

APRIL MARTIN	*	IN THE
Plaintiff,	*	CIRCUIT COURT
v.	*	FOR
CALATLANTIC GROUP, INC.	*	PRINCE GEORGE'S COUNTY
D/B/A CALATLANTIC HOMES	*	Case No.: CAL20-11837
Defendant.	*	
	*	
* * * * *		

SETTLEMENT AGREEMENT

This Settlement Agreement ("AGREEMENT") is made and entered into on this 29th day of April 2022, by April Martin, acting on behalf of the Plaintiff Class defined below, and Defendant CalAtlantic Group, Inc. ("CAG") (the parties are referred to herein as, individually, a "PARTY", and collectively, the "PARTIES"), in the above captioned action ("ACTION").

**I. DEFINITIONS**

1. Definitions.

(a) "BUYER" shall mean individuals who entered into a sales contract with CAG for the initial sale of residential real property located in Prince George's County, Maryland for which there are deferred water and sewer assessments recorded by covenant or declaration between April 29, 2017 and November 18, 2021.

(b) "LITIGATION CLAIMS" shall mean the claims asserted in the litigation instituted in the Circuit Court for Prince George's County, Maryland, on April 29, 2020, against CAG on behalf of a putative class of homebuyers alleging that CAG violated statutory obligations when it sold homes to putative class members

(c) "COSTS OF ADMINISTRATION" shall have the meaning set forth in Paragraph 14.

(d) "DEED" shall mean an instrument conveying a residential real property located in Prince George's County, Maryland from CAG to a BUYER.

(e) "EFFECTIVE DATE" shall mean the earliest of: (i) the date of final approval of the settlement, if no person objects to the settlement; (ii) the date on which the Court's judgment becomes final, *i.e.*, thirty (30) days after the date the Court finally approves the SETTLEMENT, if no appeal by a Settlement Class Member is filed; (iii) the date of the final affirmance on appeal; or (iv) the final dismissal of any appeal.

(f) "LOT" shall mean the residential real property conveyed from CAG to one or more respective BUYERS with one of the addresses listed in Paragraph 10(a).

(g) "PLAINTIFF" shall mean Plaintiff April Natasha Martin.

(h) "RELEASED CLAIMS" shall have the meaning set forth in Paragraph 13.

(i) "RELEASED PARTIES" means, in accordance with Paragraph 13, CAG and its past and present agents, employees, creditors, officers, directors, shareholders, subsidiaries, predecessors, affiliates, successors, assigns, insurers, administrators, representatives, attorneys, parent companies, holding companies, related companies, and any and all other business entities, associations, organizations, subcontractors, partnerships, or concerns owned, controlled, managed, or directed by CAG and/or by any of CAG's principals.

(j) "SALES CONTRACT" shall mean an agreement for the purchase and sale of a residential real property entered into by and between one or more BUYERS, on one hand, and CAG, on the other.

(k) "SETTLEMENT" means the settlement set forth in this AGREEMENT.

(l) "SETTLEMENT ADMINISTRATOR" means the qualified third-party settlement and escrow administrator described in Paragraph 22.

(m) "SETTLEMENT BENEFITS" shall mean allocated payments to SETTLEMENT CLASS MEMBERS as set forth in Paragraph 15.

(n) "SETTLEMENT CLASS" has the meaning set forth in Paragraph 10.

(o) "SETTLEMENT CLASS MEMBER" shall mean individuals determined to be members of the SETTLEMENT CLASS as that term is defined in Paragraph 10. Collectively, individuals in the SETTLEMENT CLASS are referred to as "SETTLEMENT CLASS MEMBERS."

(p) "SETTLEMENT FUND" shall mean the fund established for the benefit of the SETTLEMENT CLASS as described in Paragraph 12, from which payments to eligible SETTLEMENT CLASS MEMBERS shall be made.

(q) "SUBJECT PROPERTY" shall mean a residential real property lot conveyed by CAG to one or more BUYERS through a DEED.

(r) Definitions used herein shall apply to the singular and plural forms of each term defined.

(s) Definitions used herein shall apply to the masculine, feminine, and neutral genders of each term defined.

(t) References to a person or entity under this AGREEMENT include their permitted heirs, personal representatives, executors, affiliates, predecessors, successors, and assigns.

(u) Other terms are defined in the text of the AGREEMENT and shall have the meaning accorded those terms in such text.

## II. RECITALS

2. Claims have been asserted in the litigation instituted in the Circuit Court for Prince George's County, Maryland, on April 29, 2020, against CAG on behalf of a putative class of homebuyers who allege that CAG violated statutory obligations when it sold homes to putative class members.

3. Specifically, in the ACTION, PLAINTIFF alleges that CAG violated duties set forth in Md. Code, Real Prop., § 14-117(a)(3)(i)(4), (6), (7), and (8) by failing to make all of the statutorily required disclosures regarding the assessment for deferred sewer and water charges on PLAINTIFF'S and other putative class members' residential properties.

4. The PARTIES engaged in protracted litigation that included extensive discovery and significant motions practice.

5. Based on PLAINTIFF'S discovery and investigation of the LITIGATION CLAIMS, and after substantial informal settlement negotiations between counsel for both PARTIES, PLAINTIFF and her counsel concluded that a settlement with CAG, according to the terms set forth below, is in her best interests and the best interests of members of the proposed SETTLEMENT CLASS defined herein.

6. While CAG disputes the allegations in this litigation and denies that it is or may be liable for any of the LITIGATION CLAIMS, it enters into this AGREEMENT solely to avoid the expense, inconvenience, and distraction of further proceedings in this ACTION, and does so without any express or implied admission of fact or liability.

7. The PARTIES will recommend to the Court that The Casey Group of Towson, Maryland be appointed Settlement and Escrow Administrator. The SETTLEMENT ADMINISTRATOR is responsible to report both to the Court and to the PARTIES as more fully set forth in this AGREEMENT.

## III. TERMS

NOW THEREFORE, the PARTIES, in consideration of the mutual promises and covenants contained in this AGREEMENT; and subject to approval by the Court as provided herein pursuant to Md. Rule 2-231(i), it is hereby stipulated and agreed by and between PLAINTIFF, acting for herself and on behalf of the SETTLEMENT CLASS, and CAG, that all claims, rights and causes of action, state or federal, and including damages, losses and demands

of any nature, that have or could have been asserted by PLAINTIFF and the SETTLEMENT CLASS in this matter against CAG, as defined herein, shall be settled, released and dismissed with prejudice upon and subject to the following terms and conditions, all of which are subject to approval by the Court.

8. Incorporation of Recitals. The foregoing recitals are hereby incorporated into and shall constitute a part of this AGREEMENT.

9. Conditional Nature of Agreement. This AGREEMENT and the SETTLEMENT contemplated herein are expressly conditioned upon all of the following, which the PARTIES agree are each material conditions precedent to the payment of SETTLEMENT BENEFITS to members of the SETTLEMENT CLASS, the payment of any Court-awarded Incentive Awards, and the payment of any Court-awarded fees and expenses to Plaintiff's Counsel under this AGREEMENT:

- (a) The PLAINTIFF'S and CAG'S filing with the Court of a Joint Motion for Preliminary Approval of the Settlement, Conditional Certification of a Settlement Class, and the Appointment of Class Representative and Class Counsel for the Settlement Class under Md. Rule 2-231;
- (b) The Court's issuance of a Preliminary Approval Order substantially in the form attached hereto as **Exhibit A**: (i) granting the Motion referenced in the preceding subparagraph; (ii) preliminarily approving the SETTLEMENT under terms substantially consistent with the terms of this AGREEMENT; (iii) conditionally certifying the SETTLEMENT CLASS identified in this AGREEMENT for settlement purposes only; (iv) appointing the Plaintiff's Counsel as Class Counsel for the SETTLEMENT CLASS; (v) appointing the SETTLEMENT ADMINISTRATOR; (vi) establishing deadlines and requirements for the filing of Objections to the SETTLEMENT; (vii) establishing the deadline and requirements for Requests for Exclusion; (viii) preliminarily enjoining the members of the SETTLEMENT CLASS who do not file complete and valid Requests for Exclusion by the Exclusion Deadline from filing suit or asserting any claims, demands, and/or counterclaim with respect to matters released in Paragraph 13 of this AGREEMENT; and (ix) approving the form of Individually Mailed Notice to the SETTLEMENT CLASS;
- (c) The mailing of the approved Notices to the Settlement Class;
- (d) The expiration of the Objection Deadline and Exclusion Deadline;
- (e) That SETTLEMENT CLASS MEMBERS who own no more than 10% of the LOTS file complete and valid Requests for Exclusion by the Exclusion Deadline, or that CAG elects, at its option, to proceed with the SETTLEMENT if SETTLEMENT CLASS MEMBERS owning more than 10% of the LOTS file complete and valid Requests for Exclusion by the Exclusion Deadline;

(f) The PARTIES' filing with the Court of a Joint Motion for Final Approval of the Settlement and the Entry of Final Judgment dismissing with prejudice all Claims asserted in the ACTION against CAG;

(g) The Court's holding of the Final Approval Hearing and issuance of an Order: (a) disposing of any objections, if any, to the SETTLEMENT; (b) granting the Motion referenced in the preceding subparagraph; (c) granting final approval to the SETTLEMENT and the release of claims set forth in Paragraph 13 of this AGREEMENT by the Class Representative, on behalf of themselves and all members of the SETTLEMENT CLASS who did not file complete and valid Requests for Exclusion by the Exclusion Deadline; (d) issuing a Final Judgment Order which dismisses with prejudice all Claims asserted in ACTION against CAG; and (e) permanently enjoining any members of the SETTLEMENT CLASS who did not file complete and valid Requests for Exclusion by the Exclusion Deadline from filing suit or any claim, demand, and/or counterclaim with respect to matters released in Paragraph 13 of this AGREEMENT;

(j) The filing of a Petition for the Award of Fees and Expenses to Plaintiff's Counsel and a Petition for Incentive Award to the Class Representative, consistent with the terms of this AGREEMENT;

(k) The Court's issuance of an Order awarding the Class Counsel fees and expenses and the Class Representative's Incentive Award, not to exceed the maximum amounts set forth in Paragraphs 17 and 18 of this AGREEMENT;

(l) The Orders of the Court granting final approval to the Settlement reaching Finality.

Should any of these conditions not be met, the PARTIES agree that the SETTLEMENT and the terms of this AGREEMENT shall terminate and be deemed null and void, except for Paragraph 21 hereof which will survive the termination of this AGREEMENT.

10. The Settlement Class.

(a) The PARTIES agree that the SETTLEMENT CLASS in this ACTION is maintainable as a class under Md. Rule 2-231(c)(3) and further, that the SETTLEMENT CLASS includes:

Individuals who entered into a SALES CONTRACT with CAG between April 29, 2017 and November 30, 2017 for the initial sale of residential real property located at one of the following addresses for which there are deferred water and sewer assessments recorded by covenant and who subsequently closed on the LOT sale:

7203 Barrberry Lane                      Beltsville      MD      20705

7221 Barrberry Lane	Beltsville	MD	20705
7223 Barrberry Lane	Beltsville	MD	20705
7225 Barrberry Lane	Beltsville	MD	20705
12703 Brickyard Boulevard	Beltsville	MD	20705
12713 Brickyard Boulevard	Beltsville	MD	20705
12721 Brickyard Boulevard	Beltsville	MD	20705
12801 Brickyard Boulevard	Beltsville	MD	20705
12805 Brickyard Boulevard	Beltsville	MD	20705
12807 Brickyard Boulevard	Beltsville	MD	20705
12815 Brickyard Boulevard	Beltsville	MD	20705
7346 Calico Rock Landing	Beltsville	MD	20705
7348 Calico Rock Landing	Beltsville	MD	20705
7350 Calico Rock Landing	Beltsville	MD	20705
7352 Calico Rock Landing	Beltsville	MD	20705
7204 Maisson Ridge Circle	Beltsville	MD	20705
7206 Maisson Ridge Circle	Beltsville	MD	20705
12620 Rustic Rock Lane	Beltsville	MD	20705
12700 Rustic Rock Lane	Beltsville	MD	20705
12704 Rustic Rock Lane	Beltsville	MD	20705
12821 Rustic Rock Lane	Beltsville	MD	20705

For the purposes of clarity, the members of the SETTLEMENT CLASS total 36 BUYERS who entered into 21 separate SALES CONTRACTS.

(b) The identity and address of SETTLEMENT CLASS MEMBERS will be based upon information contained in CAG's April 27, 2021 production of documents to PLAINTIFF and, separately, the Land Records for Prince George's County, Maryland.

(c) Excluded from the SETTLEMENT CLASS are those BUYERS who now are or have ever been executives of CAG and the spouses, parents, siblings, and children of all such individuals.

11. Scope and Effect of Certification of the Settlement Class. The PARTIES' agreement as to the existence of a SETTLEMENT CLASS is for the purposes of settlement only. In accordance with Paragraph 21, in the event the SETTLEMENT under this AGREEMENT does not receive Preliminary and/or Final Approval by the Court or the Orders of the Court approving the Settlement do not reach Finality, the PARTIES shall be restored to their respective positions and retain all of their rights and defenses existing as of the date this AGREEMENT is executed, and CAG specifically retains the right to contest certification of a class for any purpose other than settlement.

12. Settlement Payment. Pursuant to and in accordance with this AGREEMENT, and in accordance with Paragraph 13 of this AGREEMENT, CAG will establish a SETTLEMENT FUND for the benefit of the SETTLEMENT CLASS MEMBERS totaling \$250,000.00

("SETTLEMENT PAYMENT"). CAG shall cause the SETTLEMENT PAYMENT to be deposited with the SETTLEMENT ADMINISTRATOR no later than thirty (30) days prior to the final approval hearing. The SETTLEMENT PAYMENT shall be held by the SETTLEMENT ADMINISTRATOR pending approval by the Court of the AGREEMENT. If the Court does not approve the AGREEMENT, the SETTLEMENT PAYMENT shall be returned to CAG within five (5) business days of the Court's entry of an order denying final approval. Any funds remaining in the SETTLEMENT FUND account more than three hundred (300) days after EFFECTIVE DATE shall be remitted by the SETTLEMENT ADMINISTRATOR to CAG.

13. General Release. On the EFFECTIVE DATE and in consideration of the settlement terms described in Paragraph 12 of this AGREEMENT, CAG will receive the following release from any and all SETTLEMENT CLASS MEMBERS that do not opt-out:

SETTLEMENT CLASS MEMBER, on behalf of their self and their heirs and assigns, acquits and forever discharges CAG and its past and present agents, employees, creditors, officers, directors, shareholders, subsidiaries, predecessors, affiliates, successors, assigns, insurers, administrators, representatives, attorneys, parent companies, holding companies, related companies, and any and all other business entities, associations, organizations, subcontractors, partnerships, or concerns owned, controlled, managed, or directed by CAG and/or by any of CAG's principals ("RELEASED PARTIES") from all claims, demands, liabilities, losses, damages, errors, latent defects, patent defects, causes of action, and any other actionable omissions, conduct, or damage of every kind and nature whatsoever, whether subrogated or non-subrogated, whether in tort, contract or extra-contractual, at law or in equity, actual or contingent, foreseen or unforeseen, known or unknown, that any SETTLEMENT CLASS MEMBER has or had against the RELEASED PARTIES, including without limitation, the LITIGATION CLAIMS and all claims relating to the PROPERTY, including any claims that could have been brought in any arbitration proceeding; except that this AGREEMENT does not release claims pursuant to the remaining portion, if any, of Your New Home Warranty ("Limited Warranty").

14. Payment of Administrative Costs. With the approval of the Court, the SETTLEMENT FUND shall be used to make all necessary payments under this AGREEMENT incurred by the SETTLEMENT ADMINISTRATOR in the administration of this AGREEMENT, including, by way of example, (1) the time and expenses of the SETTLEMENT ADMINISTRATOR, (2) all costs associated with compiling and verifying the SETTLEMENT CLASS MEMBER list; (3) postage of the mailed Notices to SETTLEMENT CLASS MEMBERS; (4) all reasonable costs associated with locating SETTLEMENT CLASS MEMBERS when appropriate; and (5) first-class postage for mailing the SETTLEMENT CLASS MEMBERS' checks.

15. Payments to Settlement Class Members. SETTLEMENT CLASS MEMBERS shall receive a pro rata share of the SETTLEMENT FUND after deductions for court-approved attorneys' fees, costs of litigation, incentive award, and settlement administration fees. The pro rata share will be determined based on the total amount of the water and sewer charges assessment, including interest as of the Commencement Date, on each LOT, as established by

the Declaration of Deferred Water and Sewer Charges (Brick Yard Station), dated March 27, 2013, and recorded among the land records in the Circuit Court for Prince George's County on April 9, 2013. Payments to SETTLEMENT CLASS MEMBERS shall be paid by one single, indivisible check issued per LOT to the SETTLEMENT CLASS MEMBER(S) who purchased said LOT and will be mailed no later than 30 calendar days after the EFFECTIVE DATE.

16. Unclaimed Funds of the Settlement Fund. All funds remaining in the SETTLEMENT FUND after payment to all SETTLEMENT CLASS MEMBERS, shall revert to CAG as described in Paragraph 12 above.

17. Payment of Incentive Payment. With the approval of the Court, PLAINTIFF April Martin shall be paid an incentive fee from the SETTLEMENT FUND of four thousand dollars (\$4,000.00). The incentive fee payable to PLAINTIFF shall be forwarded by the SETTLEMENT ADMINISTRATOR to Z Law no later than ten (10) calendar days after the EFFECTIVE DATE.

18. Plaintiffs' Class Counsel's Attorneys' Fees and Costs. Plaintiffs' Class Counsel's attorney's fees and costs will be paid from the SETTLEMENT FUND as may be allowed and approved by the Court. Plaintiff's Counsel, if appointed as Class Counsel under this AGREEMENT, shall petition the Court, for an award of attorneys' fees and expenses incurred in the prosecution and settlement of the LITIGATION CLAIMS against CAG. Class Counsel shall limit the amount requested in their Petition for Fees and Expenses to no more than an aggregate amount equal to forty percent (40%) of the amount of the SETTLEMENT FUND. Payment of Class Counsel's costs and expenses and Class Counsel's attorneys' fees shall collectively be referred to as "Class Counsel's Attorneys' Fees and Costs." Class Counsel's Attorneys' Fees and Costs shall be forwarded by the SETTLEMENT ADMINISTRATOR to Z Law no later than ten (10) calendar days after the EFFECTIVE DATE.

19. Right To Object To The Settlement: Any SETTLEMENT CLASS MEMBER shall have the right to object to the AGREEMENT by filing a written objection with the Court at the address listed in the Mailed Notice and by mailing a copy thereof to the PARTIES' counsel, not later than the Objections Deadline established by the Court, which shall not be less than thirty (30) days before the date of the Final Approval Hearing. All Objections must be signed by the person(s) making the objection, or an attorney or legal guardian authorized to act on their behalf, and must set forth in detail each component of the AGREEMENT to which they object, the reasons for each such objection, and any legal authority that they wish the Court to consider in support thereof. Objections must also include the objector's full name and current address, the full name and current address of any co-owners of the SUBJECT PROPERTY, the address of the SUBJECT PROPERTY.

20. Right To Be Excluded (Opt-Out) From The Settlement. Any SETTLEMENT CLASS MEMBER shall have the right to opt-out of the SETTLEMENT CLASS by sending a written Request for Exclusion from the Settlement Class to the SETTLEMENT ADMINISTRATOR at the address listed in the Notices, which must be received by the SETTLEMENT ADMINISTRATOR no later than the Exclusion Deadline set by the Court,

which shall not be less than thirty (30) days before the date of the Final Approval Hearing. Requests for Exclusion must be signed by the person requesting exclusion from the SETTLEMENT CLASS and any co-owners of the SUBJECT PROPERTY and must include the requestor's full name and current address, the full name and current address of any co-owners of the SUBJECT PROPERTY, the address of the SUBJECT PROPERTY, and a statement that they want to be excluded from the SETTLEMENT CLASS.

21. Restoration of Rights and Defenses In the Event of Non-Approval. In the event that the SETTLEMENT under this AGREEMENT does not receive Preliminary and/or Final Approval by the Court or the Orders of the Court approving the Settlement do not reach Finality, this AGREEMENT shall terminate and be deemed null and void, and all negotiations, filings, documents, orders, and proceedings relating thereto shall not be discoverable or admissible in the ACTION or otherwise, and shall be without prejudice to the rights of the PARTIES hereto, who shall be restored to their respective positions and retain all of their rights and defenses existing as of the date this AGREEMENT is executed. This provision will survive termination of this AGREEMENT.

22. Duties of the Settlement Administrator.

(a) The PARTIES agree that the SETTLEMENT ADMINISTRATOR shall be The Casey Group, LLC of Towson, Maryland.

(b) The SETTLEMENT ADMINISTRATOR shall be paid out of the SETTLEMENT FUND.

(c) The SETTLEMENT ADMINISTRATOR shall be responsible for administering the Settlement, including:

(i) undertaking address verifications for SETTLEMENT CLASS MEMBERS;

(ii) sending the Mailed Notices, pursuant to Paragraph 23 of this AGREEMENT;

(iii) preparing reports regarding the Mailed Notices, as directed by the PARTIES' counsel and the Court;

(iv) accepting and reporting on Requests for Exclusion received by the Exclusion Deadline;

(v) remitting payments from the SETTLEMENT FUND for SETTLEMENT BENEFITS payable to eligible SETTLEMENT CLASS MEMBERS;

(vi) issuing W9s to SETTLEMENT CLASS MEMBERS eligible for payment of SETTLEMENT BENEFITS and 1099s where information is available from the SETTLEMENT CLASS MEMBERS; and

(vii) such other duties as directed or mutually agreed by the PARTIES.

(d) The SETTLEMENT ADMINISTRATOR shall also be responsible for collecting and reviewing exclusion requests from those SETTLEMENT CLASS MEMBERS who opt-out, transmitting payments as provided herein, and attending to other administrative obligations required to fulfill the requirements of this AGREEMENT.

(e) The PARTIES and the SETTLEMENT ADMINISTRATOR shall safeguard against improper disclosure of personal identifying information of any SETTLEMENT CLASS MEMBER.

23. Class List. Within five (5) days after entry of the Preliminary Approval Order, CAG shall provide the SETTLEMENT ADMINISTRATOR with a Class List in the form of an unlocked excel spreadsheet with one row for each LOT owned by SETTLEMENT CLASS MEMBERS. The Class List shall include a column for each piece of information set forth as follows within the possession, custody, and/or control of CAG: (1) first name of BUYER(S); (2) last name of BUYER(S); (3) address of purchased home; (4) email address(s) of BUYER(S); (5) telephone number(s) of BUYER(S); and (6) the total amount of the water and sewer charges including interest as of the Commencement Date, as determined by the LOT type, *i.e.* townhome or single family, as established by the Declaration of Deferred Water and Sewer Charges (Brick Yard Station), dated March 27, 2013, and recorded among the land records in the Circuit Court for Prince George's County on April 9, 2013.

24. Class Notice Procedure.

(a) Subject to the requirements of any orders entered by the Court, and no later than thirty (30) days after entry of the Preliminary Approval Order, PLAINTIFF shall cause the SETTLEMENT ADMINISTRATOR to send a Class Notice Package to SETTLEMENT CLASS MEMBERS by first-class mail in a form approved by the Court.

(b) Mailed Form of Notice. The form of Notice filed with the Court and agreed to by the PARTIES is attached hereto as **Exhibit B** ("CLASS NOTICE"). The CLASS NOTICE shall inform the class about their rights, duties and obligations under the AGREEMENT.

(i) In preparation for the mailing of CLASS NOTICE, CAG shall provide the SETTLEMENT ADMINISTRATOR and Class Counsel the Class List pursuant to Paragraph 23.

(ii) Prior to mailing the CLASS NOTICE, the SETTLEMENT ADMINISTRATOR shall utilize the Land Records of Prince George's County and/or another information resources to verify the current addresses of the SETTLEMENT CLASS MEMBERS.

(iii) If any CLASS NOTICE is returned with a new forwarding address provided by the U.S. Postal Service, the SETTLEMENT ADMINISTRATOR will reissue the CLASS NOTICE to the new forwarding address within 10 business days. If the CLASS NOTICE is returned as undeliverable and there is no forwarding address, the SETTLEMENT ADMINISTRATOR will update the address using any reasonable measure to obtain a corrected address and, if a different address is obtained by such reasonable measures, a second CLASS NOTICE shall be sent. The second CLASS NOTICE shall be sent within 10 calendar days of receiving the undeliverable CLASS NOTICE. If a second notice is sent and returned undeliverable, no further CLASS NOTICE need be sent by the SETTLEMENT ADMINISTRATOR. The SETTLEMENT ADMINISTRATOR shall have no obligation to re-mail any CLASS NOTICE returned as undeliverable after sixty (60) days from the date on which it originally was mailed.

(c) The mailing of CLASS NOTICE to a person or entity who is not in the SETTLEMENT CLASS shall not render such person or entity a part of the SETTLEMENT CLASS or otherwise entitle such person to participate in the SETTLEMENT.

(d) Cost of Notice. All costs associated with the CLASS NOTICE set forth in this Paragraph shall be paid from the SETTLEMENT FUND, as approved by the Court. The SETTLEMENT ADMINISTRATOR shall maintain an accurate accounting of all Costs of Notice which shall be available for inspection upon the request of any Party to this AGREEMENT.

(e) At least five (5) days in advance of the Final Approval Hearing, the SETTLEMENT ADMINISTRATOR shall file with the Court and serve upon Class Counsel and CAG's Counsel an affidavit setting forth the manner in which it complied with the production of the CLASS NOTICE to the Plaintiff Class.

(f) The SETTLEMENT ADMINISTRATOR also shall maintain a post office box address to receive inquiries with respect to the AGREEMENT.

25. Cooperation. The PARTIES to this AGREEMENT shall cooperate with the SETTLEMENT ADMINISTRATOR to the extent reasonably necessary to assist and facilitate the SETTLEMENT ADMINISTRATOR in carrying out its duties and responsibilities. CAG's Counsel and Class Counsel also shall reasonably cooperate with each other so that both sides may adequately monitor performance of this AGREEMENT.

26. No Admission of Liability. The PARTIES hereto acknowledge that they expressly understand that this AGREEMENT and the settlement it represents: (a) are entered into solely for the purposes of avoiding any possible future expenses, uncertainties, burdens or distractions of litigation and disentangling the PARTIES' respective business affairs; and (b) in no way constitute an admission of any wrongdoing by CAG.

#### **IV. PROCEDURES FOR EFFECTUATING AGREEMENT**

27. Best Efforts. PLAINTIFF, CAG, and all counsel agree to cooperate and use their best efforts to obtain Court approval of this AGREEMENT in an expeditious manner. PLAINTIFF and CAG agree not to object to or oppose in any way any provision of this AGREEMENT. PLAINTIFF, CAG, and all counsel also agree not to solicit or encourage any SETTLEMENT CLASS MEMBER to object or oppose in any way any provision of this AGREEMENT.

28. Preliminary Approval Procedure. Within fifteen (15) calendar days after execution of this AGREEMENT by the PARTIES, the PARTIES shall file the Joint Motion for Preliminary Approval of the Settlement, Conditional Certification of a Settlement Class, and the Appointment of Class Representative and Class Counsel for the Settlement Class under Md. Rule 2-231 in accordance with Paragraph 9(a).

29. Final Approval Procedure. At the time and manner required by the Preliminary Approval Order, the PARTIES shall file any motions or other papers that they may have in support of final approval of the AGREEMENT. The proposed Final Approval Order shall be drafted by Class Counsel, consented to by CAG's Counsel and submitted to the Court in advance of the Final Approval Hearing.

#### **V. PROCEDURES FOR TERMINATING AGREEMENT**

30. Termination of Agreement. This AGREEMENT shall only be terminable: (a) at the option of the PARTIES to this AGREEMENT if the Court fails to approve this AGREEMENT or materially alters any one or more of its terms; or (b) upon the mutual written agreement of the PLAINTIFF on the one hand and CAG on the other hand. Any dispute as to the materiality of any modification or proposed modification of this AGREEMENT by the Court shall be resolved pursuant to the terms of Paragraph 32.

31. Exclusions/Opt Outs. If SETTLEMENT CLASS MEMBERS who own 10% or more of the LOTS file complete and valid Requests for Exclusion by the Exclusion Deadline, CAG will have the option to withdraw from the AGREEMENT.

32. Effect of Termination of Agreement. If this AGREEMENT is terminated or canceled as set forth herein, the PARTIES shall be deemed to have reverted to their respective status as of the date of this AGREEMENT and the PARTIES shall proceed in all respects as if this AGREEMENT had not been executed and the related Orders had not been entered, preserving in that event all of their respective claims and defenses in this case.

33. Resolution of Disputes under This Agreement. The PARTIES agree that the Court shall maintain jurisdiction over the implementation and interpretation of this AGREEMENT, which shall be interpreted under Maryland law.

## VI. MISCELLANEOUS PROVISIONS

34. Compromises and Offers. This AGREEMENT shall be deemed to fall within the protection afforded to compromises and offers to compromise by Maryland Rule 5-408 until executed by all PARTIES.

35. Headings. The headings contained in the AGREEMENT are for reference purposes only and shall not affect in any way the meaning or interpretation of this AGREEMENT.

36. Integration of Exhibits. The exhibits to the AGREEMENT are an integral and material part of this AGREEMENT and are hereby incorporated and made a part of the AGREEMENT.

37. No Contra Proferentem. This AGREEMENT is the product of arm's-length negotiations between the PARTIES regarding a compromise of disputed claims, and none of the PARTIES shall be deemed to be the drafter of the AGREEMENT or of any provision of the AGREEMENT. Nor shall any part of this AGREEMENT be construed against any of the PARTIES on the basis of that PARTY'S identity as a drafter of all or a portion of this AGREEMENT.

38. Entire Agreement. This AGREEMENT is contractual and not a mere recital. This AGREEMENT embodies the entire agreement between the PARTIES with respect to its subject matter. This AGREEMENT supersedes all prior negotiations, understandings, and agreements between the PARTIES with respect to its subject matter.

39. No Extra-Contractual Representations. There are no representations, warranties, promises, covenants, or undertakings, oral or written, other than those expressly set forth in this AGREEMENT. Each of the PARTIES acknowledges and agrees that no one has induced him, her, or it to enter into this AGREEMENT by means of any representations not contained in this AGREEMENT.

40. No Unwritten Amendments. This AGREEMENT may not be modified, amended, waived, discharged, or terminated except by an instrument in writing signed by all PARTIES.

41. Governing Law. This AGREEMENT shall in all respects be interpreted, enforced and governed under the laws of the State of Maryland. Any action, claim or dispute arising under this AGREEMENT shall be brought in the State of Maryland, regardless of whether the conflict of law rules of this or any other jurisdiction indicate otherwise. The language of this

AGREEMENT shall be construed as a whole, according to its fair meaning, and not strictly for or against any party.

42. Competence to Execute; Comprehension of Terms. By voluntarily executing this AGREEMENT, the PARTIES confirm that they have had the opportunity to have their own independent counsel review this AGREEMENT to the extent they so desired, and in executing the AGREEMENT, they are relying upon their own judgment. By voluntarily executing this AGREEMENT, the PARTIES confirm their competence to understand the AGREEMENT and hereby accept the terms of the AGREEMENT as resolving fully all differences, disputes, and claims within its scope.

43. Successors. This AGREEMENT shall be binding upon and inure to the benefit of the PARTIES hereto and their respective successors, heirs, and assigns.

44. Severability. In the event that any provision of this AGREEMENT conflicts with any applicable law, such conflict shall not affect the other provisions hereof that can be given effect without the conflicting provision, and to this end, the provisions hereof are declared to be severable.

45. Execution in Counterparts. This AGREEMENT may be executed in counterparts, and delivered by facsimile or in PDF format by electronic mail, with each counterpart constituting an original version of the AGREEMENT.

46. Plaintiff's Authority. Plaintiff's Counsel represent that they: (1) are authorized to entered into this AGREEMENT along with the PLAINTIFF, and (2) are seeking to protect the interest of the SETTLEMENT CLASS.

**SIGNATURES ON THE FOLLOWING PAGE**

IN WITNESS WHEREOF, the PARTIES have executed this AGREEMENT under seal  
on the date and year set forth below.

Witness/Attest:



 (Seal)

April N. Martin  
DATE: 04 / 29 / 2022

Witness/Attest:



Z LAW, LLC  
 (Seal)

By: Cory L. Zajdel, Esq.  
Title: Managing Member  
DATE: 04 / 29 / 2022

Witness/Attest:

\_\_\_\_\_

CALATLANTIC GROUP, INC.  
DocuSigned by:  
 (Seal)

By: Matthew wineman  
Title: Division President  
DATE: 5/2/2022