

direct, derivative or subrogated, in law or in equity, whether based on tort, contract or any other theory of recovery whatsoever which Plote had, now has, or may have, from the beginning of the world until and including the date of this Agreement against the Village which (a) were raised or could have been raised in the Lawsuits, (b) could have arisen or may arise from any of the facts, allegations or events set forth in the pleadings in the Lawsuits, or (c) in any way relate to or arise from Plote's work in the Conservancy Development, including, without limitation, any work on the school site, on and around the public right-of-way of Galligan Road, and on POD 4 in the Conservancy Development.

(b) Upon the School District's payment of the Settlement Payment to Plote set forth in Paragraph 2(c) of this Agreement, Plote hereby irrevocably and unconditionally releases, acquits, remises, and forever discharges the School District, and as direct third-party beneficiaries hereof, its current and former parent companies, subsidiaries, divisions, affiliates, ventures, predecessors, successors, officers, directors, trustees, principals, members, managers, partners, owners, shareholders, employees, associates, spouses, heirs, executors, administrators, attorneys, agents, representatives and assigns, from and against any and all claims, liens, demands, charges, complaints, debts, liabilities, obligations, indemnities, agreements, suits, actions, causes and causes of action, losses, damages, penalties, costs, compensation, expenses, attorneys' fees or things of whatever kind, nature or description, in any capacity whatsoever, direct, derivative or subrogated, in law or in equity, whether based on tort, contract or any other theory of recovery whatsoever which Plote had, now has, or may have, from the beginning of the world until and including the date of this Agreement against the School District which (a) were raised or could have been raised in the Lawsuits, (b) could have arisen or may arise from any of the facts, allegations or events set forth in the pleadings in the Lawsuits, or (c) in any way relate

to or arise from Plote's work in the Conservancy Development, including, without limitation, any work on the school site, on and around the public right-of-way of Galligan Road, and on POD 4 in the Conservancy Development.

(c) Upon payment of Settlement Payments to Plote set forth in Paragraphs 2(a) through 2(c) of this Agreement, Plote hereby irrevocably and unconditionally releases, acquits, remises, and forever discharges NIII, and as direct third-party beneficiaries hereof, its current and former parent companies, subsidiaries, divisions, affiliates, ventures, predecessors, successors, officers, directors, trustees, principals, members, managers, partners, owners, shareholders, employees, associates, spouses, heirs, executors, administrators, attorneys, agents, representatives and assigns, from and against any and all claims, liens, demands, charges, complaints, debts, liabilities, obligations, indemnities, agreements, suits, actions, causes and causes of action, losses, damages, penalties, costs, compensation, expenses, attorneys' fees or things of whatever kind, nature or description, in any capacity whatsoever, direct, derivative or subrogated, in law or in equity, whether based on tort, contract or any other theory of recovery whatsoever which Plote had, now has, or may have, from the beginning of the world until and including the date of this Agreement against NHI which in any way relate to or arise from Plote's work in the Conservancy Development, including, without limitation, any work on the school site, on and around the public right-of-way of Galligan Road, and on POD 4 in the Conservancy Development (hereinafter collectively referred to as the "Claims"). Upon such Settlement Payments, which the Parties hereto agree benefit all of them, the Parties hereto waive any claim in bankruptcy against the estate of NHI arising from or in any way connected to the Claims. Notwithstanding anything to the contrary contained herein, nothing in this Paragraph 5(c) shall be construed to release, discharge or compromise the claims that Plote has against

NHI, or that NHI has against Plote, other than the claims relating to work Plote completed for or on behalf of NHI in the Village of Gilberts, Kane County, Illinois.

6. Releases by the Village, School District and NHI.

Upon payment of the Settlement Payments set forth in Paragraphs 2(a) through 2(d) of this Agreement, and the dismissal **with prejudice** of the Lawsuits, the Village, the School District and NHI each hereby irrevocably and unconditionally release, acquit, remise, and forever discharge Plote, and as direct third-party beneficiaries hereof, its current and former parent companies, subsidiaries, divisions, affiliates, ventures, predecessors, successors, officers, directors, trustees, principals, members, managers, partners, owners, shareholders, employees, associates, spouses, heirs, executors, administrators, attorneys, agents, representatives and assigns, from and against any and all claims, liens, demands, charges, complaints, debts, liabilities, obligations, indemnities, agreements, suits, actions, causes and causes of action, losses, damages, penalties, costs, compensation, expenses, attorneys' fees or things of whatever kind, nature or description, in any capacity whatsoever, direct, derivative or subrogated, in law or in equity, whether based on tort, contract or any other theory of recovery whatsoever which the Village, the School District or NHI had, now has, or may have, from the beginning of the world until and including the date of this Agreement against Plote which in any way relate to or arise from Plote's work in the Conservancy Development, including, without limitation, any work on the school site, on and around the public right-of-way of Galligan Road, and on POD 4 in the Conservancy Development.

7. No Admission.

This Agreement effects the compromise and settlement of disputed and contested claims related to the Conservancy Development and nothing contained herein shall be construed

as an admission by any Party hereto of any liability of any kind to any other Party or of any other wrongdoing under any law.

8. No Assignment.

Plote hereby represents and warrants that there has been no assignment of any claims encompassed by this Agreement to any individual, corporation or other entity whatsoever.

9. Reserved.

10. Binding Agreement.

This Agreement is binding upon and shall inure to the benefit of the Parties hereto and their respective current and former parent companies, subsidiaries, divisions, affiliates, ventures, predecessors, successors, officers, directors, trustees, principals, members, managers, partners, owners, shareholders, employees, associates, spouses, heirs, executors, administrators, attorneys, agents, representatives and assigns.

11. Entire Agreement.

This Agreement sets forth the entire agreement between the Parties and fully supersedes any and all prior agreements and understandings, written or oral, between the Parties pertaining to the subject matter hereof. No modification or amendment of this Agreement shall be binding or enforceable unless in writing and signed by all Parties.

12. Ambiguities.

The Parties acknowledge and agree that each has negotiated and reviewed the terms of this Agreement. The Parties further agree that the rule of construction that any ambiguities are resolved against the drafting party will be subordinated to the principle that the terms and provisions of this Agreement will be construed fairly as to both Parties and not in favor or against either Party.

13. Lack of Duress.

The Parties represent and warrant that they have each read this Agreement and that this Agreement has been executed of their own free will. The Parties further warrant and represent that no statements, representations, duress, coercion, promises or warranties were made by any other Party or its representatives to influence, induce or cause them to enter into this Agreement, other than statements and representations specifically recited in this Agreement.

14. No Mistake.

The Parties warrant and represent that they enter into this Agreement freely and voluntarily upon their own information and investigation. The Releases contained in this Agreement shall be fully and completely operative notwithstanding the discovery of any different or additional facts. This Agreement is intended to be final and binding regardless of any mistake of fact or law.

15. Severability.

To the extent any part of this Agreement shall be deemed unenforceable by any court of competent jurisdiction, then that part only of the Agreement shall be deemed unenforceable and all other parts of the Agreement shall remain in full force and effect.

16. Construction.

This Agreement shall be construed in accordance with the laws of the State of Illinois without regard to any conflict of law analysis.

17. Review by Counsel.

The Parties to this Agreement represent and warrant that they have had full opportunity to consult with counsel of their selection in the negotiation and execution of this Agreement, that their counsel have, in fact, reviewed this Agreement, and that they have been

fully advised by their counsel of the legal and practical effects of this Agreement.

18. Counterparts.

This Agreement may be executed in one or more counterparts, including by facsimile, each of which shall be deemed an original and all of which together constitute one and the same instrument.

19. Authority.

Each undersigned person executing this Agreement on behalf of Plote, NIII, the Village and the School District affirms by his or her signature hereto that he or she has been authorized to execute this Agreement.

IN WITNESS HEREOF, the undersigned, being duly authorized, have caused this Agreement to be executed as of the date first indicated above.

PLOTE CONSTRUCTION INC.

NEUMANN HOMES, INC.

By: _____

By: _____

Its: _____

Its: _____

VILLAGE OF GILBERTS

CONSOLIDATED SCHOOL DISTRICT
NO. 300

By: _____

By: _____

Its: _____

Its: _____