

# EXHIBIT 1

## SETTLEMENT AGREEMENT

This Settlement Agreement (“Settlement Agreement” or “Agreement”) is entered into this 27<sup>th</sup> day of September, 2024, by and between **Elena Puga, Nicole Edwards**, and the **Class and Nephrite Fund I, LLC, Strategic Properties, LLC, SP Investment Group LLC**, and **Jesse Davila** in the matter of *Elena Puga, et al. v. Nephrite Fund I, LLC, et al.*, Case No. 2116-CV13008, in the Circuit Court of Jackson County, Missouri at Independence. The aforementioned Plaintiffs, the Class, Defendants, and SP Investment Group LLC, enter into this agreement in order to resolve the pending class action litigation in *Elena Puga, et al. v. Nephrite Fund I, LLC, et al.*, Case No. 2116-CV13008.

## DEFINITIONS

For the Purpose of this Settlement Agreement, the terms defined in this Settlement Agreement shall have the meaning specified and shall be applicable to both the singular and plural forms.

- A. “Action” shall mean the matter of *Elena Puga, et al. v. Nephrite Fund I, LLC, et al.*, No. 2116-CV13008, in the Circuit Court of Jackson County, Missouri.
- B. “Agreement” shall mean this Settlement Agreement.
- C. “Class Representatives” shall mean Elena Puga and Nicole Edwards in their role and capacity as the class representative of the class certified by the Court on December 12, 2022.
- D. “Class” shall mean the class certified by the Court on December 12, 2022 and modified on February 10, 2023 that is defined as all “Missouri residents who had a lease with or rented an apartment unit at Suncrest Apartments (formerly known as Amber Glen[n] Apartments) between June 17, 2016 and the present.”
- E. “Class Counsel” shall mean Gregory Leyh, Andrea M. Knernschild, and Nicholas Leyh of Gregory Leyh, P.C, who were appointed as Class Counsel to represent the Class.
- F. “Common Fund” shall mean the money paid by Defendants and Defendants’ insurers to the Class for the purpose of settlement of this matter.
- G. “Davila” shall mean Defendant Jesse Davila.
- H. “Defendants” shall mean Nephrite Fund I, LLC, Strategic Properties, LLC, and Jesse Davila.
- I. “Nephrite” shall mean Defendant Nephrite Fund I, LLC.
- J. “Parties” shall mean the Plaintiffs and Class Representatives Elena Puga and Nicole Edwards, the Class, and Defendants Nephrite Fund I, LLC, Strategic Properties, LLC, and Jesse Davila.
- K. “Plaintiffs” shall mean Elena Puga, Nicole Edwards, and the Class.
- L. SP Investment Group LLC (“SPIG”) is a Florida limited liability company that obtained a consent judgment in Case No. 2316-CV34054 on May 9, 2024 stating that SPIG is owed approximately \$3,000,000.00 from Nephrite. SPIG consents to the jurisdiction of the Circuit Court of Jackson County, Missouri at Kansas City for all purposes relating to its obligations under this Agreement and necessary enforcement actions of this Agreement.
- M. “Strategic” shall mean Defendant Strategic Properties, LLC.

N. “Suncrest Apartments” and “Property” shall mean the real property located at 9801-9819 East 61<sup>st</sup> Street, Raytown, Missouri 64133.

### RECITALS

WHEREAS, on June 17, 2021, Plaintiffs filed their Class Action Petition in the Circuit Court of Jackson County, Missouri, Case No. 2116-CV13008, against Defendants. After amending their Class Action Petition, Plaintiffs alleged negligence, breach of the implied warranty of habitability, and various MMPA violations. Thereafter, Defendants filed their Joint Answer and Affirmative Defenses.

WHEREAS, on December 12, 2022, the Motion for Class Certification was granted and on February 10, 2023, the certified class definition was modified as “Missouri residents who had a lease with or rented an apartment unit at Suncrest Apartments (formerly known as Amber Glen[n] Apartments) between June 17, 2016 and the present.”

WHEREAS, on December 12, 2022, the Court entered its Order of Class Certification stating that the requirements of Rule 52.08(a) and (b) are satisfied. The Court’s Order appointed Elena Puga and Nicole Edwards as class representatives and Gregory Leyh, Andrea M. Knernschild, and Nicholas Leyh of Gregory Leyh, P.C. as Class Counsel.

WHEREAS, on August 15, 2023, the Court granted and deemed as filed Plaintiffs’ Third Amended Class Action Petition Adding Punitive Damages against all Defendants.

WHEREAS, Defendants deny any and all liability to Plaintiffs and the Class.

WHEREAS, SPIG holds a Deed of Trust on the Property, recorded with the Jackson County, Missouri Recorder of Deeds on February 5, 2024 and given Instrument Number 2024E0007478 (the “SPIG Deed of Trust”) that SPIG contends secures its judgment against Nephrite.

WHEREAS, Nephrite is currently in bankruptcy pursuant to a voluntary petition for relief under Chapter 11 of the United States Bankruptcy Code in the U.S. Bankruptcy Court for the Western District of Missouri, Case No. 24-40655-can11 (the “Bankruptcy Case”).

NOW, THEREFORE, in consideration of the foregoing premises, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties, intending to be legally bound, do hereby agree as follows:

1. All Parties and signatories to this Agreement consent to the jurisdiction of the Circuit Court of Jackson County, Missouri at Kansas City for all purposes relating to its promises made in this Agreement and all necessary enforcement actions that may arise in the event of a breach of their promises made in this Agreement. All Defendants and SPIG hereby and expressly waive any right they may otherwise have to removal of any related action under this Agreement and further waive any right they may have to litigate any enforcement action filed by the Puga Class in any court other than the Circuit Court of Jackson County, Missouri at Kansas City.

2. In consideration for the release set forth below, Defendants shall pay a total of One Million, Five Hundred Thousand Dollars and No Cents (\$1,500,000.00) cash paid to Gregory Leyh, P.C., Class Counsel, and in trust for the Class for establishment of a Common Fund in the following manner:

- a. Eight Hundred Thousand Dollars and No Cents (\$800,000.00) in cash paid to Class Counsel by Associated Industries Insurance Company, Inc., Atlantic Casualty Insurance Company, and United Specialty Insurance Company. Associated Industries Insurance Company, Inc. will pay four hundred thousand dollars and no cents (\$400,000.00) within fourteen (14) days of the later of the Court granting preliminary approval of this Settlement Agreement in the Action and the Court approving this Settlement Agreement and such payment in the Bankruptcy Case. Atlantic Casualty Insurance Company will pay two hundred thousand dollars and no cents (\$200,000.00), and United Specialty Insurance Company will pay two hundred thousand dollars and no cents (\$200,000.00), each no later than fourteen (14) days after the Court gives preliminary approval this Settlement Agreement in the Action.
- b. Seven Hundred Thousand Dollars and No Cents (\$700,000.00) shall be paid to Class Counsel by SPIG by the earlier of August 1, 2025, or receipt of proceeds from the sale of Suncrest Apartments (the “**SPIG Contribution**”). To secure payment of the SPIG Contribution, contemporaneously with the execution of this Agreement, SPIG shall execute the partial assignment of the Deed of Trust attached hereto as **Exhibit A** (the “**DOT Partial Assignment**”), and the intercreditor agreement attached hereto as **Exhibit B** (the “**Intercreditor Agreement**”). After execution, the Class may record the DOT Partial Assignment and Intercreditor Agreement with the Jackson County, Missouri Recorder of Deeds. In the event the SPIG Contribution is not made by August 1, 2025, SPIG agrees to the entry of the Consent Judgment attached hereto as **Exhibit C**.
  - i. Defendants will provide monthly updates to Class Counsel as to efforts made to sell Suncrest Apartments or offers to buy Suncrest Apartments.
  - ii. The Puga Class will record or cause to be recorded a fully executed Release of the Notice of Lis Pendens (the “**Lis Pendens Release**”) upon the earlier of the closing of a sale of the Suncrest Apartments or payment in full of the SPIG Contribution. If the Lis Pendens Release is to be recorded upon the sale of the Suncrest Apartments, the Puga Class agrees to cooperate with the title company handling the closing of such sale with regard to the preparation, execution, and recordation of the Lis Pendens Release.
  - iii. Nephrite agrees unconditionally and irrevocably waives and releases any right or claim to avoidance of the SPIG lien or the Puga Class’s interest in the SPIG lien in the form of the \$700,000.00 payment.

The aforementioned total payments of \$1,500,000.00 shall be made to the order of Gregory Leyh, PC and delivered to Gregory Leyh, P.C., 1600 Genessee St., Suite 900, Kansas City, Missouri 64102. There shall be no pre- or post-judgment interest on any of the foregoing settlement payments. The persons or entities with payment obligations under the Agreement are each solely responsible for their respective payment obligation, and they are not jointly and severally liable for any other person's or entity's payment obligation. If the Consent Judgement (Exhibit C) is entered, the parties to this Agreement affirm that Associated Industries Insurance Company, Inc., Atlantic Casualty Insurance Company, and United Specialty Insurance Company have no obligation under their respective policies to defend or indemnify the Consent Judgment.

3. When all obligations set forth in this Settlement Agreement are fully satisfied, and pursuant to the Court's final approval of this Settlement Agreement, Plaintiffs and the Class shall file a dismissal with prejudice with each party to bear her, his, or its own attorneys' fees, expenses, and costs. Class Counsel shall ensure that the Action is timely dismissed with prejudice in accordance with the terms of this Agreement. Plaintiffs, the Class, and all persons acting on behalf of, or in concert or participation with, such Plaintiffs or the Class, agree to refrain from bringing any lawsuit or class action individually or on behalf of Plaintiffs or the Class for the claims released herein, seeking to certify a class that includes Plaintiffs or the members of the Class, or continuing to prosecute or participate in any previously filed and/or certified class action, in any lawsuit asserting any of the claims released herein against the Defendant Released Parties. Additionally, Plaintiffs and the Class shall file a memorandum or other appropriate document with the Jackson County Recorder of Deeds releasing the DOT Partial Assignment and Intercreditor Agreement insofar as the Plaintiffs and the Class filed these documents with the Recorder of Deeds Office.

4. Defendants agree to the following terms:

- a. With respect to any judgments entered in favor of one or more of the Defendants against any members of the Class prior to the date of this Agreement, such judgment(s) shall be deemed paid, and Defendants shall file a satisfaction of judgment no later than fourteen (14) days after the Court gives preliminary approval of this Settlement Agreement.
- b. With respect to any pending cases filed by one or more of the Defendants against any members of the Class for which no judgment has been entered but in which Defendants have possession of the relevant apartment unit, Defendants shall dismiss such case(s) with prejudice and at Defendants' cost, no later than fourteen (14) days after the Court gives preliminary approval of this Settlement Agreement.
- c. With respect to any pending cases filed by one or more of the Defendants against any members of the Class for which no judgment has been entered, Defendants shall dismiss such case(s) with prejudice and at Defendants' cost no later than fourteen (14) days after the Court gives preliminary approval of this Settlement Agreement.

5. All attorney fees, expenses, and costs claimed by the Plaintiffs, the Class, and Class Counsel, as well as any incentive awards sought by the Class Representatives, shall be satisfied from the Common Fund. Defendants and SPIG agree that they will not object, dispute or make

any comment on any application for attorney's fees, request for expense reimbursement, or incentive award(s) that the Plaintiffs, Class, and their counsel may seek from the Court. This Agreement is not dependent upon the Court's approval of Plaintiffs' or Class Counsel's requests for an award of attorneys' fees or the particular attorneys' fees amounts sought by Plaintiffs or the Class. In the event the Court approves this Agreement but declines to award Class Counsel fees in the amount requested by Class Counsel, this Agreement will nonetheless be binding on the Parties and the Class.

6. All costs of any notice to the class arising from this Settlement, publication, or mailing of a proof of claim form will be paid for out of the Common Fund. Defendants further agree to provide within seven (7) days of executing this Settlement Agreement an updated rent roll and all known forwarding addresses for former tenants for purposes of assisting with Class notification.

7. The Parties shall be responsible for their respective portion of mediation costs.

8. All Orders entered by the Court in this case shall continue to have effect until all obligations set forth in this Settlement Agreement are fully satisfied.

9. Notwithstanding any other provision of this Agreement, if fifty (50) or more persons who fall within the Class definition opt out of the Class, Defendants, in their sole discretion, may rescind and revoke the entire Agreement, thereby rendering this Agreement null and void in its entirety. If Defendants elect to terminate this Settlement Agreement under this paragraph, Defendants must provide written notice to Class Counsel by hand delivery, mail, or email within five (5) calendar days from the date of such election. Defendants shall be responsible for any Settlement Notice costs incurred by Class Counsel if it chooses to elect this option in this paragraph.

10. Release of Defendants and Insurers by Plaintiffs. In exchange for the consideration set forth herein, the Plaintiffs, the Class, and their respective representatives, heirs, and assigns (collectively, the "Plaintiff Releasers") hereby release, waive, covenant not to sue, and forever discharge Defendants, SPIG, Associated Industries Insurance Company, Inc., Atlantic Casualty Insurance Company, and United Specialty Insurance Company, and their respective employees, employers, members, managers, predecessors, successors, heirs, and assigns (collectively, the "Defendant Released Parties"), of and from any and all liability, actions, claims, demands, or suits whatsoever, whether known or unknown, whether for compensatory, statutory, consequential, punitive, or other damages, which the Plaintiff Releasers now have or may hereafter have, arising out of any alleged negligence, misrepresentation, fraud, property damage, diminution in value, difference in value, physical or emotional injury, breach of fiduciary duties, economic or noneconomic loss, attorney fees, civil penalties, litigation expenses, expert expenses, and for other impairment or damage to any other right, whether alleged in terms of tort, breach of contract, violation of a state or federal statute or regulation, equity, or any other theory of recovery, sustained by or accruing to the Plaintiff Releasers as the result of the alleged actions or inactions of the Defendant Released Parties relating to the Suncrest Apartments and any other claims that the Plaintiff Releasers brought or could have brought against the Defendant Released Parties in the Action as of the Court's final settlement approval in the Action.

11. Release of Plaintiffs by Defendants. In exchange for the consideration set forth herein, the Defendants and their respective employees, employers, members, managers, predecessors, successors, heirs, and assigns (collectively, the “Defendant Releasers”) hereby release, waive, covenant not to sue, and forever discharge Plaintiffs, the Class, and their respective representatives, heirs, and assigns (collectively, the “Plaintiff Released Parties”), of and from any and all liability, actions, claims, demands, or suits whatsoever, whether known or unknown, whether for compensatory, statutory, consequential, punitive, or other damages, which the Defendant Releasers now have or may hereafter have, arising out of any alleged negligence, misrepresentation, fraud, property damage, diminution in value, difference in value, physical or emotional injury, breach of fiduciary duties, economic or noneconomic loss, attorney fees, civil penalties, litigation expenses, expert expenses, and for other impairment or damage to any other right, whether alleged in terms of tort, breach of contract, violation of a state or federal statute or regulation, equity, or any other theory of recovery, sustained by or accruing to the Defendant Releasers as the result of the alleged actions or inactions of the Plaintiff Released Parties relating to the Suncrest Apartments and any other claims that the Defendant Releasers brought or could have brought against the Plaintiff Released Parties in the Action as of the Court’s final settlement approval in the Action.

12. The distribution of payments to the Class will be on a pro rata basis and there will be no reversion to Defendants or their insurers. The Settlement Payment(s) described in this Agreement relates solely to compensatory damages to the Plaintiff and the Class and does not include any amount for punitive damages.

13. The Settlement Payment(s) described in this Agreement relates to any and all claims which could have been asserted by the Class against Defendants since the beginning of time.

14. Motion for Approval of Settlement. On September 27, 2024, after execution of this Agreement by the Parties, the Parties shall file a Joint Motion for Preliminary Approval of Settlement in the Action pending in Division 5 of the Jackson County Circuit Court. The Parties agree that the Joint Motion for Preliminary Approval will request the performance of the terms of this Settlement Agreement.

15. Approval in Bankruptcy Case. The Parties acknowledge and understand that all promises, obligations, and duties of Nephrite and Associated Industries Insurance Company, Inc. under this Settlement Agreement are contingent on the Court in the Bankruptcy Case approving this Settlement Agreement and confirming Nephrite’s authority to execute this Settlement Agreement. Nephrite agrees to seek such approval and authority in the Bankruptcy Case on an expedited basis.

16. Division of Proceeds by the Court. Upon the Court’s approval of the Settlement, in accordance with this Agreement, the Court in the Action shall authorize the distribution of One Million, Five Hundred Thousand Dollars and No Cents (\$1,500,000.00) Settlement Sum described in paragraph 2 above as it deems just and proper in the premises. The decision of the Court relative to the distribution of the proceeds is binding upon all signatories to this Agreement and upon the

Class, subject to any appeal. Defendants agree that they will make no recommendation or objection to any allocation request made by Class Counsel, including any request for payment of attorney's fees and expenses, or any request for an incentive award.

17. Costs and Expenses. The cost of any notice to the Class relating to the approval of the Settlement shall be paid from the Common Fund.

18. No Assignment of Claims. The Parties each warrant that they have made no assignment, and hereafter will make no assignment of any claim, cause of action, right of action, or any other right released pursuant to this Settlement Agreement.

19. Denial of Liability. Defendants believe that the factual and legal allegations by the Plaintiffs, Class Counsel, and the Class in the Action are incorrect and specifically deny all liability to Plaintiffs and the Class. In the Action, Defendants have denied Plaintiffs' allegations and raised a number of defenses to the claims asserted. The provisions contained in this Agreement are not, and shall not be deemed to be, a presumption, concession or admission by any Released Party of any alleged or asserted default, liability or wrongdoing as to any claims or allegations asserted, or which could have been asserted, in the Action, or in any actions or proceedings. The Released Parties do not admit that they have engaged in any illegal or wrongful activity or that any person has been harmed by reason of any alleged conduct, action, or omission of a Released Party.

20. Integration; No Oral Modification. This Agreement contains the entire agreement between the Parties with respect to the subject matter hereof, and the terms of this Agreement are contractual and not a mere recital. All prior or contemporaneous understandings, discussions or agreements, written or oral, with respect to this subject matter are expressly superseded by this Agreement. This Agreement may be modified or amended only by a writing signed by the Parties.

21. Representation By Counsel. Each of the Parties hereto acknowledges that they have been represented by independent legal counsel in connection with the execution of this Agreement, and, as such, no provision of this Agreement may be construed against the drafter. The Parties are fully aware of the terms and conditions contained herein, and that they have entered into and executed the within Agreement as a voluntary action and without coercion or duress of any kind. The terms of this Agreement arose from negotiations and discussions between the Parties, each of whom are represented by legal counsel. Accordingly, no claimed ambiguity in this Agreement shall be construed against any Party claimed to have drafted or proposed the language in question.

22. Amendments. Any amendments to this Settlement Agreement must be in writing and signed by all Parties.

23. Authority to Enter Into This Agreement. Each of the undersigned persons represents and warrants that he/she is duly authorized to enter into this Agreement on behalf of the Party for which he/she has signed and thereby bind that Party to the terms of this Agreement and that all corporate actions necessary for the authorization, execution, delivery and performance of this Agreement, or any document executed in connection herewith, has been taken.

24. Binding Effect. This Agreement shall be binding upon and inure to the benefit of the Parties, signatories, and their respective successors, assigns, heirs, representatives, administrators and executors.

25. Choice of Law. This Agreement shall be construed and governed by the laws of the state of Missouri, without respect to its law regarding conflicts of laws.

26. Counterparts; Electronic Signatures Binding. This Agreement may be signed in separate counterparts, but when taken together shall constitute but one agreement. The Parties agree that the delivery of signed counterparts of this Agreement via electronic transmission to the other shall be legally binding as if the counterpart bearing the Party's original signature had been delivered to the other.

27. Time Is Of The Essence. The Parties acknowledge that time is of the essence in the performance of all obligations under this Agreement.

28. Severability. Should any portion or portions of this Agreement for any reason be determined to be invalid or unenforceable, all other portions or provisions shall remain in effect as valid and enforceable.

29. Recitals. The Recitals on page 2 above are incorporated into this Agreement as if fully stated herein.

***[REMAINDER OF PAGE LEFT INTENTIONALLY BLANK]***



\_\_\_\_\_  
Elena Puga, an Individual and  
Class Representative

Date: \_\_\_\_\_

\_\_\_\_\_  
Nicole Edwards, an Individual and  
Class Representative

Date: \_\_\_\_\_

\_\_\_\_\_  
Jesse Davila, Defendant

Date: \_\_\_\_\_

Defendant Nephrite Fund I, LLC

By: \_\_\_\_\_

Printed: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Defendant Strategic Properties, LLC

By: \_\_\_\_\_

Printed: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

SP Investment Group LLC

By: \_\_\_\_\_

Printed: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

# EXHIBIT A

## PARTIAL ASSIGNMENT OF DEED OF TRUST AND NOTE

THIS PARTIAL ASSIGNMENT OF DEED OF TRUST AND NOTE (the "**Assignment**") is made and entered into this 27<sup>th</sup> day of September 2024, by and between SP Investment Group, LLC, a Florida limited liability company ("**Assignor**"), and the Class (defined below) ("**Assignee**").

### RECITALS:

WHEREAS, on June 17, 2021, Class Counsel (defined below) filed a Class Action Petition in the Circuit Court of Jackson County, Missouri (the "**Court**"), Case No. 2116-CV13008, against several Defendants, including Strategic Properties, LLC, an affiliate of Assignor (the "**Class Action**");

WHEREAS, on December 12, 2022, the Court certified the class in the Class Action, and on February 10, 2023, the class definition was modified to its current form as "Missouri residents who had a lease with or rented an apartment unit at Suncrest Apartments (formerly known as Amber Glen[n] Apartments) between June 17, 2016 and the present." (the "**Class**");

WHEREAS, the Court has designated Elena Puga and Nicole Edwards as class representatives and authorized Gregory Leyh, Andrea M. Knernschield, and Nicholas Leyh of Gregory Leyh, P.C. to serve as class counsel ("**Class Counsel**");

WHEREAS, on February 5, 2024, Assignor recorded with the Jackson County, Missouri Recorder of Deeds a Deed of Trust on the Property described on Exhibit A hereto (the "**Deed of Trust**"), securing the obligations of the owner of the Property, Nephrite Fund 1, LLC, a Missouri limited liability (the "**Owner**"), under a Promissory Note the Owner executed in favor of Assignor on or around October 3, 2018 (and modified by a MOU dated November 20, 2020) (the "**Promissory Note**") and

WHEREAS, on September \_\_, 2024, the parties to the Class Action reached a settlement (the "**Settlement**"), providing, *inter alia*, for Assignor's assignment of a \$700,000 interest in the Deed of Trust to the Class to secure Assignor's obligation to pay Assignee \$700,000 under the Settlement;

NOW, THEREFORE, for and in consideration of the mutual promises of the parties herein contained, the premises and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree to the following:

1. The statements contained in the recitals of this Agreement are incorporated as if fully stated herein.
2. Assignor hereby assigns a \$700,000 interest in the Deed of Trust and Promissory Note to Assignee. This assignment is without warranty or recourse, except as provided in this Assignment.
3. Assignor hereby represents and warrants to Assignee that (a) this Assignment has been duly authorized and approved by all necessary action on the part of Assignor; (b) as of the date of this Assignment, Assignor is the sole owner Promissory Note; and (d) Assignor has the absolute right, power and authority to make the assignment to Assignee provided for in this Assignment.
4. Owner hereby expressly and unconditionally consents to this assignment.
5. This Partial Assignment may be signed in any number of counterparts, each of which shall be deemed an original but all of which shall constitute one and the same document. An electronic

transmission of this Agreement bearing the signature of one or more parties hereto shall be deemed to be an original.

6. Assignor covenants that it will, at any time and from time to time upon written request by Assignee, promptly execute and deliver to Assignee, its nominees, successors and/or assigns, any new or confirmatory instruments and do and perform any other acts which Assignee, its successors and assigns, may reasonably request in order to fully assign and transfer to and vest in Assignee, its successors and assigns, and protect its and/or their right, title and interest in and enjoyment of the \$700,000 interest in the Deed of Trust and Promissory Note contemplated to be assigned by this Assignment.

7. The provisions of this Assignment shall be binding upon and inure to the benefit of Assignor and Assignee and their respective successors and assigns.

*[Signature Page Follows]*

IN WITNESS WHEREOF, Assignor and Assignee have executed this Agreement under seal as of the date first written above.

**ASSIGNOR:**

**SP INVESTMENT GROUP LLC,**  
a Florida limited liability company

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

STATE OF [STATE]        )  
                                  )SS.  
COUNTY OF [COUNTY] )

On this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, before me personally appeared \_\_\_\_\_, to me known to be the person described in and who executed the foregoing instrument and acknowledged that [she/he] executed the same as his free act and deed.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal in the County and State aforesaid on the day and year above written.

\_\_\_\_\_  
Notary Public  
Printed Name: \_\_\_\_\_

My Commission Expires:

\_\_\_\_\_, 20\_\_

*[Additional Signatures Follow]*

**ASSIGNEE:**

\_\_\_\_\_  
Elena Puga, individually and in her  
capacity as Class Representative

\_\_\_\_\_  
Nicole Edwards, individually, and in her  
capacity as Class Representative

STATE OF [STATE]        )  
  )SS.  
COUNTY OF [COUNTY] )

On this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, before me personally appeared \_\_\_\_\_ and  
\_\_\_\_\_, to me known to be the person described in and who executed the foregoing  
instrument and acknowledged that they executed the same as their free act and deed.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal in the County and  
State aforesaid on the day and year above written.

\_\_\_\_\_  
Notary Public  
Printed Name: \_\_\_\_\_

My Commission Expires:  
\_\_\_\_\_, 20\_\_

*[Additional Signatures Follow]*

**Agreed to and Acknowledged by:**

NEPHRITE FUND 1, LLC,  
a Missouri limited liability company

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

STATE OF [STATE]        )  
                                  )SS.  
COUNTY OF [COUNTY] )

On this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, before me personally appeared \_\_\_\_\_ and \_\_\_\_\_, to me known to be the person described in and who executed the foregoing instrument and acknowledged that they executed the same as their free act and deed.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal in the County and State aforesaid on the day and year above written.

\_\_\_\_\_  
Notary Public  
Printed Name: \_\_\_\_\_

My Commission Expires:  
\_\_\_\_\_, 20\_\_

## EXHIBIT A

### PROPERTY DESCRIPTION

**Tract I:** All that part of the Northeast ¼ of Section 5, Township 48, Range 32, in Raytown, Jackson County, Missouri, described as follows:

Commencing at a point on the East line of the Southeast 1/4 of said Northeast 1/4 that is 626.13 feet due South of the Northeast corner thereof thence North 88 ° 57' 30" West 392.43 feet to the true point of beginning of the tract of land herein described; thence due North, parallel with the East line of said 1/4 1/4 Section, 208.71 feet; thence North 88 ° 57' 30" West 25.00 feet; thence due North 417.42 feet to a point on the North line of the Southeast 1/4 of said Northeast 1/4 that is 417.42 feet West of the Northeast corner thereof; thence North 1 ° 02' 30" East 0.68 feet to the South right-of-way line of 61st Street, as now established; thence North 88 ° 57' 30" West, along said South right-of-way line, 217.25 feet to the Easterly line of Lot 6, RAYTOWN GARDEN ACRES, a subdivision of land; thence South 1 ° 02' 30" West, along said Easterly line, 0.68 feet to the North line of the Southeast 1/4 of said Northeast 1/4; thence North 88 ° 57' 30" West, along said North line, 115.00 feet to the Easterly right-of-way line of the Chicago - Rock Island and Pacific Railroad Company; thence South 8 ° 28' 25" East, along said Easterly right-of-way line, 634.76 feet to a point on a line drawn 626.13 feet South of and parallel with the North line of the Southeast 1/4 of said Northeast 1/4, as measured along the East line of said Section; thence South 88 ° 57' 30" East, along said parallel line, 263.70 feet to the point of beginning.

Now also known as STONEYBROOK OF RAYTOWN APARTMENTS, a condominium subdivision in Raytown, Jackson County, Missouri, as shown on the Certificate of Survey recorded December 28, 1992 as Document No. 1-1 157216 in Book T6 at page 40, together with an appurtenant easement for roadway described as follows:

**Tract II:** Appurtenant easement for ingress over all that part of the Northeast 1/4 of Section 5, Township 48, Range 32, in Raytown, Jackson County, Missouri, described as follows:

Commencing at a point on the East line of said 1/4 Section that is 793.95 feet due South of the Northeast corner of the Southeast 1/4 of said Northeast 1/4; thence North 88 ° 57' 30" West 230.01 feet to the true point of beginning of the easement herein described; thence due North, and parallel with the East line of said 1/4 1/4 Section, 167.82 feet; thence North 88 ° 57' 30" West 222.43 feet; thence due South 40.00 feet; thence South 88 ° 57' 30" East 182.42 feet; thence due South 127.82 feet to a point in a line that is 793.95 feet South of and parallel with the North line of said 1/4 Section; thence South 88 ° 57' 30" East, along said parallel line, 40.01 feet to the true point of beginning; as described in the instrument dated September 6, 1973, and recorded September 13, 1973, as Document No. 1-163985 in Book 1-468 at page 1166.

9801-9819 East 61st Street, Raytown, MO 64133  
45-210-10-03-00-0-00-000, 45-210-10-23-00-0-00-000

# EXHIBIT B

## INTERCREDITOR AGREEMENT

THIS INTERCREDITOR AGREEMENT (“**Agreement**”) is entered into as of September 27, 2024 (the “**Effective Date**”) by and between SP Investment Group LLC, a Florida limited liability company (“**SPIG**”), and the Class (defined below). SPIG and the Class are referred to herein as the “**Parties**”, with each a “**Party**”.

### **RECITALS:**

WHEREAS, on June 17, 2021, Class Counsel (defined below) filed a Class Action Petition in the Circuit Court of Jackson County, Missouri (the “**Court**”), Case No. 2116-CV13008, against several Defendants, including SPIG, an affiliate of Assignor (the “**Class Action**”);

WHEREAS, on December 12, 2022, the Court certified the class in the Class Action, and on February 10, 2023, the class definition was modified to its current form as “Missouri residents who had a lease with or rented an apartment unit at Suncrest Apartments (formerly known as Amber Glen[n] Apartments) between June 17, 2016 and the present.” (the “**Class**”);

WHEREAS, the Court has designated Elena Puga and Nicole Edwards as class representatives and authorized Gregory Leyh, Andrea M. Knernschild, and Nicholas Leyh of Gregory Leyh, P.C. to serve as class counsel (“**Class Counsel**”);

WHEREAS, on February 5, 2024, Assignor recorded with the Jackson County, Missouri Recorder of Deeds a Deed of Trust on the Property described therein (the “**Deed of Trust**”), securing the obligations of the owner of the Property, Nephrite Fund 1, LLC, a Missouri limited liability (the “**Owner**”), under a Promissory Note the Owner executed in favor of SPIG on or around October 3, 2018 (and modified by a MOU dated November 20, 2020) (the “**Promissory Note**” and together with the Deed of Trust, the “**Loan Documents**”) and

WHEREAS, on September \_\_, 2024, the parties to the Class Action reached a settlement (the “**Settlement**”), providing, *inter alia*, for SPIG’s assignment of a \$700,000 interest in the Loan Documents to the Class to secure SPIG’s obligation to pay the Class \$700,000 under the Settlement (the “**Assignment**”);

WHEREAS, the Parties entered into the Assignment contemporaneously with the execution of this Agreement;

WHEREAS, the Parties desire to enter into this Agreement to establish rights and priorities between themselves with respect to their respective interests in the Deed of Trust.

NOW, THEREFORE, in consideration of the covenants in this Agreement, the Parties agree as follows:

- 1. Recitals.** The statements contained in the recitals of this Agreement are incorporated as if fully stated herein
- 2. Security Interest Priority.** The rights of the Class in the Loan Documents shall be senior in all respects to SPIG’s interests, and SPIG agrees that, notwithstanding in the Loan Documents to the contrary or (b) the date, time, method, manner or order of grant, attachment, or perfection of any lien on or interest in the Loan Documents, and notwithstanding any provision of the Uniform Commercial Code of any jurisdiction, any other applicable law, or any other circumstance whatsoever if (a) SPIG takes any enforcement action in respect to the Loan Documents, (b) any distribution, payment, compromise, or settlement of any kind (under a confirmed plan of reorganization or otherwise) made in respect of the Loan Documents, or (c) SPIG receives any payment with respect to the Loan Documents, then, in the case of each of the foregoing clauses (a), (b), and (c), such cash and non-cash payments, distributions, or the proceeds of any such sale, collection, or other liquidation, or payments in respect, of the Deed of Trust or Promissory Note obtained or received by SPIG (all such cash or non-cash proceeds, distributions, and



payments being collectively referred to as “**Proceeds**”), shall be applied and distributed first to the Class until SPIG’s payment obligations of \$700,000 under the Settlement Agreement have been fully satisfied.

3. **Attorneys’ Fees.** If there is any legal action or proceeding between the Parties arising from or based on this Agreement, the unsuccessful party to such action or proceeding shall pay to the prevailing party(ies) all costs and expenses, including, without limitation, reasonable attorney’s fees and disbursements, incurred by such prevailing party(ies) in such action or proceeding and in any appeal in connection therewith. If such prevailing party(ies) recovers a judgment in any such action, proceeding or appeal such costs, expenses, and attorney’s fees shall be included in and as part of the judgment. Costs and expenses include without limitation court costs and attorneys’ fees incurred in connection with bankruptcy proceedings or post-collection proceedings.

4. **Construction.** The Parties acknowledge that each party and its counsel have reviewed and revised this Agreement and the rule of construction to the effect that the ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of this Agreement. The captions in this Agreement are for the convenience of reference only and shall not be used to interpret this Agreement.

5. **Terms Generally.** The defined terms in this Agreement shall apply equally to the singular and the plural of the defined. Whenever the context may require, any pronoun shall include the corresponding masculine, feminine and neuter forms. References to “security interest” shall include any lien, charge or security interest created by any deed of trust, security agreement or other security instrument.

6. **Further Assurances.** From and after the date of this Agreement, the Parties agree to do such things as may be reasonably necessary or proper and usual to accomplish the purposes of this Agreement.

7. **Partial Invalidity.** If any provision of this Agreement is determined by a proper court to be invalid, illegal, or unenforceable, such invalidity, illegality or unenforceability shall not affect other provisions of this Agreement, and this Agreement shall remain in full force and effect. Without such invalid, illegal or unenforceable provision.

8. **Waivers.** No waiver of any provision of this Agreement or any breach of this Agreement shall be effective unless such waiver is in writing and signed by the waiving party and any such waiver shall not be deemed a waiver of any other provision of this Agreement or any other or subsequent breach of this Agreement.

9. **Governing Law.** This Agreement shall be governed by and construed in accordance with the internal laws of the State of Missouri without giving effect to any choice or conflict of law provision or rule (whether of the State of Missouri or any other jurisdiction). Any dispute arising out of this Agreement shall be resolved by the state courts of the State of Missouri located in Jackson County, Missouri.

10. **Miscellaneous.** This Agreement shall benefit and bind the Parties and their respective successors and assigns. This Agreement may be executed in counterparts, each of which shall be an original, but all of which shall constitute one and the same Agreement. This Agreement may not be amended or modified except by a written agreement signed by all Parties. This Agreement, the Settlement, and the Loan Documents constitute the entire and integrated agreement between the parties relating to the subject matter of this Agreement and supersedes all prior agreements, understandings, offers and negotiations, oral or written, with respect to the subject matter of this Agreement.

*[Signature Page Follows]*

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the Effective Date.

**SP Investment Group LLC**

By: \_\_\_\_\_

STATE OF [STATE]        )  
  )SS.  
COUNTY OF [COUNTY] )

On this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, before me personally appeared \_\_\_\_\_, to me known to be the person described in and who executed the foregoing instrument, and acknowledged that [she/he] executed the same as his free act and deed.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal in the County and State aforesaid on the day and year above written.

\_\_\_\_\_  
Notary Public  
Printed Name: \_\_\_\_\_

My Commission Expires:  
\_\_\_\_\_, 20\_\_

\_\_\_\_\_  
Elena Puga, individually and in her  
capacity as Class Representative

\_\_\_\_\_  
Nicole Edwards, individually and in her  
capacity as Class Representative

STATE OF [STATE]        )  
  )SS.  
COUNTY OF [COUNTY] )

On this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, before me personally appeared \_\_\_\_\_ and \_\_\_\_\_, to me known to be the person described in and who executed the foregoing instrument and acknowledged that they executed the same as their free act and deed.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal in the County and State aforesaid on the day and year above written.

\_\_\_\_\_  
Notary Public  
Printed Name: \_\_\_\_\_

My Commission Expires:  
\_\_\_\_\_, 20\_\_

# EXHIBIT C

**IN THE CIRCUIT COURT OF JACKSON COUNTY, MISSOURI  
AT INDEPENDENCE, MISSOURI**

<b>ELENA PUGA and NICOLE EDWARDS,</b>	)	
	)	
<b>on behalf of themselves and all others</b>	)	
<b>similarly situated,</b>	)	
	)	
<b>Plaintiffs,</b>	)	<b>Case No. 2116-CV13008</b>
<b>v.</b>	)	
	)	<b>Division 5</b>
<b>NEPHRITE FUND I, LLC, et al.,</b>	)	
	)	
<b>Defendants.</b>	)	

**CONSENT JUDGMENT**

Plaintiffs Elena Puga and Nicole Edwards and the Plaintiff class (“Plaintiff class”) and Strategic Properties, LLC, Jesse Davila, Nephrite Fund I, LLC, and SP Investment Group, LLC, pursuant to the settlement agreement executed on September 27, 2024, request that the Court enter Judgment in favor of the Plaintiff Class and against SP Investment Group LLC for Breach of Settlement Agreement in the amount of Seven Hundred Thousand Dollars and No Cents (\$700,000.00).

**ACCORDINGLY, IT IS HEREBY ORDERED ADJUDGED AND DECREED** that the Plaintiff Class is **GRANTED** Judgment in its favor against SP Investment Group LLC for Breach of Settlement Agreement in the amount of Seven Hundred Thousand Dollars and No Cents (\$700,000.00).

**IT IS SO ORDERED.**

Submitted and Agreed to By:

GREGORY LEYH, P.C.

/s/ Gregory Leyh

Gregory Leyh, #42283

Andrea M. Knernschiold, #71553

Nicholas Leyh, #71993

Gregory Leyh, P.C.

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[nleyh@leyhlaw.com](mailto:nleyh@leyhlaw.com)

ATTORNEYS FOR PLAINTIFFS

/s/ Jeff Lester

Jeff Lester

Tim Sutton

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Saint Louis, Missouri 63017

WATTERS WOLF BUB HANSMAN

(636) 798-0660

[JLester@wwbhlaw.com](mailto:JLester@wwbhlaw.com)

[Tsutton@wwbhlaw.com](mailto:Tsutton@wwbhlaw.com)

ATTORNEYS FOR STRATEGIC PROPERTIES,  
LLC and SP INVESTMENT GROUP LLC

/s/ Brian T. Goldstein

Brian T. Goldstein MO Bar 50191

5250 W. 116th Place, Suite 400

Leawood, Kansas 66221

Telephone: 913-387-1600

Facsimile: 913-928-6739

[bgoldstein@rousepc.com](mailto:bgoldstein@rousepc.com)

ATTORNEY FOR DEFENDANTS

JESSE DAVILA AND NEPHRITE FUND I, LLC

DATED: \_\_\_\_\_

\_\_\_\_\_  
JUDGE JAMES FRANCIS KANATZAR