

## **SETTLEMENT AGREEMENT AND RELEASE**

This General Release and Settlement Agreement (the “Agreement”) is made by and among (a) Waters Landing Association, Inc., (hereinafter “WLA”), and (b) Churchill Senior Housing I, LP (“CSH1”), Churchill Senior Living II, LLC (“CSL2”), and Churchill Senior Housing III, LP (“CSH3”) on behalf of themselves, their subsidiaries, divisions, affiliates, successors, assigns, agents, officers, members, management, attorneys, employees, and contractors (jointly and severally “Churchill,” and collectively with WLA, the “Parties”). The terms of the Settlement and General Release are as follows:

This Agreement shall take effect as of January 10, 2024 (the “Effective Date”).

### **I. Mutual Release**

- a. In consideration of the terms set forth below, the receipt and sufficiency of which is hereby mutually acknowledged, as of the Effective Date each Party, on behalf of itself and its respective successors, subsidiaries, and assigns, releases, remises, and forever discharges each other Party, including its respective former and current board members, shareholders, directors, employees, successors, subsidiaries and assigns,, thereby, and without any admission of fault or liability, mutually remise, release, and forever discharge one another of and from any and all, and all manner of, claims, demands, damages, causes of action, debts, contracts contained in the litigation captioned as “Waters Landing Association, Inc. v. Churchill Senior Housing I, LP, et al.” filed in the Circuit Court for Montgomery County as Case No. 485576-V (the “Lawsuit”), to include those alleged in the unanswered Third Amended Counterclaim thereto. **This Release shall be deemed to release all Claims and Counterclaims in the Lawsuit with prejudice, including but not limited to any claim for damages, including compensatory damages, consequential damages, treble damages, punitive damages, or attorneys’ fees.** The Parties further waive any appeal or other rights to reopen, reconsider, or relitigate the Lawsuit, except as explicitly set forth herein. The Parties stipulate that any decisions or representations made within the Lawsuit shall be of no effect, and all contracts or other documents establishing the respective rights and obligations of the Parties shall be interpreted in the manner set forth in this Agreement.
- b. Without limiting the generality of this Agreement and excepting a breach of this Agreement, or as set forth elsewhere in this Agreement, the Parties agree and covenant not to sue another Party (or any one or more of them) for the Claims or any other claim that could have been asserted in the Lawsuit, or to commence, join in, or fund, any lawsuit, claim, or other proceeding in any manner adverse to another Party or Parties.
- c. The Parties expressly agree that the terms of this Agreement are not released. Each Party hereby knowingly and irrevocably waives and relinquishes its rights

under, and the benefit of, any and all applicable laws or regulations which prohibit, invalidate, limit, or otherwise restrict this Release, or its legal effect.

- d. Notwithstanding the foregoing, the Parties agree that the release contained in this Agreement shall not be construed to release a right of indemnification belonging to any Party against another Party pursuant to this or any other instrument, regardless of when the underlying claim(s) arose.

## II. **Payment of Settlement Sum**

- a. Churchill agrees to make the following payments to WLA in satisfaction of WLA's claim for unpaid assessments between November 2019 and November 2023.
  - i. By CSH1, Sixty-two thousand, four hundred, thirty-six dollars (\$62,436.00).
  - ii. By CSL2: Ninety-five thousand, eight hundred, seventy-seven dollars (\$95,877.00).

These amounts shall be together referred to as the "Settlement Sum."

- b. If valid payment of the Settlement Sum is not received by WLA on or before the one hundred and twentieth (120th) day after the Effective Date (the "Due Date"), WLA may enter a consent judgment in the Circuit Court for Montgomery County in an amount equal to the then unpaid portion of the Settlement Sum, and said judgment shall accrue interest at the legal rate from the Due Date. Churchill shall have the option to prepay the Settlement Sum without penalty.
- c. Churchill acknowledges it shall not be eligible to vote or otherwise deemed to be a member in good standing in Waters Landing until the Settlement Sum (including any interest that accrues on a consent judgment filed in accordance with Paragraph II.b. of this Agreement) is paid in full to WLA. Churchill further acknowledges it will need to pay assessments on a going forward basis as assessments become due to remain a member in good standing.

## III. **Conflict between this Agreement and WLA Documents**

- a. Churchill agrees that all Real Property owned by Churchill is within WLA, and that each Churchill entity is a member of WLA.
- b. As Members of WLA, the Churchill entities are subject to the Declaration of Covenants of Waters Landing Association, which is recorded in the Land Records of Montgomery County at Liber 5672, Folio 692, and any duly recorded amendments thereto (together the "Declaration").

- i. CSH1 and CSL2 are also subject to the Supplementary Declaration recorded at Liber 7893, Folio 629 and the Supplementary Declaration recorded at Liber 7445, Folio 182.
  - ii. CSL3 is also subject to the Supplementary Declaration recorded at Liber 7445, Folio 182.
- c. Subject to the terms of this Agreement, the Declaration, supplementary declarations, Bylaws, and duly enacted policies of WLA (the “WLA Documents”) shall continue to apply to all Parties, and all Parties agree to be bound thereby. Where there is a conflict between the WLA Documents and this Agreement, this Agreement shall control.

#### IV. **Assessments**

- a. In January 2024 and, in future months, before the 15<sup>th</sup> day of each month, each Churchill entity will pay assessments based on the number of units within its parcel.
  - i. From January 1, 2024 until December 31, 2025, the monthly rate of assessment paid by Churchill shall be twelve dollars (\$12.00) for each apartment unit within CSH1 and CSL2.
  - ii. Beginning on January 1, 2026, the per-unit assessment rate paid by Churchill may be increased by the lesser of the following: (i) 3% of the prior year’s assessment rate applicable to Churchill); and (ii) the rate of increase in any year applied to other apartments within Waters Landing. WLA shall send Churchill, by email, a copy of the draft WLA budget at least seven (7) days prior to any vote on the budget. WLA shall send Churchill written notice of any increase in its assessment rate in the same manner as all WLA members at least 30 days before the new rate becomes effective pursuant to the WLA Documents.
  - iii. When CSH3 begins to operate units (as defined in Paragraph V below), it shall pay the same per-unit rate that is then applicable to CSH1 and CSL2, and shall thereafter in all respects be subject to the same provisions as the other Churchill entities.
- b. WLA stipulates that if, in any annual Budget, the General, Foundation, and Neighborhood Assessments levied on another WLA Member is lower than the per-Unit rate at which assessments would otherwise be levied on Churchill pursuant to the formula above, then the budget for that year shall instead assess each Churchill entity such lower rate for each operative apartment.

- c. The rates set forth in this Paragraph IV shall constitute and include the General Assessments, Foundation Assessment, and Neighborhood Assessment (as those terms are defined in the Declaration) for Churchill. Any amount levied as a Special Assessment in accordance with the Declaration, or any amount charged to Churchill pursuant to a separate agreement of the Parties shall be in addition to the amounts set forth above.
- d. If it is determined (by judicial decree or by agreement of WLA) that the WLA Documents that are applicable to Churchill require WLA to assess an apartment building owner on a per Lot (rather than per apartment) basis, Churchill will also be charged assessments and vote on a per Lot basis. No board member affiliated with Churchill may participate in any board vote on any motion or measure that would adopt a per-Lot (rather than per apartment) basis for calculating apartment owner assessments.

**V. Phase 3**

- a. CSH3 anticipates assigning the Churchill phase 3 land to a yet to be formed affiliated entity that likely will be named Churchill Senior Living III, LLC. Should that assignment, or any other similar assignment or transfer occur, the new entity will have all the same rights and obligations as CSH3 under this Agreement, the Parking Agreement, and the Amended Easement.
- b. Once phase 3 opens, CSH3 shall have a fifteen (15)-month Grace Period before it will be obligated to pay assessments. The 15-month Grace Period will commence on the date that the first tenant moves into a phase 3 apartment. Churchill will provide WLA notice of this event within seven (7) days after the move in. Beginning on the first day of the first month following the Grace Period, CSH3 shall pay assessments at the rate then applicable to CSH1 and CSL2 for all apartments constructed within CSH3.
- c. Vacancies that occur from time to time will not be a basis for non-payment of assessments by CSH3.
- d. WLA will make reasonable efforts to request deferment of any assessment to the Churchill Community Foundation (“CCF”) for CSH3 apartments until the expiration of the Grace Period pursuant to Paragraph V.b. If CCF nevertheless imposes assessments on WLA on the basis of CSH3 apartments prior to the expiration of the Grace Period, CSH3 shall promptly reimburse WLA for any such assessments.

**VI. Voting**

- a. For any matter on which the WLA membership is entitled to vote, each Churchill entity may cast two (2) votes (rounded to the nearest whole number) for every three (3) apartments on which that entity pays assessments at the time

the vote is made (*i.e.*, as of the Effective Date, CSH1 has 121 units and would have 81 votes; CSL2 has 134 units and would have 89 votes; and CSH3 has 0 units and would have 0 votes).

- b. If Churchill ever loses the benefit of its reduced assessments as calculated under this Agreement and is assessed the same as other apartments in Waters Landing, Churchill shall then receive one (1) vote for every apartment on which it pays assessments at the time the vote is made.
- c. Churchill's voting rights shall otherwise be subject to all conditions and limitations set forth in the WLA Declaration/Bylaws, including that Churchill is not delinquent in payment of any sum owed to the Association.
- d. Notwithstanding the foregoing, WLA shall provide at least ten days advance notice to Churchill (by email and US mail) regarding any topic subject to a member vote. Churchill shall have the right to verify the votes in any election.

## VII. **Duration**

- a. The stipulated calculation of assessment rates set forth herein is explicitly made in consideration of the age and income restriction on the individuals eligible to be tenants on the Churchill property. These reduced rates will be applicable to each Churchill entity for as long as that entity (through the current ownership entities or ownership through an affiliate such as Churchill Senior Living III, LLC) owns the current parcels and a majority of the apartments operated by Churchill are subject to the age and income restrictions applicable to CSH1 and CSL2, per the regulatory agreements of record as to each parcel as of the Effective Date.
- b. If any Churchill entity ceases to qualify under paragraph VII.a above, WLA, in the discretion of the Board, may assess that entity at the same per-unit assessment rate as other apartments. In such event, the non-qualifying Churchill entity will receive a vote for every apartment on which it pays assessments.

## VIII. **Severability**

Should any one or more of the provisions of this Agreement be held to be invalid, unenforceable, or illegal in any respect, then this Agreement shall be construed and interpreted as if such invalid, illegal, or unenforceable provision were not included herein; and the remainder of this Agreement and the application of any such invalid, illegal, or unenforceable provisions to persons or entities unaffected thereby shall remain in full force and effect and shall be enforceable and binding to the fullest extent permitted by law.

IX. **Parking Agreement**

- a. The Parties affirm that the 2009 Parking Agreement and Easement Modification are valid and binding agreements, and shall not be revoked except as explicitly set forth therein, or with the mutual consent of the Parties. Each Party agrees to comply with all obligations therein.
- b. Churchill acknowledges that it shall not be a violation of the Parking Agreement for WLA to make exclusive use of the WLA Parking Lot, other than the six (6) handicapped spaces installed by CSL, on a temporary basis for designated events, with reasonable notice to WLA members.
- c. Churchill will post a notice provided by WLA under paragraph IX.b. in a prominent location in each building currently in operation, but is not responsible for non-compliance by Churchill's tenants with any such notice.

X. **Generator**

- a. The emergency generator currently installed on WLA property by Churchill may remain in place. No new or replacement generator may be placed or installed on WLA property, unless authorized by Paragraph X.b.
- b. On or before the date that generator requires replacement or that a new generator is installed on Churchill property, the parties may discuss plans for a replacement generator or attempt to agree on terms, such as a lease agreement or land swap. If the Parties are unable to reach a mutually agreed term for continued use, Churchill will, within ninety (90) days, remove its property from WLA land at Churchill's expense.

XI. **Indemnification**

- a. In the event any WLA Board purports to revoke this Agreement as *ultra vires* or modify Churchill's rights set forth in this Agreement, WLA shall fully indemnify Churchill from any losses Churchill suffers (including but not limited to reasonable attorneys' fees) in connection with enforcing its rights in connection with or under this Agreement.
- b. In the event any legal action is brought by a Party arising hereunder or among the Parties, the court shall award to the substantially prevailing party all costs and expenses, including reasonable attorneys' fees, incurred in such action including costs incurred prior to commencement of any such legal action and all costs and expenses, including reasonable attorneys' fees incurred in any appeal from any action to enforce any of said terms, covenants, and conditions.

- c. These indemnification provisions shall be null and void if a court, the CCOC, or the Maryland Attorney General has concluded that the Party seeking indemnity has materially breached the Agreement.
- d. Except as provided in this Agreement, this paragraph XI shall not be construed to limit or reduce any of WLA's rights to enforcement and compensation under the WLA Documents.

**XII. Non-Disparagement/Agreed Statement to Waters Landing Community**

- a. Each Party agrees that it will not make any statements that are defamatory, slanderous, or otherwise both false and derogatory. This shall apply to any statement whether oral or written, regarding any other Party to this Agreement. Each Party agrees not to say anything improper that is intended to have an unjustly adverse effect or disruptive impact on any other Party's business, including but not limited to Churchill's ability to develop future phases of Churchill Senior Living, or standing in the community.
  - i. This provision shall apply to agents of Churchill, to WLA staff, and to the WLA Board of Directors only so long as they remain on the board and when acting in their capacity as Directors. It shall be the duty of the Directors to make clear when they are acting in their capacity as a Director and when they are acting in their individual capacity, and making statements that violate this paragraph XIII.a without a disclosure that the statement is being made in one's individual capacity shall presumptively establish the statement was made in their capacity as a Director.

The Parties agree that enforcement and defense of the WLA Documents by WLA, including against Churchill, and including any statements made as part of said enforcement, shall not constitute a violation of this Agreement.

- b. WLA agrees to provide a statement to its members and the public at large in the form attached as Exhibit 1 to this Agreement, describing the positive contributions provided by Churchill to the WLA community over the years. The statement will be issued within fifteen (15) days after the Effective Date, and shall remain posted for at least one-hundred eighty (180) days. The statement is not to be used by Churchill to indicate support or approval of WLA for any development request or proposal by Churchill.
- c. Within fifteen (15) days after the Effective Date, Churchill will remove from its website the 2021 letter regarding WLA pool access. Within one-hundred eighty (180) days of the Effective Date, WLA will remove from its website the links to pleadings from the Lawsuit.

- d. Any violation of this Paragraph XIII shall not permit termination of this Agreement, but may form the basis of a damages claim by the party who claims to be disparaged. The prevailing party in any such dispute shall be entitled to an award of reasonable attorneys' fees.

**XIII. Pool Passes**

- a. Churchill's tenants will be permitted to purchase pool passes that can be used at the community pool located next to Churchill during non-peak hours (Monday – Friday, 8 am – 5 pm).
- b. Pool passes may be purchased annually for a lump-sum payment, which shall be the amount of the annual "Recreation Fee" in the WLA Budget for the year the pass is purchased. Pool passes are valid for a single apartment unit, and are not transferable or refundable.
- c. During any period in which any Churchill entity is more than thirty (30) days delinquent in any payment owed to WLA, the pool passes for Churchill residents will be invalid.

**XIV. Miscellaneous**

- a. By executing this Agreement, each undersigned Party, for itself and its successors, assigns, employees, managers, members, attorneys, officers, agents, heirs, executors, representatives and administrators, represent and warrant that they have the right and authority to enter into this Agreement, and that no third party has or claims an interest in any claim released by this Agreement. The undersigned individual signing on behalf of each Party represents and warrants that the undersigned has full authority to bind such Party to this Agreement and that the undersigned's signature alone constitutes a binding, valid obligation of that Party.
- b. This Agreement shall not be construed against the Party preparing it, but shall be construed as if the Parties jointly prepared it and any uncertainty or ambiguity shall not be interpreted against any Party.
- c. The Parties represent, warrant, and agree that they have had the opportunity to seek independent legal advice from and consult with their respective attorneys concerning the advisability of executing this Agreement.
- d. Paragraph headings and titles are for reference purposes only, and do not modify the substantive terms of this Agreement.
- e. The Parties hereto agree that this Agreement shall be governed by and construed in accordance with the laws of the State of Maryland, exclusive of its choice of laws principles.



- f. This document contains the complete agreement between the Parties pertaining to the Claims, the Lawsuit, and the settlement thereof.
- g. Each Party acknowledges and agrees that this Agreement may be executed originally and/or by electronic submission, in counterparts, and this Agreement so executed in counterparts will be as binding as if fully executed originals had been executed and delivered by all parties.
- h. For any notice required under this Agreement, it shall be the responsibility of the receiving party to provide current mailing and email addresses to the other, and receipt shall be presumed upon submission.

***[Signature pages to follow]***

IN WITNESS WHEREOF, each of the undersigned has executed this Agreement as of the Effective Date.

**CHURCHILL SENIOR HOUSING I, LP, a**  
Maryland limited partnership

By: Father Hurley Blvd., Limited Partnership, its  
General Partner

By: FHB, Inc., its General Partner

By: 

Joseph Parreco  
President

**CHURCHILL SENIOR LIVING II, LLC, a**  
Maryland limited liability corporation

By: Parcel CC, LLC, a Maryland limited liability  
corporation, its Managing Member

By: 

Joseph Parreco  
Managing Member

**CHURCHILL SENIOR LIVING III, LP, a**  
Maryland limited partnership

By: Father Hurley Blvd., Limited Partnership,  
its General Partner

By: FHB, Inc., its General Partner

By: 

Joseph Parreco  
President

**WATERS LANDING ASSOCIATION, INC.**

I hereby certify that the foregoing Agreement was duly ratified at a meeting of the Board of Directors of Waters Landing, Association, Inc., that such approval is or shall be reflected in the minutes; and that the foregoing is a proper action of the Association.

By: Erik Herron 1/10/2024  
Erik Herron, President Date

~~Witness:~~ Attest: Nic D'Ascoli  
Nic D'Ascoli, Vice President