

SETTLEMENT AGREEMENT

This Agreement is entered into as of August 1, 2019, by and between plaintiffs Rachelle Baker and Jason Dittmann (collectively “Plaintiffs”), individually, and in their representative capacity on behalf of all others similarly situated and defendants Equity Residential Management, L.L.C. and EQR-Walden Park, L.L.C (collectively “Defendants” or “Equity”).

RECITALS

WHEREAS on or about August 15, 2013, Plaintiffs filed a putative class action complaint in the Middlesex Superior Court, *Baker, et al. v. Equity Residential Management, L.L.C, et al.*, No. MICV2013-03630-B, in which they brought claims against Equity for alleged violations of M.G.L. c. 186, § 14 (“Count I”), breach of the implied covenant of quiet enjoyment (“Count II”), breach of the implied warranty of habitability (“Count III”), unjust enrichment (“Count IV”), and violation of Mass. Gen. Laws c. 93A, §§ 2, 9 (“Count V”) on behalf of themselves and all others similarly situated (the “Action”);

WHEREAS the Parties engaged in discovery, including written discovery, deposition discovery, and non-party discovery. As part of this discovery, Equity made a substantial production of documents, and several depositions were taken;

WHEREAS after the conclusion of discovery, Equity moved for partial summary judgment in the Superior Court. On August 5, 2016 the Superior Court granted Equity’s summary judgment motion with respect to Count I and denied it with respect to Counts II and IV;

WHEREAS Plaintiffs moved for class certification under Massachusetts Rule of Civil Procedure 23 and c. 93A, § 9(2) after the close of fact discovery. On June 27, 2017, the Superior Court certified the following two classes: the Conversion Class and the Admitted Outage Class, as hereinafter defined. In accordance with Massachusetts Rule of Civil Procedure 23, notice was sent to members of these two certified classes;

WHEREAS on May 30, 2018, Plaintiffs produced an expert report determining class-wide damages of up to \$10 million. Based on this report, Equity removed the case to federal court under the Class Action Fairness Act (“CAFA”) for the second time on June 5, 2018. The case has remained in federal court since then;

WHEREAS on October 25, 2018, Defendants moved to decertify the two classes that were certified by the Superior Court. On July 1, 2019, the federal court entered an order modifying the previously certified classes, resulting in the Admitted Outage Class and the Systemic Outage Class as hereinafter defined;

WHEREAS on July 1, 2019, the federal court also denied Equity’s motion for partial summary judgment on Count II and Count V;

WHEREAS on June 26, 2019, the parties participated in mediation with Magistrate Judge M. Page Kelley;

WHEREAS the Parties recognize and agree that it is in their mutual best interests to resolve their differences as set forth herein. The Parties also recognize and agree that neither admits to any wrongdoing or lack of merit and that the agreements and releases set forth below represent the Parties’ compromise of disputed matters in order to avoid the delay and uncertainties of litigation; and

WHEREAS the Parties wish to fully, finally, and completely resolve all claims, causes of action, demands, liabilities, losses and damages of any kind, known or unknown, as defined in this Agreement, including the Plaintiffs' right to be compensated for such claims.

NOW, THEREFORE, in exchange for the mutual covenants and promises contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

AGREEMENT

In consideration of the covenants and agreements set forth herein, the Plaintiffs, the Settlement Class, as hereinafter defined, and the Defendants, themselves and through their undersigned counsel, agree to settle the Action, subject to Court approval, under the following terms and conditions.

- 1. DEFINITIONS.** Unless otherwise indicated above, the following shall be defined terms for purposes of this Agreement. Some definitions use terms that are defined elsewhere.
 - 1.1.** The term "**Admitted Outage Class**" means "all persons who were tenants at Walden Park on a day between April 12, 2012 to April 24, 2014 in which there was a heat or hot water outage," as defined by the federal court in its July 1, 2019 Order.
 - 1.2.** The term "**Authorized Claimant**" means any Class Member who validly and timely submits a Claim Form according to the terms of this Agreement.
 - 1.3.** The term "**Claim Period**" means the period of time commencing upon the mailing and emailing of the Class Notice (the "Notice Date") and ending ten (10) days after the Fairness Hearing.
 - 1.4.** The term "**Claimant**" means any Class member who submits a Claim Form under this Agreement.
 - 1.5.** The term "**Claims Administrator**" means any entity designated by the parties (or any alternative entity appointed by the Court) to administer the notice, claims and settlement administration process, including distributions from the Settlement Fund, provided for in this Settlement Agreement.
 - 1.6.** The term "**Class Member**" means any person who is included in the Settlement Class.
 - 1.7.** The term "**Class Notice**" means the class notice of the proposed Settlement terms, as approved by Class Counsel, Defendant's Counsel, and the Court to be provided pursuant to Section 3.1.
 - 1.8.** The term "**Class Representatives**" means Rachelle Baker and Jason Dittmann, in their representative capacity on behalf of the Settlement Class.
 - 1.9.** The term "**Conversion Class**" means "all persons who were tenants at either 205 Walden Street or 225 Walden Street during the Conversion Project (May 1, 2012 through May 30, 2013), the Heating System Modification Project (July 1, 2013 through December 31, 2013) and/or the Riser Replacement Project (July 7, 2014 through September 30, 2014)," as defined by the Superior Court in its June 27, 2017 Order.

- 1.10. The term “**Court**” means the United States District Court for the District of Massachusetts.
- 1.11. The term “**Defendant’s Counsel**” means Craig M. White and the law firm of Baker Hostetler LLP and Thomas H. Wintner and the law firm of Mintz, Levin, Cohn, Ferris, Glovsky and Popeo, P.C.
- 1.12. The term “**Effective Date**” means: (a) if no appeal has been taken from the Final Order, the date upon which the right to appeal the Final Order expires; or (b) if any appeal has been taken from the Final Order, the date upon which all appeals have been finally disposed of in a manner that affirms the Final Order.
- 1.13. The term “**Email Notice**” means the notice summarizing the proposed settlement terms, as approved by Class Counsel, Defendant’s Counsel and the Court, to be provided to Class Members as provided in Section 3.1 via electronic mail. The Email Notice must be substantially similar to the form attached hereto as **Exhibit A**.
- 1.14. The term “**Equity’s Released Claims**” means all claims, demands, rights, actions or causes of action, liabilities, damages, losses, obligations, judgments, suits, fees, expenses, costs, matters and issues of any kind or nature whatsoever, known or unknown, whether arising under federal, state or common law. Said general release of claims shall include, any and all claims related to Plaintiffs’ occupancy of Apartment No. 1L at 225 Walden Street in Cambridge, Massachusetts. For the avoidance of doubt, Equity is only releasing claims against Rachelle Baker and Jason Dittmann. There is no release being given by Equity hereunder as to any other Class Member.
- 1.15. The term “**Fairness Hearing**” means the hearing at or after which the Court will make a final decision whether to approve this Agreement as fair, reasonable and adequate and will also make a final decision with respect to Class Counsel’s application for an award of attorneys’ fees and expenses and Plaintiffs’ application for incentive awards to the Class Representatives.
- 1.16. The term “**Final Order**” means the final order approving the Settlement and this Agreement and dismissing the case with prejudice. The Final Order must be substantially similar to the form attached hereto as **Exhibit B**.
- 1.17. The term “**Full Notice**” means the notice of proposed settlement terms, as approved by Class Counsel, Defendants’ Counsel, and the Court, to be provided to Class Members under Section 3.1. The Full Notice must be substantially similar to the form attached hereto as **Exhibit C**.
- 1.18. The term “**Plaintiffs’ and Class Members’ Released Claims**” means all claims, demands, rights, actions or causes of action, liabilities, damages, losses, obligations, judgments, suits, fees, expenses, costs, matters and issues of any kind or nature whatsoever, known or unknown, whether arising under federal, state or common law, asserted in the Action, or which could have been asserted in the Action.

- 1.19. The terms “**Plaintiff’s Counsel**” or “**Class Counsel**” means Joshua N. Garick, Esq. of the Law Offices of Joshua N. Garick, P.C., and David Pastor of Pastor Law Office LLP.
- 1.20. The term “**Preliminary Approval Order**” means the order certifying the Settlement Class for settlement purposes, approving the proposed Class Notice, and setting the date and time of the Fairness Hearing. The Preliminary Approval Order must be substantially similar to the form attached hereto as **Exhibit D**.
- 1.21. The term “**Proof of Claim**” means the form a Class Member must submit to become an Authorized Claimant and receive a distribution under this Settlement Agreement. The Proof of Claim must be substantially similar to the form attached hereto as **Exhibit E**.
- 1.22. The term “**Released Parties**” means Equity and their past or present members, managers, officers, directors, principals, agents, partners, employees, parents, affiliates, subsidiaries, successors, attorneys and assigns.
- 1.23. The term “**Settlement**” means the settlement of the Action and related claims effectuated by this Agreement.
- 1.24. The term “**Settlement Class**” means those persons who are members of the Settlement Class, as defined in Section 2.1 below, who have not properly and timely opted out of the Settlement Class.
- 1.25. The term “**Settlement Fund**” means the sum of \$200,000.00 to be paid by Defendants to the Claims Administrator as provided in Section 2.2 and from which funds will be distributed as provided in Sections 2.2 and 2.4.
- 1.26. The term “**Substantiated Claim Pool**” means a maximum sum of \$300,000.00 (in addition to the Settlement Fund) which shall be available to pay those Authorized Claimants who can substantiate complaints about heat or hot water issues during the period of August 12, 2012 through April 24, 2014, with written evidence of a complaint made to Defendants. Authorized Claimants who believe they complained in writing about systemic heat or hot water issues but cannot locate proof on their own, may request assistance from Class Counsel as described in Section 2.3. The maximum per unit payout available for qualifying claims against the Substantiated Claim Pool is \$1,000.00 per unit (over and above any claim amount payable from the Settlement Fund), and the Defendants’ commitment to pay such additional amounts is capped at a total of \$300,000.00.
- 1.27. The term “**Systemic Outage Class**” means “all persons who were tenants at Walden Park for the period between April 12, 2012 to April 24, 2014,” as defined by the federal court.
- 1.28. The term “**U.S. Mail Notice**” means the notice summarizing the proposed settlement terms, as approved by Class Counsel, Defendants’ Counsel and the Court, to be provided to Class members as provided in Section 3.1. The U.S. Mail Notice must be substantially similar to the form attached hereto as **Exhibit F**.

1.29. The term “**Walden Park**” shall mean the apartment complex owned and managed by Defendants located at 205 and 225 Walden Street, Cambridge, Massachusetts.

Other capitalized terms used in this Agreement but not defined in this Section **1.** shall have the meanings ascribed to them elsewhere in this Agreement.

2. SETTLEMENT TERMS.

2.1. Certification of the Settlement Class. The Settlement Class, as described and defined below, shall be certified and shall be represented by the Class Representatives and Class Counsel. The Settlement Class is defined as:

All persons who were tenants at Walden Park (*i.e.*, 205-225 Walden Street, Cambridge, Massachusetts) on a day between April 12, 2012 to April 24, 2014 in which there was a heat or hot water outage; all persons who were tenants at Walden Park in either building for the period between April 12, 2012 to April 24, 2014; and all persons who were tenants at Walden Park from May 1, 2012 to May 30, 2013, July 1, 2013 to December 31, 2013, and/or July 7, 2014 to September 30, 2014.

All Class Members shall be sent the Class Notice pursuant to Section **3.2.** The Claims Administrator will distribute the Class Notice via U.S. Mail and email, as described in Section **3.1** of this Agreement.

2.2 Settlement Fund. The Settlement Fund will be used to pay the claims of Authorized Claimants. Authorized Claimants’ claims will be paid on a *pro rata* per unit basis from the Settlement Fund. Individual payments from the Settlement Fund will be capped at a maximum of \$4,000.00. For units with multiple contemporaneous tenants, if more than one co-tenant files a claim, then the payment amount for that unit would be divided *pro rata* between or among the co-tenants who make a claim. The Settlement Fund shall be paid by Defendants to the Claims Administrator within seven (7) business days after the Effective Date. The Claims Administrator shall pay to each Authorized Claimant, within ten (10) business days of the Effective Date, the payments authorized hereunder. Any unclaimed or undistributed funds in the Settlement Fund will be allocated and distributed as provided in Sections **2.4** and **2.5.**

2.3 Substantiated Claim Pool. The Substantiated Claim Pool will be used to pay Authorized Claimants who include with their Proof of Claim evidence of a written complaint (which shall include, without limitation, letters, e-mails, text messages, online messages, or other written correspondence) made to Defendants about a heat or hot water issue during the period of August 12, 2012 through April 24, 2014 (these claims are referred to as “Substantiated Claims”). All Authorized Claimants making Substantiated Claims shall be eligible to receive, in addition to whatever payment the Authorized Claimant is entitled to receive from the Settlement Fund, a payment on a *pro rata* basis from the Substantiated Claim Pool. Individual payments from the Substantiated Claim Pool will be capped at a maximum of \$1,000.00. For units with multiple contemporaneous tenants, if more than one co-tenant files a Substantiated Claim, then the payment amount for that unit would be divided *pro rata* between or among the co-tenants who make a claim. If a Class member believes they made a written complaint about a heat or hot water issue during this time period, but cannot locate written proof on their own, he or she may contact Class Counsel to request assistance in locating documentary support for their complaint. Class Counsel shall review and/or make available all documents exchanged during discovery to determine whether such evidence submitted by the requesting Class member is part of the factual record in this

case. If Class Counsel is able to locate written evidence of such a complaint, they shall supply it to the requesting Class member for inclusion with the Proof of Claim (Exhibit E). It is still the Class member's obligation to produce such evidence with the Proof of Claim to be considered for the Substantiated Claim Pool. If no documentary support can be located by Class Counsel, they shall so inform the requesting party. Class Counsel will respond to all requests made prior to the Fairness Hearing. Class Counsel will have no obligation to assist Class Members who request assistance after the Fairness Hearing; but Class Counsel will take best efforts to respond to a request made after the Fairness Hearing. So much of the Substantiated Claim Pool that is necessary to pay all Authorized Claimants making Substantiated Claims shall be paid by Defendants to the Claims Administrator within seven (7) business days after the Effective Date. The Claims Administrator shall pay to each Authorized Claimant, within ten (10) business days of the Effective Date, the payments authorized hereunder. Any uncashed checks paid by Defendants hereunder will be distributed as provided in Section 2.5. The Substantiated Claim Pool is not money that will be automatically deposited with the claims administrator and distributed. It is not a "Fund." Rather, it is the maximum limit on the Defendants' obligation to pay additional amounts for individual claims supported by written evidence as described herein. The actual total sum which will be made available distribution will be unknown until the number of Substantiated Claims is known. If no Substantiated Claims are submitted to the Claims Administrator, then the Defendants will have no obligation to pay out any portion of the \$300,000.00 they have agreed to make available. If there are 100 Substantiated Claims submitted, which (with the \$1,000 per claim maximum) would have a maximum collective value of \$100,000.00, then Defendants would not be required to pay more than \$100,000 in total for the Substantiated Claims. If there are 300 or more Substantiated Claims submitted, then Defendants would be required to pay the entire \$300,000.00.

2.4 Unclaimed Funds. Any undistributed and unclaimed funds remaining in the Settlement Fund after all claims of Authorized Claimants have been paid in full ("Unclaimed Funds") shall be allocated and distributed in the following manner: first, Unclaimed Funds shall be used to pay Class Counsel's costs and expenses that are approved by the Court up to a maximum of \$30,000, and any Unclaimed Funds remaining after payment of Class Counsel's Costs and Expenses shall be paid to Greater Boston Legal Services as a *cy pres* distribution.

2.5 Uncashed Checks. After reasonable notice from the Claims Administrator indicating that the distribution checks have been mailed (including notice on the settlement website), each check, regardless of when it is mailed, will be valid for 60 days. The Claims Administrator will include a notation on each check that the checks are "Valid for 60 days." Any distribution checks to Authorized Claimants that are not cashed within 60 days, and the funds represented by any such checks, will revert to Equity. Equity will be solely responsible for any stop payment or other fees incurred by the Claims Administrator (if any) in processing the reversion of these uncashed funds.

2.6 Incentive Awards to Class Representatives. Plaintiffs may apply to the Court for an incentive award to the Class Representatives in recognition of the amount of time and effort spent by the Class Representatives in this litigation. Defendants agree to pay incentive awards in the amount of Seven Thousand, Five Hundred (\$7,500.00) Dollars each to the two Class Representatives, subject to Court approval. The Class Representatives shall also be entitled to make a Claim of the Settlement Fund; however, the Class Representatives are ineligible to make a claim of the Substantiated Claim Pool. The Incentive Awards shall be paid by Defendants to the Claims

Administrator within seven (7) business days after the Effective Date. The Claims Administrator shall pay to the Class Representatives, within ten (10) business days of the Effective Date, the incentive awards in the amount awarded by the Court. The incentive awards shall be paid by Defendants separate from, and in addition to the Settlement Fund.

2.7. Attorneys' Fees and Costs. Class Counsel may apply to the Court for an award of attorneys' fees and expenses in connection with the settlement. Class Counsel's application for attorneys' fees and expenses shall be submitted to the Court no later than twenty-eight (28) calendar days prior to the Fairness Hearing. Defendants shall assent to an application by Class Counsel for attorneys' fees and costs and expenses in an amount not to exceed \$500,000.00 in attorneys' fees and \$30,000.00 in costs and expenses. The attorneys' fees, costs and expenses, as awarded by the Court shall be paid by Defendants to the Claims Administrator within seven (7) business days after the Effective Date. The Claims Administrator shall pay to Class Counsel, within ten (10) business days of the Effective Date or within ten (10) business days of receipt of an executed W-9 form, whichever is later, the amount of attorneys' fees and expenses awarded by the Court. Said payment shall be made to Law Office of Joshua N. Garick, P.C., on behalf of Class Counsel, and Law Office of Joshua N. Garick, P.C. shall have the responsibility to distribute such payment of fees and costs to any other attorney or law firm that may claim entitlement to fees and costs under this Agreement. The attorneys' fees, up to a maximum of \$500,000.00 shall be paid by Defendants separate from and in addition to the Settlement Fund. The payment for Class Counsel's costs and expenses, up to a maximum of \$30,000.00, shall be paid by Defendants separate from and in addition to the Settlement Fund, but only to the extent that the costs and expenses payment is not covered by undistributed funds remaining in the Settlement Fund.

2.8. Settlement Administration Costs. All costs of providing Class Notice in the manner set forth in Section 3.2, all costs of claims administration, and all other costs associated with administration of the Settlement, including all fees charged by the Claims Administrator (collectively, "Settlement Administration Costs"), will be paid by Defendants and will not be refundable to Defendants if the Settlement fails to gain Court approval (except as might be agreed by the Claims Administrator). The Settlement Administration Costs shall be paid by Defendants separate from and in addition to the Settlement Fund.

3. CLASS SETTLEMENT PROCEDURES.

3.1. Class Notice. Subject to Court approval, the Parties agree that after entry of the Preliminary Approval Order, the Claims Administrator will provide the Settlement Class with Notice of the proposed Settlement by the following methods:

- (a) Equity shall provide class lists and other related and appropriate information to the Claims Administrator to enable the Claims Administrator to distribute the Class Notice to the Class Members.
- (b) The Class Notice will be distributed to Class Members via U.S. Mail beginning no more than twenty-one (21) calendar days after the entry of the Preliminary Approval Order.
- (c) Notice will be provided by U.S. Mail to all Class Members for whom Equity has a U.S. Postal address. U.S. Postal addresses will be pre-scrubbed using the National Change of Address Database. For any Class Members to whom the

U.S. Mail Notice is undeliverable, the Claims Administrator will follow up with two rounds of skip tracing, including the use of Experian and other appropriate methods and send the U.S. Mail Notice to any newly found addresses.

- (d) Notice will also be provided by email to all Class Members for whom Equity has an email address within twenty-one (21) calendar days after entry of the Preliminary Approval Order.
- (e) The Claims Administrator will set up an Internet website to be approved by Class Counsel, such approval not to be unreasonably withheld, beginning no more than twenty-one (21) calendar days after entry of the Preliminary Approval Order and to be maintained through the later of: the objection deadline, the opt-out/exclusion deadline or sixty (60) days after checks are mailed by the Claims Administrator to the Class Members. A copy of the Full Notice will be posted on the website, as will a copy of this Agreement and other pertinent documents from the Action and the Settlement. The website will also prominently post on the main home page, the date checks to Class Members were mailed and indicate that Class Members have sixty (60) days to cash the checks at which point said funds would revert to Equity. The website address will be referenced in the U.S. Mail Notice, the Email Notice and the Full Notice.
- (f) The Claims Administrator will set up a toll-free contact number that Class Members can call for further information about the Settlement. The contact number will be set up within fourteen (14) calendar days after the entry of the Preliminary Approval Order and the number will be referenced in the U.S. Mail Notice, the Email Notice, and the Full Notice. The contact number shall be maintained at least sixty (60) days after checks are mailed by the Claims Administrator to the Class Members.

3.2 Claim Process

- (a) Every U.S. Mail Notice sent to a Class Member shall include a Proof of Claim. The Email Notice shall direct the Class Member to the website where a Proof of Claim form may be downloaded.
- (b) A Class Member will be required to submit a valid signed and timely Proof of Claim in order to receive a distribution from the Settlement Fund. Proofs of Claim may be submitted by mail via a written claim form (which will be included with each mailed notice) or online, by submitting an uploaded Proof of Claim (and supporting documentation, if necessary and/or applicable) electronically via the settlement website. A Proof of Claim will be deemed timely if submitted by the last day of the Claim Period. Proofs of Claim submitted by mail will be timely if postmarked by the last day of the Claim Period. Pursuant to IRS regulations, a Class Member likely to receive more than \$600 may be required to submit an executed W-9 form, or appropriate substitution form, and will be sent a 1099 form by the Claims Administrator in order to be considered an Authorized Claimant.

- (c) The Claims Administrator, under the supervision of Class Counsel and Defendants' Counsel, acting on behalf of the Settlement Class, and subject to the supervision and direction of the Court as may be necessary or as circumstances may require, shall administer the claim process. In the course of administering the claim process, the Claims Administrator may review all submitted Proofs of Claim and supporting documentation for completeness, accuracy and timeliness. In the event that on review of a Proof of Claim, the Claims Administrator determines that the Proof of Claim is inaccurate, incomplete or unexecuted, or has any curable defect which may affect the validity of the Proof of Claim, the Claims Administrator shall contact the Claimant by email (where an email address is available or by U.S. Mail if not) and provide the Claimant one opportunity to correct the defect, before the claim is rejected.

3.3. Proof of Notice. No later than five (5) business days before the Fairness Hearing, Defendants will file with the Court and serve upon Class Counsel a declaration confirming that the Class Notice has been provided in accordance with Section **3.1** of this Agreement.

3.4. Objections. Any Class Member who wishes to object to the Settlement must file a written objection with the Court and mail copies to Defendants' Counsel and Class Counsel at least fourteen (14) calendar days prior to the Fairness Hearing. The objection shall include the name and title of the lawsuit, *Baker, et al. v. Equity Residential Management, L.L.C., et al.*, No. 18-11175-PBS, the objector's full name, address, telephone number, Equity apartment number(s), lease or rental period, signature, and date and must set forth, in clear and concise terms, all legal and factual arguments supporting the objection. Unless otherwise requested by the Court, Class Members shall not be entitled to speak at the Fairness Hearing unless they have submitted a timely written objection pursuant to this paragraph and have indicated their intent to appear at the Fairness Hearing. All objections must be postmarked by a date set forth in the Class Notice (consistent with the above-referenced deadline) in order to be considered valid.

3.5. Exclusion from the Class. The Class Notice shall inform Class Members of their right to elect not to be part of the Class and not to be bound by the Settlement, provided that the affected person mails a written request for exclusion from the Class (containing the person's full name, address, signature and date) to Defendants' Counsel, with a copy to Class Counsel, at least fourteen (14) calendar days prior to the Fairness Hearing. All exclusion requests must be postmarked by a date set forth in the Class Notice (consistent with the above-referenced deadline) in order to be considered to be a valid exercise of the Class Member's right to opt out of the Settlement Class. No later than five (5) business days prior to the Fairness Hearing, Defendants shall prepare a list of the persons who, pursuant to the Class Notice, have excluded themselves from the Settlement Class in a valid and timely manner and shall deliver that list to Class Counsel.

3.6. No Solicitation of Settlement Objections or Exclusions. The Parties agree to use their best efforts to carry out the terms of this Settlement. At no time shall any of the Parties or their counsel seek to solicit or otherwise encourage Class Members to submit written objections to the Settlement or to request exclusion from the Settlement Class, or to encourage persons to appeal from the Court's Final Order.

4. PRELIMINARY AND FINAL APPROVAL AND RELEASE

4.1. Preliminary Approval. The Parties will cooperate in filing an assented-to motion for preliminary approval of the Settlement, including seeking the entry of a Preliminary Approval Order, seeking approval of the form, content and method of notice and approval of all other documents necessary to implement the Settlement, seeking preliminary certification of the Settlement Class, and seeking to set the date of the Final Fairness Hearing.

4.2 Final Approval. The Parties will cooperate in filing an assented-to motion for final approval of the Settlement, including seeking entry of the Final Order and approval of all other documents necessary to implement the Settlement.

4.3. Approval of this Agreement. The Parties will take all necessary and appropriate steps to secure the Court's approval of this Agreement, with Class Counsel to prepare and submit all moving papers to the Court. No later than ten (10) calendar days before the Fairness Hearing, Class Counsel shall file a motion for an Order granting final approval of this Agreement, together with any supporting papers.

4.4. Order. The Final Order shall provide for Plaintiff and the Settlement Class to take according to this Agreement and nothing else and shall include provisions that the Action is concluded pursuant to the entry of the Final Order. Notwithstanding the conclusion of the Action, the Parties stipulate that the Final Order will include a provision for the Court to retain jurisdiction to enforce this Agreement.

4.5. Final Approval/Status Quo Ante. This Agreement is contingent upon the Court giving final approval to the settlement in substantially the same form as is proposed under this Agreement. In the event that such final approval is withheld or any material term hereof is substantially altered or rejected, or in the event that an appeal is taken from the Final Order, then either Plaintiffs or Defendants shall have the right to rescind this Agreement by notice to the opposing party given in writing and supplied within five (5) business days of the event giving rise to the right to rescind. In the event of a rescission of this Agreement pursuant to the terms of this Section, the Parties shall be restored to their respective positions as of the date of this Agreement, and the Settlement Fund (including any accrued interest), less any expenses or costs which have been disbursed, shall be returned to Defendants or their designee.

4.6. Release by Plaintiffs and Class Members. Upon the Effective Date, Plaintiffs Rachele Baker, Jason Dittmann, and each member of the Settlement Class, shall be deemed to have, and by operation of the Final Order, shall have, fully, finally, and forever released, relinquished and discharged all Plaintiffs' and Class Members' Released Claims against the Released Parties, whether or not any individual Class Member executes and delivers a Proof of Claim.

4.7. Release by Equity. Upon the Effective Date, Equity shall be deemed to have, and by operation of the Final Order, shall have, fully, finally, and forever released, relinquished and discharged all Equity's Released Claims against Plaintiffs.

5. ADDITIONAL PROVISIONS.

5.1. No Admission of Liability or Wrongdoing. This Agreement reflects the compromise and settlement of disputed claims between the Parties. Its constituent provisions, and any and all drafts, communications and discussions relating thereto, shall not be construed as or deemed to be evidence of an admission or concession of any point of fact or law by any person or entity, and shall not be offered or received in evidence or requested in discovery in the Action or any other action or proceeding as evidence of an admission or concession. Defendants denied and continue to deny

each of the claims and contentions alleged by Plaintiffs in the Action. Defendants have repeatedly asserted and continue to assert defenses thereto, and they have expressly denied and continue to deny any wrongdoing or legal liability arising out of any of the facts or conduct alleged in the Action.

5.2. Investigation. The Parties have conducted significant investigation of the facts and law, in addition to informal and formal discovery, during the pendency of the Action. Such informal and formal discovery and investigation have included, *inter alia*, the exchange of information between the Parties and numerous meetings and conferences between representatives of the Parties, as well as formal written discovery and depositions. Counsel for the Parties have further investigated the applicable law as applied to the facts discovered with respect to the claims of the Class and potential defenses thereto, and the damages recoverable by the Class.

5.3. Fair, Adequate, and Reasonable Settlement. The Parties believe this Settlement is fair, adequate, and reasonable, and arrived at this Settlement in arms-length negotiations, at the urging of the Court and with the assistance of a Court-appointed mediator, taking into account all relevant factors, present and potential.

5.4. Real Parties in Interest. In executing this Agreement, the Parties warrant and represent that they, including Plaintiffs in their representative capacity on behalf of the Class, are the only persons having any interest in any of the claims that are described or referred to herein, or in any of the pleadings, records, and papers in the Action, and, except as provided herein, neither said claims nor any part thereof have been assigned, granted or transferred in any way to any other person, firm or entity.

5.5. Voluntary Agreement. This Agreement is executed voluntarily and without duress or undue influence on the part of or on behalf of the Parties, or of any other person, firm or entity.

5.6. Binding on Successors. This Agreement shall bind and inure to the benefit of the respective successors, assigns, heirs, executors and legal representatives of each of the Parties.

5.7. Parties Represented by Counsel. The Parties acknowledge that they have been represented in negotiations for and in the preparation of this Agreement by independent counsel of their own choosing, that they have read this Agreement and have had it fully explained to them by such counsel, and that they are fully aware of the contents of this Agreement and of its legal effect.

5.8. Authorization. Each of the Parties warrants and represents that there are no liens or claims of lien or assignments in law or equity or otherwise of or against any of the claims or causes of action released herein and, further, that each party is fully entitled and duly authorized to give this complete and final general release and discharge.

5.9. Construction and Interpretation. Neither the Parties nor either of the Parties' respective attorneys shall be deemed the drafter of this Agreement for purposes of interpreting any provision hereof in any judicial or other proceeding that may arise between or among them.

5.10. Headings. The various headings used in this Agreement are solely for the convenience of the Parties and shall not be used to interpret this Agreement.

5.11. Exhibits. Any exhibit to this Agreement (except the Preliminary Approval Order (**Exhibit D**) and the Final Order (**Exhibit B**)) is an integral part of the Agreement and Settlement and is incorporated and made a part of this Agreement.

5.12. Modifications and Amendments. No amendment, change or modification of this Agreement or any part thereof shall be valid unless in writing and signed by the Parties.

5.13. Entire Agreement/No Representations. This Agreement and any attached Exhibits constitute the entire agreement among the Parties. In addition, the Parties represent and warrant that they are not relying on any representations, warranties or statements, oral or otherwise, not contained in this Agreement.


5.14. Governing Law. This Agreement is entered into in accordance with the laws of the Commonwealth of Massachusetts and shall be governed by and interpreted in accordance with the laws of the Commonwealth of Massachusetts, without regard to its conflict of law principles.

5.15. Continuing Jurisdiction. The Court shall retain jurisdiction over the interpretation, effectuation and implementation of this Agreement.

5.17. Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument. Signatures by email and electronic signatures shall be treated as original signatures and shall be binding.

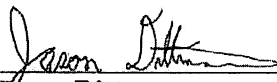
IN WITNESS WHEREOF, each Party has executed below as of the date indicated below:

PLAINTIFFS:



Rachelle Baker

Date: August 15, 2019



Jason Dittmann

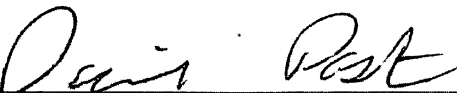
Date: August 15, 2019

PLAINTIFFS' COUNSEL:



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Date: August 15, 2019

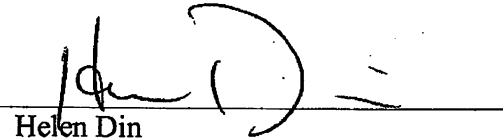


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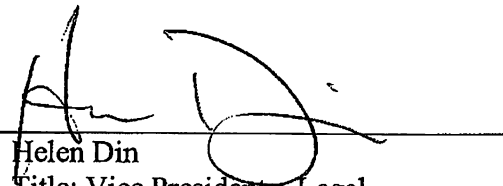
Date: August 15, 2019

DEFENDANTS:

Equity Residential Management, L.L.C., a Delaware limited liability company,

By:  _____ Date: August ¹⁵~~8~~, 2019
Helen Din
Title: Vice President – Legal

EQR-Walden Park, L.L.C., a Delaware limited liability company, by ERP Operating Limited Partnership, an Illinois limited partnership, its member; and by Equity Residential, a Maryland real estate investment trust, its general partner,

By:  _____ Date: August ¹⁵~~8~~, 2019
Helen Din
Title: Vice President – Legal

DEFENDANTS' COUNSEL:



Date: August ¹⁵/₁, 2019

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Date: August ¹⁵/₁, 2019

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