landlord's) option, with Barclays' prior written consent, all parties' positions shall return to the *status quo ante* as if the Settlement Agreement never existed, and each party preserves, reserves and does not waive any and all of its respective rights, claims, defenses and remedies.

DEFENDANT'S DOCUMENTS AND CONFIRMATORY DISCOVERY

37. All Rent Increases shall be calculated at the amount assigned to the Covered Units based on Landlord's documentation produced during discovery and as updated through the Order and Final Judgment Date. The absence of any particular back-up documentation in Landlord's files shall not invalidate any increase. The cost, scope, and necessity of work performed in connection with Individual Apartment Improvements, and Major Capital Improvements shall be as reflected in Landlord's records and shall not be subject to challenge by Class Members. Plaintiffs have had the opportunity prior to the execution of the Settlement Agreement to conduct confirmatory discovery pertaining to the Rent Increases, and waive the right to take any additional discovery after execution of this Settlement Agreement.

CLAIMS ADMINISTRATION

38. With the Court's approval and conditioned on the successful negotiation of a retention agreement, the Pool shall be administered by a claims administrator selected by

Plaintiffs' counsel (the "Claims Administrator"). If for any reason that firm does not become the Claims Administrator or ceases to serve in that capacity, the Court shall appoint another entity to become the Claims Administrator at the request of Lead Counsel and subject to Plan Administrator's approval. Any dispute concerning the amount of Administrative Costs to be paid to the Claims Administrator will be resolved by the Court. The cost of the Class Administrator shall be paid solely by the Pool.

39. To receive payment for Past Damages Amounts or Minimum Damages Payments, Eligible Class Members shall file claims for distributions from the Pools pursuant to the procedures set forth in a Claim Form to be agreed upon by the Parties. If a single Unit had multiple co-tenants at any given time, any subsequent dispute as to the entitlement to any distribution under this Stipulation shall be solely between and among such co-tenants without recourse to the Pool and without any liability to any of the parties to this Settlement Agreement. For identity verification purposes, all Claim Forms shall require Class Members to provide the month and year when their lease(s) commenced and terminated and the addresses of such Class Member's leased Unit(s). All Claim Forms shall require Class Members to state whether the Class Member submitting the form subleased his, her, or its Unit(s) with or without the consent of the landlord at any time since the Base Date, to the date he, she or it signed the Claim Form, and, if so, the dates of such subleasing, the rents received from the subtenant(s) and the name or names of the subtenant(s). Class Members who do not timely file a Claim Form pursuant to these procedures shall be deemed to have waived and released their Past Rent Claims, Past Damages Amounts and Minimum Damages Payments but shall nonetheless remain subject to the applicable releases set forth in paragraph 30 above unless he, she or it becomes an Opt-Out. Determinations as to whether a Claim Form has been timely and properly filed shall be made by the Claims Administrator.

40. Landlord will provide Lead Counsel and/or the Claims Administrator with the names of all Eligible Class Members that Landlord alleges failed to pay rent since the commencement of the Action through the date the Eligible Class Member vacated the Covered Apartment, including the amounts of such alleged non-payment and period during which it allegedly accrued and the total amount of such potential non-payment deductions. If feasible, Eligible Class Members with alleged non-payment histories will be notified of Landlord's claim along with the Notice of Settlement. Any such Class Member that submits a claim form may also submit an objection to the allegation of non-payment and any supporting documentation or other materials (the "NPD Objections"). Plaintiffs and Landlord will confer on the resolution of all NPD Objections. All NPD Objections that cannot be resolved will be submitted to the Court for determination on or before the Settlement Hearing and the Court shall provide such orders and judgments as it deems appropriate. If, by the Effective Date, some disbursements to Eligible Class Members remain unresolved because of a dispute about the Non-Payment Deduction or for any other reason, the amount allocated to the Eligible Class Member (including the disputed Non-Payment Deduction) will remain in the Pool for later distribution at such time as the dispute is resolved.

ATTORNEYS' FEES AND EXPENSES AWARD

41. Lead Counsel may apply to the Court, unopposed by Landlord, for an award of Attorneys' Fees and out-of-pocket expenses (the "Attorneys' Fee Award and Expenses") which shall be paid from the Pool, in an amount that shall not exceed the amount available remaining in the Pool, after (a) the allocation of payments to all Eligible Class Members that submit timely claim forms and (b) the allocation of all payments for Notice Costs, Administrative Costs and Incentive Award payments to Class Representatives. The Attorneys' Fee Award and Expenses shall be paid by the Claims Administrator within ten (10) days of the later of: (i) the Effective Date; or (ii) the date the Settlement Pool is transferred to the Class Administrator from the proceeds

of the Sale or as soon thereafter as practical.

42. Except as expressly provided in this Stipulation, Plaintiffs, Landlord and Lead Counsel shall bear their own fees, costs and expenses.

43. Any failure of the Court to approve a request for the Attorneys' Fee Award and Expenses, in whole or in part, shall not affect the terms or enforceability of the remainder of this Stipulation or the Settlement.

SUBMISSION FOR APPROVAL

44. Promptly after execution of this Settlement Agreement, and no later than 15 days after entry of the Confirmation Order, Plaintiffs with the consent of the Plan Administrator, acting on behalf of Landlord, shall submit this Settlement Agreement with its exhibits to the Court for preliminary approval of this Settlement Agreement (the "Preliminary Approval") and shall seek entry of the Preliminary Approval Order. Among other matters, the Preliminary Approval Order shall provide for: (a) the preliminary approval of the of the Class as defined herein; (b) the preliminary approval of this Settlement Agreement and the declaratory relief provided herein as being fair, just, reasonable and adequate to the Class; (c) the approval of the Notice; (d) the approval of a procedure for and the timing of the filing of objections, if any; (e) the approval of the timing for processing Opt-Out requests; (f) the setting of a date for the Court to hold the Settlement Hearing; and (g) a stay of the proceedings in this Action in accordance with paragraphs 56 through 58 below. The motion for Preliminary Approval shall have as an exhibit a schedule identifying all of the Units and the date each was initially treated as deregulated.

45. At or prior to the Settlement Hearing, Plaintiffs with Landlord's consent shall request that the Court enter the Order and Final Judgment. The Order and Final Judgment shall have, as exhibits, schedules (to be filed under seal to preserve tenant confidentiality) showing the Legal Rent calculated as of the date of the Settlement Hearing pursuant to the Settlement Formula,

for each of the Units as calculated pursuant to this Stipulation. The Settlement shall be considered final on the Effective Date.

REQUESTS FOR EXCLUSION/OPT OUT

46. Each Class Member will be bound by all provisions of the Settlement Agreement, whether favorable or unfavorable, unless such person mails, by first class mail to the Claims Administrator, a written request for exclusion from the Class, postmarked no later than 21 days before the Settlement Hearing (an “Opt-Out”). No Class Member may exclude himself, herself or itself from the Class after that date. The Claims Administrator shall provide regular reports of such requests to each of the parties’ attorneys, and counsel for Barclays. In order to be valid, each request for exclusion (an “Opt-Out”) must: (a) set forth the name and address of the Class Member requesting exclusion; (b) state that such Class Member “requests exclusion from the Class in *Casey v. Whitehouse Estates, Inc.*, Index No. 111723/2011”; (c) be signed by such Class Member; and (d) include the addresses of all of such Class Member’s leased Unit(s). Requests for exclusion will not be accepted if they do not include the required information or if they are not made within the time stated above. If one co-tenant of a Unit is an Opt-Out, all co-tenants of that Unit shall likewise be deemed to be Opt-Outs as to each Lease Term for which they were co-tenants.

47. The rent for all Opt-Outs who are current tenants of the Building at the time they opt-out shall be the maximum legal rent permitted by law.

48. Opt-Outs will not receive any payment from the Settlement Pool and will not be entitled to receive any of the benefits he or she would otherwise have been entitled to pursuant to this Settlement Agreement. In any subsequent proceeding, Opt-Outs may make any claim or argument and Landlord may raise any defenses available to it whether at law or equity. Unless expressly provided in this Settlement Agreement, Eligible Class Members may not choose to be excluded from any individual provisions of this Settlement Agreement including, but not limited

to, all provisions regarding Future Rent Claims and the declaratory relief provided in paragraphs 12 through 18 of this Settlement Agreement.

NOTICE

49. The Notice to all Class Members, which shall be agreed upon by the Parties, shall be provided to the Class by a mailing and/or by electronic means to all Class Members for whom an address or possible address is known. Landlord shall supply to the Claims Administrator to the extent Landlord possesses such information, in a confidential manner, each Class Member's: (a) current or last known residential address; (b) current or last known email address; and (c) social security number and date of birth (to facilitate locating and providing Notice to former tenant Class Members who may have changed residences multiple times and to representatives of Class Members who may be incapacitated or deceased). The foregoing information shall be destroyed by the Claims Administrator after all of its duties under this Settlement Agreement are fulfilled. Lead Counsel shall, at least ten (10) business days before the Settlement Hearing, file with the Court an appropriate affidavit with respect to the preparation, mailing and publication of the Notice. The language and form of all public notices and other advertisements aimed at reaching potential Class Members shall be subject to review and approval by Barclays.

CONDITIONS OF SETTLEMENT

50. Landlord denies and continues to deny that it has committed or aided and abetted the commission of any unlawful or wrongful acts alleged in the Action, and expressly maintains that it diligently and scrupulously complied with the RSL, RSC and all other legal obligations. Landlord is entering into the Settlement solely because the proposed Settlement will eliminate the uncertainties, burden and expense of further litigation.

51. Plaintiffs and Lead Counsel believe that the Settlement Agreement is fair, reasonable, adequate and in the best interests of the Plaintiffs and the Class. Plaintiffs and Lead Counsel also

took into consideration the strengths and weaknesses of the Class' claims and defenses and determined that the terms of the proposed Settlement Agreement are fair, reasonable and adequate, and in the best interest of the Class.

52. This Settlement Agreement is conditioned upon the fulfillment of each of the following:

- (a) The Court approving the Settlement and entry of the Order and Final Judgment, and such approval and Order and Final Judgment having been affirmed on appeal and/or no longer being subject to appeal;
- (b) The dismissal with prejudice of this Action against all Defendants without the award of any damages, costs, fees, or the grant of any further relief except as provided in this Stipulation;
- (c) The Plan Administrator, acting on behalf of Landlord, having not exercised its option to terminate this Settlement Agreement pursuant to the terms hereof; and
- (d) The occurrence of the Effective Date without any material change (unless agreed to in writing by all parties) to the terms of the proposed Preliminary Approval Order, Order and Final Judgment and/or this Settlement Agreement.

53. If any of the conditions in paragraph 52 above do not occur for any reason, then any party may terminate this Settlement Agreement by giving ten (10) days written notice to the other parties, in which event: (a) this Settlement Agreement and any related orders shall be null and void and of no further force or effect; (b) certification of the Class as set forth in this Settlement Agreement shall be null and void and automatically set aside; (c) the parties shall revert and be restored to the positions they were in immediately prior to execution of the Settlement Agreement; (d) no statements, agreements or acknowledgements (whether written or oral) made or exchanged in connection with this Settlement Agreement shall be deemed an admission or concession by any party and shall not be admissible for any purpose; (e) the Settlement Agreement shall not be

introduced as evidence or referred to in any action or proceeding other than an action or proceeding to enforce the terms thereof; and (f) all funds in the Pool will be returned to Landlord, with any interest earned on those funds while they were held in the Pool, after payment of all Notice Costs and up to \$20,000 for Administration Costs, within thirty (30) days of the giving of the termination notice. Notwithstanding anything to the contrary contained in this Settlement Agreement, the Landlord may not terminate this Settlement Agreement without the prior written approval of Barclays.

BEST EFFORTS

54. Plaintiffs and Landlord agree to cooperate fully with one another in seeking the Court's approval of this Settlement Agreement, and to use their best efforts to effect, take, or cause to be taken all actions, and to do, or cause to be done, all things reasonably necessary, proper, or advisable under applicable laws, regulations, and agreements to consummate and make effective, as promptly as practicable, this Settlement Agreement provided for hereunder (including, but not limited to, using their best efforts to resolve any objections raised to the Settlement Agreement and the dismissal of the Action with prejudice and without costs, fees or expenses to any party except as otherwise provided for in this Settlement Agreement.

55. Without further order of the Court, Plaintiffs and Landlord, with Barclays' prior written approval, may agree to reasonable extensions of time not expressly set forth by the Court in order to carry out any provisions of this Stipulation.

STAY OF PROCEEDINGS

56. Until the Effective Date, Plaintiffs and Landlord agree to stay this proceeding.

57. The Preliminary Approval Order shall provide that pending final determination of whether the Settlement Agreement should be approved, Plaintiffs and all Class Members are barred and enjoined from commencing, prosecuting, instigating or in any way participating in the

commencement or prosecution of any action asserting any claims asserted in this Action, either directly, representatively, derivatively, or in any other capacity, against Landlord or any of the Released Parties.

58. Pending the entry of the Preliminary Approval Order and the Effective Date, Landlord is not stayed from taking any actions relating to the leasing or management of the Building or enforcement of the terms of leases for Units including, but not limited to, increasing rents for renewal leases, or new vacancy leases, in a manner not inconsistent with the terms of this Settlement Agreement or the current leases in effect or commencing actions or proceedings for non-payment of rent or holdover proceedings as otherwise allowed by law.

REPRESENTATIONS AND WARRANTIES

59. Landlord represents and warrants that it is the ground lessee under the Ground Lease.

60. Landlord represents and warrants that it has full authority to enter into this Stipulation, and has authorized its counsel to do so.

61. All Class Members who seek reimbursement for Past Rent Claims and payment from the Pool shall by submitting a Claim Form, represent and warrant that they are entitled to such reimbursement and have not assigned, pledged, transferred, or lost through bankruptcy, divorce proceeding or any other operation of law the right to the full reimbursement sought.

SETTLEMENT AGREEMENT NOT AN ADMISSION

62. The provisions contained in this Settlement Agreement shall not be deemed a presumption, concession, or an admission by Landlord of any fault, liability, or wrongdoing as to any facts or claims alleged or asserted in the Action, or any other action or proceeding, and shall not be interpreted, construed, deemed, invoked, offered, or received in evidence or otherwise used by any person in the Action, or in any other action or proceeding, whether civil, criminal, or

administrative, except for any litigation or judicial proceeding arising out of or relating to the enforcement of this Stipulation or the Settlement.

MISTAKE

63. Except as otherwise set forth herein, in entering into this Settlement Agreement, Plaintiffs, the Class, and Landlord assume the risk of any mistake of fact or law, and if any of them should later discover that any fact they relied upon in entering into this Settlement Agreement is not true, or that their understanding of the facts or law was incorrect, in such event such party shall not be entitled to seek rescission of this Settlement Agreement, or otherwise attack the validity of the Settlement Agreement, based on any such mistake. Except as otherwise set forth herein, this Settlement Agreement is intended to be final and binding upon the parties regardless of any mistake of fact or law.

RETENTION OF JURISDICTION

64. The Court shall retain jurisdiction for purpose of entering orders to: (a) effectuate the implementation of the Settlement Agreement; (b) enforce the terms of this Settlement Agreement including, but not limited to, the releases provided herein; (c) hear all claims, defenses and counterclaims relating to the interpretation and enforcement of this Settlement Agreement before and after the Effective Date as the Court deems appropriate; (d) review all challenges to final administrative determinations brought by Opt-Outs; and (e) determine all other matters relevant to this Stipulation.

ENTIRE AGREEMENT

65. This Settlement Agreement and the Exhibits attached hereto constitute the entire agreement between the parties hereto concerning the subject matter hereof, and all understandings and agreements heretofore or simultaneously had between the parties are merged in and are contained in the Settlement Agreement and the Exhibits attached thereto. Each of the parties

warrants and represents to the others that it has not relied upon any representations or warranties, express or implied, in entering into this Settlement Agreement except those which are expressly set forth in this Settlement Agreement and the Exhibits attached thereto.

COUNTERPARTS

66. This Settlement Agreement may be executed in multiple counterparts by any of the signatories hereto, including by facsimile or by e-mail, and as so executed shall constitute one agreement.

GOVERNING LAW

67. This Settlement Agreement shall be governed by, and construed in accordance with, the laws of the State of New York, without regard to New York's conflict of law rules. Any change of law occurring after Lead Counsel's execution of this Settlement Agreement shall not affect the Parties' duties and obligations under this Agreement.

68. The Parties agree that the Cash Component (the "Fund") is intended to be a "Qualified Settlement Fund" within the meaning of Treasury Regulation § 1.468B-1 and that the Escrow Agent, as administrators of that Fund within the meaning of Treasury Regulation § 1.468B-2(k)(3), shall be responsible for timely preparing and filing tax returns and related documents for the Fund and paying from the Fund any Taxes owed with respect to interest earned on the Fund. The Parties agree that the Fund shall be treated as a Qualified Settlement Fund from the earliest date possible, and agree to any relation-back election required to treat the Fund as a Qualified Settlement Fund from the earliest date possible. Landlord, as "transferor" as defined in Treasury Regulation § 1.468B-1(d)(1), of the amounts specified in paragraph 16, agrees to provide promptly to Lead Counsel or the Escrow Agent, as administrator of the Fund, the statement described in Treasury Regulation § 1.468B-3(e).

NOTICES

69. Unless otherwise set forth in this Stipulation, any notice permitted or required to be given under this Stipulation from one party to another shall be given in writing by (a) personal delivery, or (b) a nationally recognized overnight courier (and in each case also by electronic mail), sent to the intended addressee(s) at the addresses set forth below, or to such other address(es) or to the attention of such other person(s) as the addressee(s) shall have designated by written notice sent in accordance herewith, and shall be deemed to have been given upon receipt or refusal to accept delivery. Copies of all notices shall also be provided to Barclays in the same manner. The addresses for giving notice pursuant to this Settlement Agreement shall be as follows:

If to Plaintiffs: Himmelstein, McConnell, Gribben,
Donoghue & Joseph LLP
15 Maiden Lane, 17th Floor
New York, New York 10038
Attn: William Gribben (wgribben@hmgilaw.com)
Ronald S. Languedoc (rlangeuedoc@hmgilaw.com)

and

Emery Celli Brinckerhoff Abady Ward & Maazel LLP
600 Fifth Avenue, 10th Floor
New York, New York 10022
Attn: Matthew D. Brinckerhoff (mbrinck@ecbawm.com)

If to Landlord: Trigild Property Management LLC
As Plan Administrator for Eastgate Whitehouse LLC
4131 N. Central Expressway, Suite 775
Dallas, Texas 75204
Attn: David Wallace (david.wallace@trigild.com)
Chris Neilson (chris.neilson@trigild.com)
Ian Lagowitz (ian.lagowitz@trigild.com)

If to Barclays: Sarah Jones, Esq.
Jonathan Agudelo, Esq.
Barclays Bank PCC
745 Seventh Ave.
New York, New York 10019

With copies to: Vivian M. Arias, Esq.
Holland & Knight LLP
131 West 52nd Street
New York, New York 10019
(vivian.arias@hkllaw.com)

and

Randi B. Gilbert, Esq.
Horing Welikson Rosen
& Digrugilliers, P.C.
11 Hillside Avenue
Williston Park, New York 11596
(rgilbert@horprc.com)

HEADINGS

70. The headings in this Settlement Agreement are used for the purpose of convenience only and are not meant to have legal effect.

SEVERABILITY

71. Unless otherwise set forth in this Settlement Agreement, if any provision of this Settlement Agreement is determined by a court of competent jurisdiction to be invalid or unenforceable, the remainder of this Settlement Agreement shall nonetheless remain in full force and effect; provided that the invalidity or unenforceability of such provision does not materially adversely affect the benefits accruing to any other party hereunder.

THIRD-PARTY BENEFICIARIES

72. There are no third-party beneficiaries under this Settlement Stipulation, other than (i) the Released Parties with respect only to the release provisions of this Settlement Agreement; and (ii) Barclays.

EFFECT OF WAIVER OF BREACH

73. The waiver by one party of any breach of this Settlement Agreement by any other party shall not be deemed a waiver of any other prior or subsequent breach of this Settlement

Agreement. Unless otherwise stated in this Settlement Agreement, any breach of any provision of this Settlement Agreement by any party to this Settlement Agreement shall not constitute grounds for rescission of this Settlement Agreement, but shall constitute grounds only for a claim for specific performance for breach of this Settlement Agreement.

SUCCESSORS AND ASSIGNS

74. This Settlement Agreement, and all rights and powers granted hereby, shall be binding upon and inure to the benefit of the parties and their respective agents, executors, heirs, successors, affiliates and assigns. All rights and obligations of Landlord shall be binding on and inure to the benefit of any subsequent owners of the Landlord's interest in the Ground Lease or Building.

CONFIDENTIALITY

75. Lead Counsel shall not disclose the terms of this Settlement Agreement until it is filed by Barclays in the Bankruptcy Court as an exhibit to the Plan.

76. If Lead Counsel receive any third-party inquiries, including from news organizations, about any aspect of the terms and conditions of this Settlement Agreement before the Settlement Agreement is fully executed and filed with the State Supreme Court, they will only respond that "the matter is being resolved" or words to that effect. Nothing herein shall prevent Lead Counsel from discussing the Settlement Agreement with their clients.

Dated: September __, 2023
New York, New York

Signature Blocks On the Following Page

Dated: New York, New York
September __, 2023

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Dated: New York, New York
September 1, 2023

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Dated: New York, New York
January 23, 2023

EASTGATE WHITEHOUSE LLC


By: 
Name: David Wallace
Title: Plan Administrator

EXHIBIT A

	APT	LEGAL RENT	DATE OF DEREGULATION, IF ANY
1.	1C	\$3,045.00	11/01/2015
2.	1D	\$1,934.69	
3.	2B	\$2,369.52	
4.	2H	\$1,975.00	10/01/2014
5.	2J	\$2,400.00	
6.	2K	\$2,950.00	06/01/2017
7.	3A	\$1,800.00	
8.	3C	\$2,900.00	09/16/2016
9.	3D	\$4,009.25	11/15/2015
10.	3E	\$3,199.43	04/01/2018
11.	3G	\$3,800.00	
12.	3H	\$2,075	
13.	3J	\$2,679.92	
14.	3K	\$2,700.00	09/01/2015
15.	4A	\$1,763.81	
16.	4B	\$2,407.89	
17.	4C	\$2,200.00	
18.	4D	\$2,800.00	
19.	4J	\$1,800.00	
20.	4K	\$2,783.56	

21.	5B	\$2,650.00	02/01/2015
22.	5C	\$3,265.48	01/01/2017
23.	5D	\$3,100.00	03/01/2017
24.	5G	\$3,578.75	
25.	5H	\$2,223.94	
26.	5J	\$1,900.00	
27.	5K	\$4,567.50	09/01/2015
28.	6B	\$2,534.73	
29.	6F	\$2,096.13	
30.	6G	\$4,200.00	
31.	6H	\$2,171.79	
32.	6J	\$2,350.00	
33.	6K	\$2,120.25	
34.	7C	\$2,400.00	06/15/2016
35.	7D	\$3,175.00	10/15/2017
36.	7F	\$2,211.67	
37.	7G	\$5,400.00	09/01/2015
38.	7K	\$2,900.00	10/15/2015
39.	8C	3,000	03/01/2018
40.	8D	\$3,516.24	
41.	8E	\$2,550.00	09/01/2017
42.	8J	\$2,880.03	
43.	8K	\$2,900.00	
44.	9A	\$2,472.54	

45.	9B	\$2,650.00	
46.	9C	\$3,700.00	
47.	9D	\$2,750.00	11/17/2017
48.	9G	\$5,625.00	07/01/2018
49.	9H	\$1942.75	
50.	9J	\$1,950	
51.	9K	\$2,998.57	
52.	10A	\$2,404.00	
53.	10B	\$2,200.00	
54.	10C	\$1,899.77	
55.	10D	\$2,950.00	
56.	10G	\$5,000.00	08/01/2017
57.	10H	\$2,309.76	
58.	11B	\$2,051.00	
59.	11C	\$3,500.00	
60.	11D	\$3,200.00	04/01/2018
61.	11K	\$2,700.00	03/01/2018
62.	12C	\$3,000.00	
63.	12D	\$3,200.00	
64.	12E	\$1,700.00	
65.	12H	\$2,100.00	
66.	12J	\$2,000.00	
67.	12K	\$3,967.05	08/01/2015
68.	14C	\$2,588.13	12/15/2017

69.	14D	\$3,100.00	05/15/2017
70.	14E	\$2,675.00	
71.	14F	\$2,599.87	
72.	14G	\$3,700.00	06/01/2016
73.	14H	\$2,502.14	
74.	14J	\$2,500.00	09/01/2016
75.	15B	\$2,556.56	
76.	15E	\$3,485.51	02/15/2017
77.	15G	\$5,250.00	09/01/2015
78.	15J	\$2,415.00	
79.	PHB	\$3,919.34	05/01/2017
80.	PHC	\$3,500.00	02/01/2015
81.	PHD	\$3,888.41	