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| DISTRICT COURT, Larimer County, State of Colorado 201 La Porte Ave. Suite 100 Ft. Collins, CO 80521f | DATE FILED January 14, 2025 4:06 PM FILING ID: 296D458592BB7 CASE NUMBER: 2022CV30492 |
| PLAINTIFF: ELIZABETH AGUILAR , on behalf of herself and a proposed class of all others similarly situated, v. DEFENDANTS: HARMONY ROAD, LLC and RHP PROPERTIES, INC. | ▲ COURT USE ONLY ▲ |
| Attorneys for Plaintiff Elizabeth Aguilar: Steven L. Woodrow (swoodrow@woodrowpeluso.com) Woodrow & Peluso, LLC 3900 East Mexico Ave., Suite 300 Denver, Colorado 80210 Jason Legg (#42946) (jason@cadizlawfirm.com) Cadiz Law, LLC 501 S. Cherry St., Suite 1100 Denver CO 80246 720-767-2036 Cameron Netherland (#55864) (cnetherlandlaw@gmail.com) Netherland Law, LLC 501 S. Cherry St., Suite 1100 Denver CO 80246 720-515-4767 | Case No: 2022CV030492 Division: 3B |
| <p style="text-align: center;">AMENDED CLASS ACTION SETTLEMENT AGREEMENT AND RELEASE</p> | |

This Amended Settlement Agreement and Release (“Settlement Agreement”) is entered into by Plaintiff Elizabeth Aguilar (“Aguilar” or the “Class Representative”), individually and on behalf of the Settlement Class, on the one hand, and by Defendant RHP Properties, Inc. (“RHP Properties”) and Harmony Road, LLC (“Harmony”) (RHP Properties and Harmony are collectively

referred to as “RHP” or “Defendants”) on the other. Aguilar and RHP are referred to collectively in this Settlement Agreement as the “Parties.”

I. RECITALS

A. WHEREAS, on or about July 26, 2022, Aguilar filed a Class Action Complaint and Jury Demand challenging certain Community Guidelines related to the towing of resident vehicles at RHP branded mobile home parks in Colorado as being unlawful under Colorado law, specifically the Colorado Mobile Home Park Act, Colo. Rev. Stat. Ann. § 38-12-214 *et. seq.*;

B. WHEREAS, the Parties engaged in motions practice related to the pleadings and exchanged certain discovery related to the Community Guidelines and towing policies;

C. WHEREAS, on April 15, 2024, the Parties engaged in a full-day mediation session with the Honorable Ann Frick of JAG in Denver, Colorado;

D. WHEREAS, the Parties were unable to reach an agreement at the first mediation and decided to return to litigation where they briefed Defendants’ Motion for Summary Judgment;

E. WHEREAS, in the wake of the first mediation counsel for the Parties continued to discuss the potential for resolving the case;

F. WHEREAS, as a result of counsels’ continued discussions, the Parties agreed to engage in a second mediation session with the Honorable Edward Bronfin (Ret.) of JAG in Denver Colorado;

G. WHEREAS, on June 12, 2024, the Parties engaged in a full-day mediation session with Judge Edward Bronfin (Ret.) Judicial Arbiter Group, Inc., in Denver, Colorado;

H. WHEREAS, the Parties, with the assistance of Judge Bronfin during the mediation were able to reach a Settlement Agreement, the terms of which are memorialized herein;

I. WHEREAS, on August 8, 2024, the Court granted Plaintiff leave to conduct further discovery related to the issues raised in the Defendants' Motion for Summary Judgment;

J. WHEREAS, the Parties participated in multiple mediation sessions, first with the Honorable Ann Frick (ret.) and thereafter with Judge Edward Bronfin, and negotiated a Class Action Settlement Agreement that received preliminary approval from the Court on or about October 16, 2024;

K. WHEREAS, in the process of gathering data to compile the Class List and effectuate the Settlement, counsel the Parties identified issues regarding the Settlement Class that required them to further meet and confer with the help of Judge Bronfin;

L. WHEREAS, counsel for the Parties have engaged in extensive arm's-length negotiations with the help of Judge Bronfin and have reached a resolution reflected in this Amended Class Action Settlement Agreement;

M. WHEREAS, RHP continues to vigorously deny all claims asserted against it in the Action, denies all allegations of wrongdoing and liability, denies all material allegations of the Complaint, and denies that Plaintiff and the Class Members are entitled to any relief from either Defendant or any related entity;

N. WHEREAS, counsel for the Parties have investigated the facts relating to the claims and defenses alleged and the underlying events in the Action, have made a thorough study of the legal principles applicable to the claims and defenses asserted in the Action, and have conducted a thorough assessment of the strengths and weaknesses of their respective claims and defenses;

O. WHEREAS, Defendants, without admitting any liability, fault or wrongdoing, and taking into account the uncertainty and risks inherent in any litigation, have concluded that further prosecution and defense of the Action would be protracted, burdensome and expensive, and that it is desirable and beneficial to fully and finally settle and terminate the Action in the manner and upon the terms and conditions set forth in this Settlement Agreement, subject to Court approval. This Settlement Agreement is inadmissible as evidence against either of the Parties except to enforce the terms of the Settlement Agreement;

P. WHEREAS, Aguilar, and her counsel, on behalf of the Settlement Class, after receiving information from RHP regarding Aguilar and the Settlement Class's claims, including revised data concerning the number of residents subjected to the Challenged Rules and the number of persons towed at RHP-Branded Properties in Colorado, and related information, have concluded based upon their investigation, and taking into account the contested issues involved, the legal principles at issue, the expense and time necessary to prosecute the Action through trial, the risks and costs associated with further prosecution of the Action, the uncertainties of complex litigation, and the substantial benefits to be received pursuant to this Settlement Agreement, that a settlement with RHP on the terms set forth herein is fair, reasonable, and adequate, and in the best interest of Aguilar and the Settlement Class;

Q. WHEREAS, Aguilar and her counsel, on behalf of the Settlement Class, have agreed to settle the Action with RHP on the terms set forth herein and to have judgment entered pursuant to this Settlement Agreement without trial or adjudication of any issue of fact or law and without this Settlement Agreement, including any exhibits thereto, constituting any evidence

against, or any admission by, any Party with respect to liability, fault, certifiability of the class or any other issue raised in the Action;

R. WHEREAS, Aguilar's Motion for Preliminary Approval will include a request for the Court to certify the Settlement Class for settlement purposes;

S. WHEREAS, Defendants, without waiving their right to contest class certification if the Plaintiff's allegations against them were further litigated, consent to the conditional certification of the Settlement Class, as set forth in this Agreement, solely for the purposes of this Settlement.

T. WHEREAS, the Settlement contemplated by this Settlement Agreement is expressly conditioned upon and subject to preliminary and final approval by the Court, as set forth herein. Absent such approvals, this Agreement and underlying settlement shall be null, void, and of no further force or effect and the parties shall be returned to their *status quo ante* as set forth at Article IV, Section IX. Effective upon such approvals, this Agreement is intended by the parties to fully, finally and forever resolve, discharge and settle the claims of the Settlement Class, upon and subject to the terms and conditions hereof; and

U. WHEREAS, RHP and counsel for RHP have agreed to settle the Action with Plaintiff and the Class on the terms set forth herein and to have judgment entered pursuant to this Settlement Agreement without trial or adjudication of any issue of fact or law and without this Settlement Agreement, including any exhibits thereto, constituting any evidence against, or any admission by, any Party with respect to liability, fault, certifiability of the class, or any other issue raised in the Action.

NOW, THEREFORE, it is hereby agreed that, in consideration of the agreements, promises, and covenants set forth in this Settlement Agreement, and subject to the terms and conditions set forth herein and the approval of the Court, the Action shall be fully and finally settled and dismissed.

II. DEFINITIONS

Unless defined elsewhere in this Settlement Agreement, as used herein and in the documents attached hereto as exhibits, the terms set forth below shall have the meanings set forth below. The singular includes the plural and vice versa.

1. “Action” means the Litigation captioned *Aguilar v. Harmony Road, LLC, et al.*, Case No. 2022CV030492, including any and all appeals.

2. “Affiliate” means a Person that directly, or indirectly through one or more intermediaries, controls or is controlled by, or is under common control with, the Person specified.

3. “Claim Form” means and refers to the document attached hereto as Exhibit 1 to be made available both for download and electronically on the Settlement Website, that will allow Settlement Class Members to select whether they, in addition to falling into Settlement Group 1, also fall into Settlement Group 2 and/or Settlement Group 3. Claim Forms shall indicate that the information submitted is truthful and subject to penalty of perjury for false claims.

4. “Class” or “Settlement Class” means: “All Persons in the United States who, from July 26, 2019, to April 15, 2024, were Primary Residents at any of the Defendants’ Parks in Colorado.”

5. “Challenged Rules” means the Community Guidelines used at RHP-Branded properties in Colorado related to the towing of vehicles for out-of-date registrations, expired tags, flat tires, or inoperable vehicles.

6. “Class Counsel” or “Settlement Class Counsel” means Steven L. Woodrow of Woodrow & Peluso, LLC and Jason Legg of Cadiz Law, LLC.

7. “Class List” means the list of certain names, addresses, and/or telephone numbers of Persons (contained within RHP’s records) who fall into the definition of the Settlement Class to be provided by RHP to the Settlement Administrator no later than five (5) business days following entry of the Preliminary Approval Order for the purposes of identifying and sending notice to Settlement Class Members.

8. “Class Member Payment” means the distribution as described in Section III.1, to be paid from the Settlement Fund to each Settlement Class Member who does not request exclusion.

9. “Class Period” means the period from June 22, 2018, to the date Notice is sent for the Class and the period from August 2018 through June 2021 for the Subclass.

10. “Class Representative”, “Plaintiff” or “Aguilar” means and refers to the Class and Subclass Representative in the Action, Elizabeth Aguilar, who the Parties agree is classified as a Primary Resident in Defendant’s system.

11. “Counsel for RHP” or “RHP’s Counsel” means Jared Ellis of Hall and Evans, LLP.

12. “Court” means the District Court for Larimar County, Colorado, and Judge Juan Ganzalo Villasenor, to which the Action is assigned, or any judge who may succeed him as Judge in the Action.

13. “*Cy Pres* Recipient” means shall mean any such organization(s) proposed by the Parties that the Court approves for the purpose of receiving sums remaining in the Settlement Fund as a result of uncashed checks, and the parties propose the Colorado Coalition for the Homeless as the *Cy Pres* Recipient.

14. “Effective Date” means one (1) business day after the Court has entered a Final Approval Order

15. “Fee Award” means any award of reasonable attorney’s fees and for reimbursement of costs and expenses to be awarded by the Court to Class Counsel as set forth in Section VI below.

16. “Final” means that the Final Approval Order and Judgment has been entered on the docket in the Action and that the following has occurred: (a) the time to appeal from such order and judgment has expired and no appeal has been timely filed, or (b) if an appeal from such order and judgment has been filed, it has resulted in an affirmance of the Final Approval Order and Judgment without any material change, no other appeal or petition for rehearing or review is pending, the time period during which further petition for hearing, review, appeal, or certiorari could be taken has finally expired, relief from a failure to file same is not available, and the mandate is filed with the Court, or (c) the Court, following the resolution of any appeal from the Final Approval Order and Judgment, enters a further order or orders approving settlement on the terms set forth herein, and either no further appeal is taken from such order(s) or any such appeal results in affirmation of such order(s).

17. “Final Approval Hearing” means the hearing at which the Court will be asked to grant final approval to this Settlement Agreement in all material respects as fair, reasonable and

adequate, consider any timely objections to this Settlement Agreement, authorize the entry of a final judgment, and determine and approve the amounts of the Fee Award and Incentive Award.

18. “Final Approval Order and Judgment” means the order in which the Court certifies the Settlement Class, grants final approval of this Settlement Agreement, authorizes the entry of a final judgment, and dismisses the Action with prejudice.

19. “Form Lease Agreement” or “Form Lease” means and refers to the standardized written form lease that governed the leases of the Settlement Class Members when they were tenants/residents with RHP, including Aguilar’s leasehold when she was a tenant with RHP.

20. “Group 1 Settlement Class Member” means and refers to the approximately 11,363 Primary Residents of RHP-Branded Properties in Colorado.

21. “Group 2 Settlement Class Member” means and refers to the approximately 1,680 Primary Residents of RHP-Branded Properties in Colorado who had at least one vehicle towed from an RHP-Branded Property in Colorado for reasons other than a tow under the Challenged Rules. The Parties estimate that a total of 1,680 vehicles were towed from an RHP-Branded Property for reasons other than a tow under the Challenged Rules. The Parties acknowledge that the number or percentage of these tows that involved the vehicle of a Primary Resident is unknown.

22. “Group 3 Settlement Class Member” means and refers to the Primary Residents who had at least one vehicle towed from an RHP-Branded Property in Colorado for an alleged violation of one or more of the Challenged Rules. The Parties estimate that a total of 720 vehicles were towed from an RHP-Branded Property for an alleged violation of one or more of the

Challenged Rules. The Parties acknowledge that the number or percentage of these tows that involved the vehicle of a Primary Resident is unknown.

23. “Harmony Road, LLC” means and refers to Defendant Harmony Road, an RHP-Branded Property in Colorado commonly known, and doing business as, Harmony Village.

24. “Incentive Award” means the payment to be made to the Settlement Class Representative as set forth in Section VI.2 of this Settlement Agreement, subject to the approval of the Court in recognition for the Settlement Class Representative’s time and effort in prosecuting the case.

25. “Long Form Notice” means the traditional “long form” notice to be made available on the Settlement Website, describing the terms of this Settlement Agreement and containing information about the Action, instructions on how to receive benefits by not taking any action, how to receive additional benefits by submitting a Claim Form either by mail or electronically, and how to opt-out of the Settlement or object, which will be made available in accordance with Section IV.3.g of this Settlement Agreement, substantially in the form of Exhibit 2 hereto.

26. “Net Settlement Fund” means the amount in the Settlement Fund remaining after deductions for the costs of any Court-approved Settlement Administrator, Notice Plan, Incentive Award, or Fee Award.

27. “Notice Plan” means and refers to the plan to disseminate notice of the Settlement Agreement to the Settlement Class that comports with due process and that includes direct mail notice, email notice where available, and a Settlement Website, as set forth in Section IV.3.

28. “Objection Deadline” means and refers to the date set by the Court for Settlement Class Members to submit any objections to the Settlement Agreement, which shall be at least 14 (fourteen) days after the filing of Class Counsel’s Motion for any Fee Award.

29. “Opt-Out Deadline” means and refers to the date set by the Court for Persons who fall within the definition of the Settlement Class to submit any requests to exclude themselves from the Settlement Class or to opt-out of the Settlement, which shall be the same date as the Objection Deadline.

30. “Parties” means Aguilar and RHP.

31. “Person” means, without limitation, any individual, and any entity including, without limitation, a corporation, partnership, limited partnership, limited liability partnership, limited liability company, association, joint stock company, estate, legal representative, trust, unincorporated association, and any other business or legal entity and their respective predecessors, successors, representatives, and assigns.

32. “Preliminary Approval Order” means the Court’s Order described in Section IV.2 below and entered in connection with the hearing (the “Preliminary Approval Hearing”) at which the Court, *inter alia*, certifies the class for settlement purposes only, grants its preliminary approval to this Settlement Agreement, authorizes dissemination of notice to the Settlement Class in accordance with the Notice Plan or as amended or modified by the Court, and schedules the Final Approval Hearing.

33. “Primary Resident” or “Primary Residents” means or refers to of the 11,363 lease holders responsible for paying rent identified as Primary Residents in the Class List provided by Defendants.

34. “Release” means the releases set forth in Section V of this Settlement Agreement.

35. “Released Parties” means Harmony and RHP, all of RHP’s insurers, including QBE Insurance Corporation, acquired entities, predecessors, successors, Affiliates, parent companies, and subsidiaries, including all RHP-Branded Properties in Colorado and any and all of their and their Affiliates’ past or present predecessors, successors, heirs, executors, estates, administrators, direct or indirect parents, subsidiaries, associates, Affiliates, assigns, employers, employees, principals, agents, consultants, independent contractors, insurers, directors, managing directors, officers, partners, attorneys, accountants, financial and other advisors, investment bankers, underwriters, shareholders, lenders, auditors, investment advisors, legal representatives, successors in interest, assigns, franchisees and persons, firms, trusts, corporations, debt collectors, and any other individuals or entities in which RHP has or had a controlling interest, to which it is related, or with which it is Affiliated and any other representatives of any of these individuals or entities.

36. “Releasing Parties” means the Class Representative, all Settlement Class Members, and any present, former, and future spouses, dependents, children, and parents of any of them, as well as the present, former, and future estates, heirs, executors, administrators, representatives, agents, attorneys, partners, successors, predecessors-in-interest, assigns and any other representatives of each of them.

37. “RHP” means RHP Properties, Inc., one of the Defendants in the Action together with all owners, members, shareholders, employees, agents, parents, subsidiaries, Affiliates, including, but not limited to RHP Staffing Company, Newbury Management Company and the

below listed RHP-Branded Properties, joint venturers, heirs and assigns and other Released Parties.

38. “RHP-Branded Property” means and refers to all mobile home park communities in the United States using Defendant RHP’s branding, and all of the owners, shareholders, directors, officers, employees, agents, and representatives of said mobile home park communities, consisting of, but not necessarily limited to, the following entities in Colorado:

- Mountainside Estates, LLC, d/b/a Mountainside Estates
- AMC Pine Lakes Ranch, LLC, d/b/a Pine Lakes Ranch
- AMC Redwood Estates, LLC, d/b/a Redwood Estates
- Harmony Road, LLC, d/b/a/ Harmony Village
- Canterbury Park MHC, LLC, d/b/a Canterbury
- Meadows MHC, LLC, d/b/a The Meadows
- Villa West, LLC, d/b/a Villa West
- Pleasant Grove, LLC, d/b/a Pleasant Grove
- Shady Lane, LLC, d/b/a Shady Lane
- Tamarisk Village HHC, LLC, d/b/a Saddleback Creek
- Thornton Estates, LLC, d/b/a Thornton Estates
- Monument RV, LLC, d/b/a Saddleback RV
- Stoneybrook Estates, LLC, d/b/a Stoneybrook
- Wikiup Estates, LLC, d/b/a Wikiup
- Sheridan MHC, LLC, d/b/a Sheridan
- Saddleback Village MHC, LLC, d/b/a Saddleback Village

- Monument Creek, MHC, LLC, d/b/a Monument Creek
- Loveland Plaza, LLC, d/b/a Loveland
- AMC Longview, LLC, d/b/a Longview
- Lamplighter MHC, LLC, d/b/a Lamplighter
- Inspiration Valley, LLC, d/b/a Inspiration Valley
- Grand Meadow, LLC, d/b/a Grand Meadow
- Mobile Gardens, LLC, d/b/a Garden Meadows
- AMC Friendly Village, LLC, d/b/a Friendly Village of Greeley
- Crestline MHC CO, LLC, d/b/a Crestline Manor
- AMC Countryside Village Longmont, LLC, d/b/a Countryside Village Longmont
- AMC Countryside Village Denver, LLC, d/b/a Countryside Village Denver
- Countryside of Greeley, LLC, d/b/a Countryside of Greeley
- Commerce Heights, LLC, d/b/a Commerce Heights
- Canyon Ridge MHC, LLC, d/b/a Canyon Ridge
- BSREP II M H Stoneybrook Pointe, LLC, d/b/a Stoneybrook Pointe

39. “Settlement Administration Costs” means any and all costs incurred in administering the Settlement, to be paid exclusively from the Settlement Fund, including but not limited to all costs associated with identification of Persons who fall within the definition of the Settlement Class, costs of executing the Notice Plan and disseminating all notices, costs of administering and maintaining the Settlement Website, and sending Settlement Checks to Settlement Class Members who are entitled to Class Member Payments, but specifically excluding

all class benefit payments, payment of any Incentive Award, and any award by the Court of Attorney's Fees and Costs.

40. "Settlement Administrator" means RG/2 Claims Administration, LLC, an experienced third-party entity in the business of class action settlement claims administration, or such other third-party settlement administrator approved by the Court.

41. "Settlement Agreement" or "Settlement" or "Settlement Agreement and Release" or "Agreement" means this settlement agreement and release, including the attached exhibits.

42. "Settlement Check" means the negotiable checks to be sent to Settlement Class Members in the amount of the Class Member Payment.

43. "Settlement Class Member" means and refers to someone who falls into the definition of the Settlement Class.

44. "Settlement Class Representative" means and refers to Plaintiff Aguilar.

45. "Settlement Fund" means the total aggregate common fund that RHP will be obligated to contribute by operation of this Settlement Agreement if it receives final approval from the Court and the Judgment becomes Final. The Settlement Fund equals eight hundred fifty thousand dollars and zero cents (\$850,000.00 USD) and constitutes RHP's exclusive and total payment obligation under this Settlement Agreement to settle the Action in full. The Settlement Fund shall be transferred to the Settlement Administrator within fifteen (15) business days after the Effective Date whereby the Settlement Administrator will open a trust account at a nationally chartered financial institution, and the funds be transferred by wire transfer or check or draft to that account. The Settlement Fund monies need not be sequestered into a separate account. The Settlement Fund will be used to pay: (a) the Settlement Checks, (b) any Fee Award approved by

the Court; (c) any Incentive Award approved by the Court; and (d) all Settlement Administration Costs. The Settlement Fund of \$850,000.00 USD represents the total extent of RHP's monetary obligations under this Agreement. Under no circumstances will any Defendant have any greater or further monetary obligation.

46. "Settlement Website" means the website to be established, administered and maintained by the Settlement Administrator on which Settlement Class Members can download or file Claim Forms, access the Long Form Notice and other important case documents, including the operative Complaint, Answers, the Settlement Agreement, and the Preliminary Approval Order.

47. "Short Form Notice" means written notice of settlement in the form attached hereto as Exhibit 3, to be sent in accordance with Section IV.3 of this Settlement Agreement, in a postcard format and, and to the extent email addresses are attainable, via email, no later than thirty (30) days after preliminary approval is granted or such other date as set by the Court, briefly summarizing the terms of the settlement and advising Settlement Class Members of their options in participating in the Settlement Agreement, including by taking no further action and by filing a Claim Form, for excluding themselves or objecting to the settlement, and referring the Settlement Class Members to the Settlement Website.

48. "Successful Opt-Out" means a Person who, in accordance with Section IV.4 of this Settlement exercises the right to be excluded from the Settlement by the Opt-Out Deadline, but shall not include (a) any Person whose communication is not treated as a request for exclusion, and (b) Persons whose requests for exclusion are not valid or are otherwise void pursuant to Section IV.4.

49. All references to days shall be interpreted to mean calendar days, unless otherwise noted. When a deadline or date falls on a weekend or a legal Court holiday, the deadline or date shall be extended to the next business day that is not a weekend or legal Court holiday.

50. All references to “his,” “her,” and similar terms are intended to be gender-neutral, and apply equally to Persons who are businesses, organizations, or other non-natural Persons.

51. Other terms are defined in the text of this Settlement Agreement and shall have the meaning given to those terms in the text. It shall be the intent of the Parties in connection with all documents related to the Settlement that defined terms as used in other documents shall have the meaning given to them in this Settlement Agreement, unless otherwise specified.

III. SETTLEMENT CONSIDERATION

In consideration of a full, complete and final settlement of the Action, dismissal of the Action with prejudice, and the releases set forth in Section V below, and subject to the Court’s preliminary and final approval, the Parties agree to the following relief:

1. Monetary Relief to Settlement Class Members

a. Cash Payments. RHP shall have no payment obligations under this Settlement other than the Settlement Fund. In the event that this Settlement Agreement terminates or is not approved, any advances paid to the Settlement Administrator by RHP that have not been spent and are not required for amounts that are due and payable for reasonable and identified notice and administration costs already incurred, shall, within ten (10) business days, be returned by the Settlement Administrator to RHP by payment to an account designated by RHP.

b. To facilitate the Notice Plan, RHP and its counsel will provide to the Settlement Administrator, in an electronically searchable and readable format, the Class List. Any

information on the Class List shall be provided solely for the purpose of providing notice to the Settlement Class and informing them about their rights further to this Settlement, shall be kept in strict confidence, shall not be disclosed to any third party other than the parties to this Agreement and their counsel if necessary to effectuate the terms of the Agreement or the administration process, shall be used for no other cases, and shall be used for no other purpose.

c. Subject to the terms and conditions of this Agreement, Settlement Class Members shall qualify for payment from the Settlement Fund if they are on the Class List.

d. Each Settlement Class Member who qualifies for payment by appearing on the Class List shall be eligible to receive a Class Member Payment equal to the following:

1) Settlement Class Members in Group 1 who do not opt out shall each be due their pro-rata share of 44.47% of the Net Settlement Fund plus any sums unclaimed from Settlement Group 2 and Settlement Group 3.

2) Settlement Class Members who do not opt out and who file a claim indicating they are in Group 2 shall each be due \$150. To the extent the number of Claim Forms submitted by Group 2 Settlement Class Members multiplied by \$150 exceeds 19.76% of the Net Settlement Fund, Settlement Class Members in Group 2 will receive their pro rata share of 19.76% of the Net Settlement Fund. Any monies that go unclaimed and remain after processing Claim Forms for Group 2 Settlement Class Members shall be allocated to Settlement Group 1.

3) Settlement Class Members who do not opt out and who file a claim indicating they are in Group 3 shall each be due \$450. To the extent the number of Claim Forms submitted by Group 3 Settlement Class Members multiplied by \$450 exceeds 35.76% of the Net Settlement Fund, Settlement Class Members in Group 3 will receive their pro rata share of 35.76%

of the Net Settlement Fund. Any monies that go unclaimed and remain after processing Claim Forms for Group 3 Settlement Class Members shall be allocated to Settlement Group 1.

e. Each Settlement Class Member will receive the benefits allotted for Settlement Group 1. Settlement Class Members may file only one Claim Form but may indicate on the Claim Form that they fall into both Settlement Group 2 and Settlement Group 3. A Settlement Class Member may fall into all three Settlement Groups.

f. Settlement Checks for the Class Member Payments shall be valid for ninety (90) days after issuance. Any funds associated with Settlement Checks not cashed by Settlement Class Members within that time will remain in the Settlement Fund unless such Settlement Check is returned as undeliverable to the Settlement Administrator within the 90-day period after issuance (“Returned Settlement Checks”). With respect to Returned Settlement Checks, the Settlement Administrator will make one (1) attempt at re-mailing to the address on file or to any updated address determined by using the national change of address registry or any information received by the Settlement Class Member. Re-mailed checks shall be valid for ninety (90) days after issuance of the re-mailing.

g. Any amounts remaining in the Net Settlement Fund after payment of all Class Member Payments, Administration Costs, Fee Award, and Incentive Award will be paid to the *Cy Pres* Recipient or recipients approved by the Court.

h. Notwithstanding any judgment, principle, or statute, there shall be no interest accrued, owing, or paid by RHP on the Class Member Payments, or on the Settlement Fund, or on any other benefit available (or potentially available) under this Agreement.

i. **Full Contribution.** The Settlement Fund will be the only monetary contribution to this Settlement made by or on behalf of Defendants. Without limiting the generality of the preceding in any way, all Settlement Administration Costs, Incentive Award, attorneys' Fees Award, and Settlement Fund taxes will be paid from the Settlement Fund. Under no circumstance will any of the Released Parties be required to pay any additional amount into the Settlement Fund.

2. Payment of Settlement Administration Costs

a. All Settlement Administration Costs, including the Settlement Administrator's fees and expenses, shall be paid directly from the Cash Component of the Settlement Fund. If this Settlement Agreement is terminated or fails to become effective, RHP shall be responsible for payment to the Settlement Administrator of any reasonable settlement administration costs and fees necessarily incurred by the Settlement Administrator prior to being notified that administration services are no longer required.

3. Payment of Benefits

a. Subject to the terms and conditions of this Settlement Agreement, the Settlement Administrator shall make the following disbursements from the Settlement Fund in this order:

i. Pay all taxes and tax-related expenses, if any, or, at the Settlement Administrator's discretion, it shall reserve an amount of the Settlement Fund sufficient to pay taxes and tax-related expenses;

ii. Pay to the Settlement Class Representatives any Incentive Award ordered by the Court;

iii. Pay to Class Counsel any Fee Award ordered by the Court;

- iv. Pay all unreimbursed costs of settlement administration;
 - v. Mail or otherwise provide a Settlement Check in the amount of the Class Member Payment to each Settlement Class Member who qualifies for payment by appearing on the Class List and who has not opted out of the Settlement;
 - vi. Upon the earlier of (1) the cashing of the last Settlement Check (including any Settlement Check that is resent in accordance with Section III.1.e), or (2) the passage of 150 days since the mailing of the last Settlement Check, the Settlement Administrator shall pay any amounts remaining in the Settlement Fund to the *Cy Pres* Recipient.
- b. The Settlement Checks shall be paid solely from the Settlement Fund and shall be mailed to the address on the Class List or any updated address provided by the Settlement Class Member or found using the national change of address registry.
- c. All Settlement Checks issued under this section shall be void if not negotiated within ninety (90) days of their date of issue and shall contain a disclosure to that effect. Settlement Checks issued pursuant to this section that are not negotiated within ninety (90) calendar days of their date of issue shall not be reissued unless agreed upon by the Parties. Counsel for the Parties shall meet and confer regarding any claims of lost checks no later than one hundred twenty (120) days of their date of issue.
- d. The Settlement Administrator's and the Parties' respective obligations with respect to the distribution of Settlement Checks, the Settlement Administration Costs, any Fee Award, any Incentive Awards, and the amount of unclaimed and uncashed Settlement Checks, if any, shall be performed reasonably and in good faith. So long as such obligations are performed in good faith, the Parties and the Settlement Administrator shall not be liable for erroneous,

improper, or inaccurate distribution, and the Release and any judgment shall be effective, once this Agreement becomes Final.

4. Prospective Relief

For a period not to exceed twenty-four (24) months following the Effective Date, and subject to changes in applicable law, RHP agrees that, subject to notice requirements mandated by Colorado law, specifically, C.R.S. § 38-12-214(1)(e), it will implement the changes to its Community Guidelines with respect to the towing of vehicles at RHP-Branded Properties in Colorado set forth in Exhibit 4 attached hereto.

IV. SETTLEMENT PROCEDURES

1. Class Certification

a. For purposes of this Settlement Agreement and the proceedings and certification contemplated herein, Aguilar, through Class Counsel, will request: (i) that the Court appoint Aguilar as the Class Representative for the Settlement Class and (ii) that the Court appoint Aguilar's counsel from the law firm of Woodrow & Peluso, LLC, Steven Woodrow, together with Jason Legg from Cadiz Law, LLC, as Settlement Class Counsel. Defendants agree not to oppose any motion of Woodrow & Peluso, LLC or Cadiz Law, LLC to be appointed Settlement Class Counsel for the Settlement Class or for the appointment of Aguilar as Settlement Class Representative.

b. Defendants do not object to certification of the Settlement Class strictly and solely for settlement purposes only. Certification of the Settlement Class will be effective only with respect to the Settlement of this Action and is without prejudice to the rights of RHP to oppose class certification, seek decertification, and/or to contest issues of liability in this Action should

this Settlement Agreement be terminated or the Effective Date not occur for any reason. This Settlement Agreement shall not be construed as an admission by any Defendant as to any matter. In the event that this Agreement is terminated pursuant to its terms or the Effective Date does not occur for any reason, then certification of the Class, which is strictly and solely for settlement purposes, will be vacated and of no further force or effect, and the Action will proceed with respect to the Settlement Class as it existed before execution of this Settlement Agreement.

2. Preliminary Approval

a. As soon as practical after the execution of this Settlement Agreement, Plaintiff shall move the Court for entry of the Preliminary Approval Order. Defendants' failure to oppose the Plaintiff's request for entry of a Preliminary Approval Order shall not constitute an admission by either Defendant as to any matter.

b. Such Preliminary Approval Order shall, *inter alia*:

i. preliminarily approve the Settlement as fair, reasonable, and adequate;

ii. certify the Settlement Class for settlement purposes only;

iii. approve the hard copy and electronic versions of the Claim Form (attached hereto as Exhibit 1), approve the form and contents of the proposed Long Form Notice, Short Form Notice (post card and email versions), in forms substantially similar to those attached hereto as Exhibits 2 and 3, respectively, approve the Settlement Website, and authorize their dissemination to the Settlement Class;

iv. find that the Notice Program set forth herein constitutes the best notice practicable under the circumstances and satisfies Due Process and Rule 23 of the Colorado Rules of Civil Procedure;

v. approve the requirement that Settlement Class Members appear on the Class List to obtain a Settlement Check;

vi. set deadlines consistent with this Agreement for notifying the Settlement Class in accordance with the Notice Plan, the Opt-Out Deadline, the Objection Deadline, and the filing of papers in connection with the Final Approval Hearing;

vii. appoint Aguilar as the representative of the Settlement Class and appoint her attorneys as counsel for the Settlement Class;

viii. approve the Settlement Administrator; and

ix. set a date for the Final Approval Hearing, which may be continued by the Court from time to time without the necessity of further notice.

3. Notice Plan

a. The Parties agree to provide the best notice that is practicable under the circumstances, including individual notice to Persons in the Settlement Class who may be identified through reasonable efforts.

b. RHP shall, within five (5) business days of entry of the Preliminary Approval Order, provide the Settlement Administrator with the Class List. The Settlement Administrator shall use the Class List to take all steps reasonably necessary to identify current addresses for persons appearing on the Class List. After identifying mailing addresses, the Settlement Administrator shall, by using the National Change of Address (“NCOA”) database

maintained by the United States Postal Service (“Postal Service”), obtain updated mailing addresses, if available.

c. Within thirty (30) days following entry of the Preliminary Approval Order, the Settlement Administrator shall send the Short Form Notice to each Settlement Class Member via first class mail. Wherever an email address has been located, the Settlement Administrator will also email the Short Form Notice, in a form appropriate for email, to the email address. Neither the Parties nor the Settlement Administrator shall have any obligation to mail or email the Short Form Notice to any Settlement Class Member for whom no mailing address or email address could be located. To the extent deemed necessary by the Settlement Administrator, the last known address of Persons in the Settlement Class will be subject to confirmation or updating as follows: (a) the Settlement Administrator may conduct a reasonable search to locate an updated address for any Person in the Settlement Class whose Short Form Notice is returned as undeliverable; (b) the Settlement Administrator shall update addresses based on any forwarding information received from the United States Post Office; and (c) the Settlement Administrator shall update addresses based on information it receives and through any requests received from Persons in the Settlement Class.

d. If any Short Form Notice sent under this Section is returned by the Postal Service as undeliverable, the Settlement Administrator shall re-mail the Short Form Notice once to the forwarding address, if any, provided by the Postal Service on the face of the returned mail. Otherwise, the Settlement Administrator shall attempt to send notice via email. Other than as set forth in this paragraph, neither the Parties nor the Settlement Administrator shall have any other obligation to re-mail the Short Form Notice.

e. The Settlement Administrator shall have discretion to format the Short Form Notice in a reasonable manner to minimize mailing or administrative costs. Before the Short Form Notices are mailed, Class Counsel and Counsel for RHP shall first be provided with a proof copy of any and all notices (including what the items will look like in their final form) and shall have the right to inspect the same for compliance with the Settlement Agreement and with any orders by the Court.

f. No later than twenty-one (21) days following the entry of the Preliminary Approval Order, the Settlement Administrator shall cause the Long Form Notice, this Settlement Agreement and Exhibits, the operative Complaint, the Preliminary Approval Order, and any other relevant documents to be made available on a dedicated Settlement Website, the website name/URL for which is to be agreed upon by the Parties, to be administered by the Settlement Administrator. The Settlement Website shall have a copy of the Claim Form available for download and shall also make a copy available for submission electronically. The Settlement Website shall also include key deadlines for opting out or objecting. When available, the Settlement Administrator shall make available on the Settlement Website Class Counsel's application for a Fee Award and any motion seeking approval of any Incentive Award as well as the Final Approval Order. Any other content proposed to be included or displayed on the Settlement Website shall be approved in advance by Class Counsel and RHP'S Counsel. Such approvals shall not be unreasonably withheld.

g. Within thirty (30) days after entry of the Preliminary Approval Order, the Settlement Administrator shall set up a toll-free telephone number that will provide automated information about the settlement, the Settlement Class Members' rights, important deadlines, and

instructions as to how Settlement Class Members may file Claim Forms and request and obtain hard-copy settlement documents. That telephone number shall be maintained until 90 days after the Effective Date.

h. The Settlement Administrator shall send at least two email reminders to available email addresses reminding the addressee(s) of the deadline for filing a Claim Form and including a copy of the Claim Form and instructions for submitting the form electronically via the Settlement Website.

4. Right and Effect of Members of the Class to Opt-Out

a. Each Person who falls within the definition of the Settlement Class shall have the right to opt-out and not participate in the Settlement Agreement as provided for in the Preliminary Approval Order.

b. The Short Form Notice and Long Form Notice shall explain the right to request exclusion from the Settlement Class and not to be bound by this Settlement Agreement, if, before the Opt-Out Deadline, the Person who falls within the definition of the Settlement Class (a “requester”) completes and mails a valid request for exclusion (“Opt-Out”) to the Settlement Administrator at the addresses set forth in the Notice. The Opt-Out must be postmarked on or before the Opt-Out Deadline.

c. For an Opt-Out request to be valid and treated as a Successful Opt-Out, it must include: (a) the requester’s full name, address, and name of the Action (*i.e. Aguilar v. RHP*); (b) the requester’s personal and original signature, or the original signature of a person previously authorized by law, such as a trustee, guardian or person acting under a power of attorney, to act on behalf of the requester with respect to a claim or right such as those in the Action; and (c) state

unequivocally that the requester desires to be excluded from the Settlement Class, to be excluded from the Settlement, not to participate in the Settlement, and/or to waive all rights to the benefits of the Settlement. The Settlement Administrator shall promptly inform RHP's Counsel and Class Counsel of any Opt-Out requests it receives.

d. Persons who submit complete Opt-Outs that are postmarked before the Opt-Out Deadline shall receive no benefit or compensation under this Settlement Agreement, shall have no right to object to the proposed Settlement Agreement or participate at the Final Approval Hearing, and shall not be bound by any order or judgment entered in this Action.

e. A request to Opt-Out that does not comply with all of the foregoing, or that is not timely submitted or postmarked by the Opt-Out deadline, or that is sent to an address other than that set forth in the notice, shall be invalid and the person serving such request shall be treated as a Settlement Class Member and be bound by this Settlement Agreement and the Release contained herein if finally approved.

f. No Person shall purport to exercise any exclusion rights of any other Person, or purport: (a) to opt-out Persons who fall within the definition of the Settlement Class as a group, aggregate, or class involving more than one Person; or (b) to opt-out more than one Person who falls within the definition of the Settlement Class on a single paper, or as an agent or representative. Any such purported opt-outs shall be void, and any Person(s) who are the subject of such purported opt-outs shall be treated as a Settlement Class Members.

g. Before the Final Approval Hearing, Class Counsel, Counsel for the Defendants and the Settlement Administrator shall create a comprehensive list of successful Opt-Outs. The Parties shall, if possible, agree as to whether a communication from or on behalf of a

Person who falls within the definition of the Settlement Class is a request to opt-out. RHP or Class Counsel may dispute an Opt-Out or purported Opt-Out, and if the Parties are unable to resolve such dispute, they shall present the issue to the Court for resolution.

5. Inquiries from Settlement Class Members

a. It shall be the responsibility of the Settlement Administrator to respond to all inquiries from or on behalf of potential Settlement Class Members with respect to this Settlement except to the extent that inquiries are directed to Class Counsel. Class Counsel and Counsel for RHP must both approve any FAQs or other materials the Settlement Administrator may use to answer inquiries and shall confer and assist the Settlement Administrator as it requests.

6. Objections to the Settlement and Appearance at Final Approval Hearing

a. Any Settlement Class Member may comment in support of, or in opposition to, the Settlement at his or her own expense; provided however, that all comments and/or objections must be in writing and mailed or hand-delivered to the Clerk of the Court and the Settlement Administrator and postmarked or delivered by no later than the Objection Deadline. Objections may be filed by counsel for a Settlement Class Member though any such counsel must file an appearance in the Action.

b. Each objection must: (i) set forth the Settlement Class Member's full name, current address, and telephone number; (ii) contain the Settlement Class Member's original signature or the signature of counsel for the Settlement Class Member; (iii) state that the Settlement Class Member objects to the Settlement, in whole or in part; (iv) set forth the complete legal and factual bases for the objection, including citations to relevant authorities; (v) provide copies of any documents that the Settlement Class Member wishes to submit in support of his/her/their position;

and (vi) state whether the objecting Settlement Class Member intends on appearing at the Final Approval Hearing either *pro se* or through counsel and whether the objecting Settlement Class Member plans on offering testimony at the Final Approval Hearing.

c. All objections must be mailed or hand-delivered to the Court before the Objection Deadline. An objector is not required to attend the Final Approval Hearing. However, any Settlement Class Member who objects may appear at the Final Approval Hearing, either in person or through an attorney hired at his or her own expense, to object to the fairness, reasonableness, or adequacy of this Agreement or the underlying settlement. A Settlement Class Member or his, her, or their attorney who wishes to speak at the Fairness Hearing must so state in his, her, or their written objection or submit a separate notice of intention to appear to the Clerk of the Court no later than the Objection Deadline. No Settlement Class Member shall be permitted to raise matters at the Final Approval Hearing that the Settlement Class Member could have raised in a written objection but failed to do so.

d. Any Settlement Class Member who fails to timely submit a written objection with the Court shall not be permitted to object to this Settlement Agreement at the Final Approval Hearing, shall be foreclosed from seeking any review of this Agreement by appeal or other means, and shall be deemed to have waived his, her, or their objections and be forever barred from making any such objections in the Action or any other related action or proceeding.

7. Final Approval Hearing

a. The Parties will recommend that the Final Approval Hearing be scheduled for a date no later than sixty (60) days after the last date required for the mailing of the Notice.

b. Class Counsel shall file their petition for any Fee Award no later than thirty-five (35) days prior to the Final Approval Hearing.

c. No more than fourteen (14) days prior to the Final Approval hearing, the Settlement Administrator shall, through Class Counsel, file with the Court and serve on counsel for all Parties a declaration stating that the Notice required by the Agreement has been completed in accordance with the terms of the Preliminary Approval Order.

d. If the Settlement Agreement is preliminarily approved by the Court, and all other conditions precedent to the Settlement have been satisfied, no later than fourteen (14) calendar days prior to the Final Approval Hearing, then Plaintiff shall file a Motion for Final Approval asking, *inter alia*, that the Court enter a Final Approval Order and Judgment, with Plaintiff filing a memorandum of points and authorities in support of the motion. Either Party may file a memorandum addressing any objection to the Settlement that has been submitted. Any request by Defendants for entry of the Final Approval Order and Judgment, or failure to object to Plaintiff's request for entry of the Final Approval Order and Judgment, shall not be an admission or concession by Defendants as to any matter pertaining to Plaintiff's claims.

e. At the Final Approval Hearing, the Court will consider and determine whether the provisions of this Agreement should be finally approved as fair, reasonable, and adequate, the response of the Class to the claims process, whether any objections to the Agreement should be sustained or overruled, whether the requested Fee Award to Settlement Class Counsel

and the requested Incentive Payment to the Class Representative should be approved, and whether a judgment finally approving the Settlement Agreement should be entered.

f. This Settlement Agreement is subject to and conditioned upon the issuance by the Court of a Final Approval Order that grants final approval of this Agreement and:

i. finds that the notice provided satisfies the requirements of due process and the Colorado Rules of Civil Procedure;

ii. finds that Settlement Class Members have been adequately represented by the Settlement Class Representative and Settlement Class Counsel;

iii. finds that the Settlement Agreement is fair, reasonable and adequate to the Settlement Class, that each Settlement Class Member shall be bound by this Agreement, including the releases in Section V, and that this Settlement Agreement should be and is approved;

iv. dismisses on the merits and with prejudice all claims of the Settlement Class Members asserted against RHP in the Action, without fees or costs to any party except as provided in this Agreement; and

v. retains jurisdiction of all matters relating to the interpretation, administration, implementation, effectuation, and enforcement of this Settlement.

8. Litigation Stay

a. Except as necessary to secure approval of this Settlement Agreement or as otherwise provided herein, the Parties shall take no further steps to prosecute the Action in the Court or in any other court. In the event the Settlement Agreement is not approved or is terminated according to its terms, the Parties may resume litigation no sooner than fourteen (14) days after such event or as otherwise directed by the Court.

9. Conditions of Settlement; Effect of Disapproval, Cancellation, Termination or Nullification of Settlement

a. The Effective Date of this Settlement Agreement shall not occur unless and until each and every one of the following events occurs, and shall be the date upon which the last (in time) of the following events occurs:

(i) This Agreement has been signed by the Parties, Settlement Class Counsel and RHP'S Counsel;

(ii) The Court has entered an order granting Preliminary Approval of the Settlement Agreement;

(iii) The Court has entered an order finally approving the Settlement Agreement, following notice to the Settlement Class and a Final Approval Hearing, as provided in the Colorado Rules of Civil Procedure, and has entered the Final Approval Order and Judgment, or a judgment substantially consistent with this Agreement; and

(iv) The Final Approval Order and Judgment has become Final.

b. If some or all of the conditions specified in Section 9(a) are not met, or in the event that this Settlement Agreement is not approved by the Court, or the settlement set forth in this Agreement is terminated or fails to become effective in accordance with its terms, then this Settlement Agreement shall be cancelled and terminated subject to Section 9(c) below, unless Settlement Class Counsel and RHP's Counsel mutually agree in writing to proceed with this Agreement. Notwithstanding anything herein, the Parties agree that the Court's decision as to the amount of the Fee Award to Settlement Class Counsel set forth above or the Incentive Award to the Settlement Class Representative, regardless of the amounts awarded, shall not prevent the

Agreement from becoming effective, nor shall it be grounds for termination of the Agreement.

c. Plaintiff and RHP shall each have the right to unilaterally terminate this Settlement Agreement by providing written notice of his, her, or their election to do so (“Termination Notice”) to all other Parties hereto within ten (10) calendar days of any of the following occurrences:

i. the Court rejects, materially modifies, materially amends or changes, or declines to preliminarily or finally approve the Settlement Agreement;

ii. an appellate court reverses the Final Approval Order, and the Settlement Agreement is not reinstated without material change by the Court on remand;

iii. any court incorporates into, or deletes or strikes from, or modifies, amends, or changes, the Preliminary Approval Order, Final Approval Order, or the Settlement Agreement in a material way, unless such modification or amendment is accepted in writing by all Parties;

iv. the Effective Date does not occur; or

v. any other ground for termination provided for elsewhere in this Agreement occurs.

d. If, at the conclusion of the Opt-Out Deadline, more than one hundred (100) valid Opt-Outs have been received, RHP shall have, in its sole and absolute discretion, the option to terminate this Settlement Agreement within ten (10) calendar days after the Opt-Out Deadline.

e. If either Plaintiff or RHP terminates this Settlement Agreement as provided herein, the Settlement Agreement shall be of no force and effect and the Parties’ rights and

defenses shall be restored, without prejudice, to their respective positions as if this Settlement Agreement had never been executed, any orders entered by the Court in connection with this Agreement shall be vacated, and this Settlement Agreement shall not be used for any purpose whatsoever against any of the Parties. However, any payments made to the Settlement Administrator for services rendered to the date of termination shall not be refunded to RHP.

V. RELEASE

1. Releases; Binding and Exclusive Nature of Settlement Agreement

a. In connection with the Settlement, the Final Approval Order and Judgment shall provide that the Action is dismissed with prejudice as to Aguilar and all Settlement Class Members. As of the Effective Date, the Releasing Parties, and each of them, shall be deemed to have, and by operation of the Final Approval Order and Judgment shall have, fully, finally, and forever released, resolved, relinquished and discharged each and all of the Released Parties from each of the Released Claims and Unknown Claims (as defined below). The Releasing Parties further agree that they will not institute any action or cause of action (in law, in equity or administratively), suits, debts, liens, or claims, known or unknown, fixed or contingent, which they may have or claim to have, in state or federal court, in arbitration, or with any state, federal or local government agency or with any administrative or advisory body, arising from or reasonably related to the Released Claims and Unknown Claims. The release applies to any Settlement Class Member who fails to file a Claim Form or who files an incorrect Claim Form but does not apply to Persons who fall within the definition of the Settlement Class who timely opt-out of the Settlement in accordance with the terms of this Agreement. The release also does not preclude Settlement Class

Members from addressing, dealing with, or otherwise complying with requests or inquiries from any governmental authorities relating to the issues raised in this Settlement Agreement.

b. “Released Claims” means any and all claims (including Unknown Claims), causes of action, suits, obligations, debts, demands, agreements, promises, rights, extra-contractual claims, liabilities, damages, losses, controversies, costs, expenses, and attorneys’ fees of any nature whatsoever, whether based on any federal law, state law, common law, territorial law, foreign law, contract, rule, regulation, any regulatory promulgation (including, but not limited to, any opinion or declaratory ruling), common law or equity, whether known or unknown, suspected or unsuspected, potential or filed, accrued or unaccrued, claimed or unclaimed, individual or representative, asserted or unasserted, foreseen or unforeseen, actual or contingent, liquidated or unliquidated, direct or punitive, multiplied or compensatory of every nature and description whatsoever relating to or arising out of towing policies or practices at any RHP-Branded Property in Colorado, including claims related to the tax treatment of any payment made to Settlement Class Members under this Settlement Agreement or any tax form provided to Settlement Class Members by the Settlement Administrator.

c. “Unknown Claims” means claims that could have been raised in the Action and that the Releasing Parties do not know or suspect to exist, which, if known by them might affect their agreement to release the Released Parties or the Released Claims or might affect their decision to agree, object or not to object to the Settlement. Upon the Effective Date, the Releasing Parties also shall be deemed to have, and shall have, waived any and all provisions, rights and benefits conferred by any law of any state or territory of the United States, or principle of common law, or the law of any jurisdiction outside of the United States, which is similar, comparable or

equivalent to § 1542 of the California Civil Code. The Releasing Parties acknowledge that they may discover facts in addition to or different from those that they now know or believe to be true with respect to the subject matter of this release but that it is their intention to finally and forever settle and release the Released Claims, notwithstanding any Unknown Claims they may have, as that term is defined in this Paragraph.

VI. ATTORNEY'S FEES AND INCENTIVE AWARD

1. Fee Award and Costs

a. No later than fourteen (14) days before the Objection Deadline, the Parties agree that Class Counsel may make written application to the Court for a Fee Award not to exceed, in the aggregate, one-third (33.33%) of the Settlement Fund. The Parties agree that the Court (and only the Court) shall determine the final amount of the Fee Award in this Action. In no circumstance shall RHP be required to pay any amount greater than the Settlement Fund. No additional consideration has been provided for RHP to not object to the Fee Award.

b. Any Fee Award shall be paid out of the Settlement Fund. In the event the Fee Award approved by the Court is less than 33.33% of the Settlement Fund, the difference between such amount and the amount requested by Settlement Class Counsel shall remain as part of the Settlement Fund.

c. Subject to the terms and conditions of this Agreement, within fourteen (14) days after the Effective Date, and only in the event that the Court has made a Fee Award payable to Settlement Class Counsel, the Settlement Administrator shall distribute from the Settlement Fund the amount of any approved Fee Award to Settlement Class Counsel. Said distribution shall be made via wire or check as directed by Settlement Class Counsel. Prior to payment Settlement

Class Counsel shall submit to RHP and to the Settlement Administrator such documentation (such as a W-9 form) as may be reasonably requested to accomplish the payment of the Fee Award contemplated herein.

d. Except as provided for in this Section, the Parties shall bear their own attorney's fees, costs, and expenses incurred in the prosecution, defense, or settlement of the Action.

2. Class Representative Incentive Award

a. No later than fourteen (14) days before the Objection Deadline, the Settlement Class Representatives and Class Counsel may make written application to the Court for an Incentive Award not to exceed the amount of ten thousand dollars (\$10,000 USD) to be paid to the Settlement Class Representative for her service as the class representative in the Action and the settlement. The Parties agree that the Court (and only the Court) shall determine the final amount, if any, of the Incentive Award.

b. RHP agrees not to oppose any such application provided that it is in accord with the limitations set forth in this Section.

c. The Incentive Award shall be paid out of the Settlement Fund. In the event the Incentive Award finally approved by the Court is less than ten thousand dollars (\$10,000 USD), the difference between the amount requested and the amount awarded shall remain as part of the Settlement Fund.

d. Subject to the terms and conditions of this Agreement, within fourteen (14) days after the Effective Date, and only in the event that the Court has approved an Incentive Award to the Settlement Class Representative, the Settlement Administrator shall distribute from the

Settlement Fund the amount of any Incentive Award. Said distribution shall be made as directed by Settlement Class Counsel. The Settlement Class Representative, through Settlement Class Counsel, shall provide a W-9 form to RHP and the Settlement Administrator prior to payment.

3. Effect on Settlement

a. The Parties agree that the rulings of the Court regarding the amount of the Fee Award and Incentive Award, and any claim or dispute relating thereto, will be considered by the Court separately from the remaining matters to be considered at the Final Approval Hearing as provided for in this Settlement Agreement and that any determination in that regard may be embodied in a separate order from the Court. Any order or proceedings relating to the amount of the Fee Award or the Incentive Award, including any appeals from or modifications or reversals of any orders related thereto, shall not operate to modify, reverse, terminate, or cancel the Settlement Agreement, affect the releases provided for in the Settlement Agreement, or affect whether the Final Approval Order and Judgment becomes Final as defined herein.

VII. LIMITATIONS ON USE OF SETTLEMENT AGREEMENT

1. No Admission

a. RHP denies any liability or wrongdoing of any kind associated with the alleged claims in the Action. RHP has denied and continues to deny each and every material factual allegation and all claims asserted against it in the Action. Nothing herein shall constitute an admission by RHP of wrongdoing or liability, or of the truth of any allegations in the Action. The settlement of the Action, the negotiation and execution of this Agreement, and all acts performed or documents executed pursuant to or in furtherance of the Settlement are not and shall not be deemed to be, and may not be used as, an admission or evidence of any wrongdoing or liability on

the part of RHP, or as a concession by RHP as to the truth of any of the allegations in the Action, or the veracity of any claim for relief or defense, or as an admission regarding any other matter in the case.

2. Limitations on Use

a. Neither this Settlement Agreement nor any related documents filed or created in connection with this Settlement Agreement shall be admissible in evidence in any proceeding, except as necessary to approve, interpret or enforce this Settlement Agreement.

b. Non-Publicity. Apart from the Notice Plan, Plaintiff and Class Counsel agree that they have not and will not publicize the Settlement. Settlement Class Counsel shall not issue any press releases or press statements regarding the Settlement, identify Defendants or its counsel by name in any media including Class Counsel's website, or have any communications with the press or media about the Action or the Settlement. However, (a) nothing in the provision shall be construed as preventing the Parties from allowed to refer to the Action and Settlement in other litigation to support their adequacy as attorneys for a putative class or to justify an award of attorneys' fees; (b) the Parties shall have the right to disclose the Settlement as may be required under federal or state tax and/or securities laws or under generally accepted accounting principles; (c) the Parties shall have the right to disclose the Settlement to third parties without identifying the case name, case number, or names of any of the Parties or Released Parties; (d) the Parties may refer to the Settlement, describe its terms, and file the Stipulation with the Court, and the Settlement Administrator in connection with any proceedings which are reasonably necessary to obtain approval of the Settlement; (e) Plaintiff and Class Counsel may communicate with Class Members or their representatives about the Settlement; and (f) the Parties and their representatives

may communicate with accountants or legal advisor regarding the Settlement. Except for the previously listed exceptions, in response to any inquiries about the Action, the Parties may state that “the matter has been resolved.”

VIII. MISCELLANEOUS PROVISIONS

1. Claims Against Settlement Benefits

a. In the event a third party, such as a bankruptcy trustee, former spouse, or other third party has or claims to have a claim against any Class Member Payment made to a Settlement Class Member, it is the responsibility of the Settlement Class Member to transmit the funds to such third party.

2. Counterparts

a. This Settlement Agreement and any amendments hereto may be executed in one or more counterparts, and either Party may execute any such counterpart, each of which when executed and delivered shall be deemed to be an original and both of which counterparts taken together shall constitute but one and the same instrument. Signature by digital, facsimile or in PDF format shall be deemed an original for all purposes.

3. Integration Clause

a. This Settlement Agreement, including the Exhibits referred to herein, which form an integral part hereof, contains the entire understanding of the Parties with respect to the subject matter contained herein. There are no promises, representations, warranties, covenants or undertakings governing the subject matter of this Settlement Agreement other than those expressly set forth in this Settlement Agreement. This Settlement Agreement supersedes all prior agreements and understandings among the Parties with respect to the settlement of the Action. This Settlement

Agreement may not be changed, altered or modified, except in a writing signed by a duly authorized agent of RHP, the Settlement Class Representative, and their respective counsel and approved by the Court, and may not be discharged except by performance in accordance with its terms.

4. Execution of Documents

a. The Parties shall execute all documents and perform all acts necessary and proper to effectuate the terms of this Settlement Agreement.

5. Independent Judgment and Advice of Counsel

a. Each party to this Settlement Agreement warrants that he, she, or they are acting upon his, her, or their independent judgment and upon the advice of his, her, or their counsel and not in reliance upon any warranty or representation, express or implied, of any nature or kind by any other party, other than the warranties and representations expressly made in this Settlement Agreement. The Parties acknowledge, agree, and specifically warrant to each other that they have read this Settlement Agreement, have received legal advice with respect to the advisability of entering into this Settlement, and fully understand its legal effect.

6. Governing Law

a. The Settlement Agreement shall be construed, enforced, and administered in accordance with the laws of the State of Colorado.

7. Jurisdiction

a. The Court shall retain jurisdiction, after entry of the Final Approval Order and Judgment, with respect to enforcement of the terms of this Settlement Agreement and the underlying settlement, and all Parties and Settlement Class Members submit to the exclusive

jurisdiction of the Court with respect to the enforcement of this Settlement Agreement and any dispute relating thereto.

8. Exhibits

a. The exhibits to this Settlement Agreement are an integral and material part of this Settlement Agreement and are hereby incorporated and made a part of this Settlement Agreement.

9. No Assignments: Binding on Assigns

a. Each Party represents, covenants, and warrants that he, she, or they have not directly or indirectly assigned, transferred, encumbered, or purported to assign, transfer, or encumber any portion of any liability, claim, demand, cause of action, or rights that he, she or they herein release. This Settlement Agreement shall be binding upon and inure to the benefit of the Parties and their respective heirs, trustees, executors, successors, and assigns.

10. Waiver of Compliance

a. Any failure of any Party to comply with any obligation, covenant, agreement, or condition herein may be expressly waived or excused in writing, to the extent permitted under applicable law, by the Party entitled to the benefit of such obligation, covenant, agreement, or condition and such party's counsel. A waiver or failure to insist upon compliance with any representation, warranty, covenant, agreement, or condition shall not operate as a waiver of, or estoppel with respect to any subsequent or other failure.

11. No Collateral Attack

a. This Settlement Agreement shall not be subject to collateral attack by any Settlement Class Members or their representatives any time on or after the Effective Date. Such

prohibited collateral attacks shall include, but shall not be limited to, claims that a Settlement Class Member's claim should have been heard or decided by another court or in another suit, that the payment to a Settlement Class Member was improperly calculated, and/or that a Settlement Class Member failed to receive timely notice of the Settlement.

12. Authorization

a. The signatories hereto represent that they are fully authorized to enter into this Settlement Agreement and bind the Parties to the terms and conditions hereof.

13. Settlement Class Member Signatures

a. It is agreed that, because the Settlement Class is so numerous, it is impractical to have each Settlement Class Member execute this Settlement Agreement. The Notice will advise all Settlement Class Members and/or their representatives of the binding nature of the releases and of this Settlement Agreement, and in the absence of a valid and timely request for exclusion, such Notice shall have the same force and effect as if each Settlement Class Member executed this Settlement Agreement.

14. Taxes

a. To the extent required, for the purpose of §1.468B of the Code and the Treasury regulations thereunder, the Settlement Administrator shall be designated as the "administrator" of the Settlement Fund. The Settlement Administrator shall cause to be timely and properly filed all informational and other tax returns necessary or advisable with respect to the Settlement Fund (including, without limitation, the returns described in Treas. Reg. §1.468B-2(k)). Such returns on the income earned by the Settlement Fund shall be paid out of the Settlement Fund.

b. Any expenses reasonably incurred by the Settlement Administrator in carrying out the duties described in this Agreement, including fees of tax attorneys and/or accountants, shall be paid by the Settlement Administrator from the Settlement Fund pursuant to its estimates and invoice for services rendered, in accordance with Section III.

c. Any Person that receives a distribution from the Settlement Fund pursuant to Section III shall be solely responsible for any taxes or tax-related expenses owed or incurred by that Person by reason of that distribution. Such taxes and tax-related expenses shall not be paid from the Settlement Fund. The Parties will reasonably cooperate with the Settlement Administrator to obtain appropriate reporting information for all Settlement Class Members who receive over \$600.

d. Aguilar, the Settlement Class Members, and Settlement Class Counsel shall fully bear all the tax consequences of any and all benefits respectively received by them in connection with this Agreement. Aguilar acknowledges that RHP and its attorneys provided no tax advice related to this Agreement and that RHP may be required to file certain Form 1099 or other information reports with the United States Internal Revenue Service. Aguilar has been advised to consult with tax counsel of Aguilar's own choice to seek legal and tax advice regarding the taxability or non-taxability of consideration provided herein. In no event shall RHP or any of the other Released Parties have any responsibility or liability for taxes or tax-related expenses arising in connection with the payment or distribution of the Settlement Fund to Aguilar, Class Counsel, the Settlement Class Members, the *Cy Pres* or any other person or entity.

15. Drafter of Agreement

a. Neither RHP nor Aguilar, nor any of them, will be considered to be the drafter of this Settlement Agreement or any of its provisions for the purpose of any statute, case law, or rule of interpretation or construction that would or might cause any provision to be construed against the drafter of this Settlement Agreement.

SIGNATURES

Elizabeth Aguilar
Plaintiff and Class Representative

Signed by:
For: Defendant Harmony Road, LLC
As its:

Signed by:
For: Defendant RHP Properties, Inc.
As its: