

SETTLEMENT AGREEMENT

THIS AGREEMENT, effective the 2ND day of MARCH, 2016, is by and between **CALIBER BUILDERS, INC.**, with an address of 29 Third Street, New City, New York 10956 ("Caliber") and **NORTHGATE CONDOMINIUM ASSOCIATION, INC.**, a non-profit corporation of the State of New Jersey, which administers seventy-one (71) homes, with an address of c/o Wilkin Management Group, Inc., 45 Whitney Road, Mahwah, New Jersey 07430 ("Northgate") and their respective heirs, successors and assigns (Caliber and Northgate are referred to collectively as the "Parties" and individually as a "Party").

RECITALS

WHEREAS, Golden Orchards Associates, LLP is the owner of the property known and designated as Block 506, Lot 1 on the Tax Map of the Borough of Hillsdale, and Block 2101, Lots 3 and 7 on the Tax Map of the Township of Washington, County of Bergen, State of New Jersey, with a street location at Ell Road and Pascack Road (the "Caliber Property"); and

WHEREAS, Caliber, as the developer, proposes to construct at the Property a thirty-seven (37) unit adult active community, with thirty-one (31) units proposed to be constructed in the Borough of Hillsdale and six (6) units proposed to be constructed in both the Borough of Hillsdale and the Township of Washington, plus one (1) single family home in the Township of Washington that will not be a part of the adult active community, for a total of thirty-eight (38) units (the "Project"); and

WHEREAS, Northgate is the entity that manages and administers the Northgate Condominiums, consisting of seventy-one (71) townhomes which are located in Block 2101, Lot 8 on the Tax Map of the Township of Washington, County of Bergen, State New Jersey ("Northgate Property"), with an address of c/o Wilkin Management Group, Inc., 45 Whitney Road, Mahwah, New Jersey 07430; and

WHEREAS, Caliber has received minor subdivision approval, preliminary site plan approval and conditional use approval for development of the Project in accordance with Resolution of the Planning Board of the Borough of Hillsdale dated January 29, 2008 (the "Resolution of Preliminary Approval"); and

WHEREAS, Caliber has made application for Final Site Plan Approval to the Planning Borough of Hillsdale ("Planning Board") with hearings on Caliber's current Application for Final Site Plan Approval having commenced on September 10, 2015, which is subject however to the claims of Northgate that said approvals are required to be amended because it has made substantial amendments to its plans; and

WHEREAS, Northgate has interposed objections and raised issues and/or stated its intention to object and/or raise issues to the said Application for Final Site Plan Approval; and

WHEREAS, the parties have determined it is in their best interest to work together to coordinate plans for the terms and conditions of Caliber's Application for Final Site Plan Approval, and to compromise all disputes between them relating to the land use approvals for the Project (except as otherwise set forth herein), without Caliber conceding or making any admissions with respect to the validity, grounds, or accuracy of Northgate's objections or issues raised, or without Northgate conceding or making any acknowledgements as to the compliance or lack thereof as to the stormwater management system proposed or other matter or issue it could raise, or without waiver of its rights to make claims that the Project has caused or will cause damage or injury to Northgate and/or the townhomes that comprise same; and

WHEREAS, Caliber's engineer, Alex J. Zepponi, P.E., P.P. of Entec, has prepared revised plans which have been filed with the Planning Board of the Borough of Hillsdale and are identified as follows: Site Plan for Phase I of Golden Orchards an Active Adult Community Project revised through January 29, 2016 ("Phase 1 Plan"); and Minor Subdivision and Site Plan for Golden Orchards an Adult Active Community revised through January 29, 2016 ("Phase 1 and 2 Combined Plan") (sometimes also referred to herein collectively as the "Plan" or "Plans"); and

WHEREAS, this Agreement, which incorporates the Plan by reference, reflects the resolution of all issues regarding the governmental approvals of the Project, and the withdrawal of objection of Northgate of the Application for Final Site Plan Approval to the Hillsdale Planning Board, and of any and all other required applications for approval of the Plan for the Project, (except as otherwise set forth in this Agreement).

NOW, THEREFORE in consideration of the foregoing recitals incorporated into and made a substantive part of this Agreement, the mutual promises hereinafter set forth, and for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereto, intending to be legally bound, covenant and agree as follows:

1. All of the terms of the Preamble are incorporated herein by reference as if set forth at length.

2. In the event Caliber develops the Project as defined herein, Caliber agrees to do so in accordance with the Phase 1 Plan and/or the Phase 1 and Phase 2 Combined Plan as applicable. It is understood that the Phase 1 Plan contains improvements proposed to be constructed in Hillsdale only ("Phase 1") and the Phase 1-Phase 2 Combined Plan contains improvements proposed to be constructed in both Hillsdale and Washington Township ("Phase 2"). Nothing contained herein shall obligate Caliber to develop the Property, to build the Project, or to construct either Phase 1 or Phase 2 of the Project, but only that should Caliber so elect to build the Project, or either Phase 1 or Phase 2, Caliber will in good faith diligently seek approvals, and do so in accordance with this Agreement, and as set forth in the Plans for the Project referred to herein and identified in the Recitals.

3. Northgate agrees to withdraw objections to the Project before the Planning Board of the Borough of Hillsdale, the Planning Board/Zoning Board of the Township of Washington, and all applicable regulatory agencies thereof, any other agency, board or authority with

jurisdiction over the Project and Property, to Caliber's development of the Property consistent with the Plan as identified in the Recitals, together with all land use entitlements and permits necessary for the development of the Property consistent with the said Plan.

4. Northgate shall withdraw, on the record, all previous opposition and objections to Caliber's Application for Final Site Plan Approval of the Property, and to Caliber's application for any permits and approvals from any agency with jurisdiction over the Project, in accordance with the Plan, and shall actively, continuously and expressly, through written and/or verbal communication made part of any public hearing record withdraw the objections and confirm it has no objections to the proposed development of the Property consistent with the Plans, before the Borough of Hillsdale Planning Board, and any other applicable regulatory agencies of the Borough of Hillsdale, before the Planning Board/Zoning Board of the Township of Washington, and any and all applicable regulatory agencies of the Township of Washington, the Bergen County Planning Board, the Bergen County Soil Conservation District and the New Jersey Department of Environmental Protection and any other applicable regulatory agencies or authorities that have jurisdiction over the Project for development of the Property. Northgate further agrees not to object to any further applications and entitlements required thereafter for the proposed development of the Property pursuant to the Plan. Northgate shall not support or encourage any party or parties to oppose in any way the approvals necessary for the proposed development project as reflected in the Plan. If Caliber seeks to have Northgate's counsel appear at any other hearing of any other governmental agency other than Hillsdale Planning Board, it shall be responsible for the reasonable legal fees of Northgate's attorneys.

5. Northgate agrees not to appeal any approvals granted for the Project that are substantially the same and substantially consistent with this Settlement Agreement and the Plan. In addition, in the event that Caliber (i) is required to reduce the size of the Project or eliminate or change any of the features on the Plan in connection with its approval process, or (ii) chooses to construct the Project with minor deviations to the Plan including but not limited to minor grading changes and relocation of the retaining wall behind Unit 19, Northgate agrees that its obligations under this Agreement shall remain in full force and effect. However any substantial or material change, including material or substantial changes relating to drainage and stormwater management facilities, the landscape buffer (Phase 2 only), and fence (Phase 2 only) shall be subject to approval of Northgate in its sole and absolute discretion, and if made and not approved by Northgate, Northgate shall have the right to interpose such objections and/or raise such issues it could have raised on the Project before the revisions, and Northgate shall have the right to make it clear to all governmental agencies that its lack of objections to the Plan does not constitute a waiver of any objections to any substantial amendments or changes to same.

6. Upon request of Caliber, Northgate shall promptly execute and deliver such further instruments as may be reasonably necessary to effect the provisions of this Agreement.

7. Caliber agrees to comply with the following, notwithstanding that the same are not or may not yet currently be reflected on the Plan:

a. The parties agree that in the event Caliber elects to construct Phase 2, trees will be planted in accordance with Phase 1 and 2 Combined Plan, subject to approval by

Zoning/Planning Board of the Township of Washington and in accordance with the ordinances of the Township of Washington, so as to minimize any drainage and stormwater runoff problems on Northgate's property and so that these areas obtain the benefit of any additional water absorption, and also serve as a landscaping buffer between the Caliber Property and the Northgate Property.

b. If it is reasonable to plant trees to complete and fill in existing foliage canopy along the common property line of the Northgate Property and the Caliber Property but such areas are located on the Northgate Property (including if the existing foliage is in Phase 2 but only Phase 1 improvements are made), Caliber and Northgate may agree to modify the location of the such trees shown on the Phase 1 and 2 Combined Plan, subject to approval by the governing body/official having jurisdiction thereover. The parties agree to reasonably cooperate to achieve a continuous, wooded foliage canopy along the said joint property line to the rear of proposed Units 26-34 in order to provide a buffer between the Northgate units and Caliber units. All landscaping materials shall be as proposed on the Phase 1 and 2 Combined Plan or as may be reasonably required by the Township of Washington.

c. The parties agree that in the event Caliber elects to construct Phase 2, all trees planted by the Developer shall be subject to maintenance and replacement in accordance with the provisions of applicable requirements of the Township of Washington and Borough of Hillsdale, as exists at the time the Phase 1 and Phase 2 Combined Plan receives approval from the Township of Washington and Borough of Hillsdale. The same shall apply to Phase 1 improvements which may cause damage to existing trees in the Phase 2 area.

d. Condominium or Homeowners Association: The Applicant, for itself and as Developer that initially controls the Condominium and/or Homeowners Association to be formed for the Property and homes to be located thereon (hereinafter generally sometimes referred to as the "New Association"), agrees, prior to formation of the New Association (or, if necessary, while it is in control of the New Association), to prepare the Declaration of Covenants, Easements, and Restrictions and/or By-laws in the case of a homeowners association (or Master Deed in the case of a condominium association) (collectively the "Governing Documents"). Said Declaration or Master Deed shall contain provisions to ensure that the New Association has the obligation to (i) maintain and repair all drainage and stormwater management improvements, features, lines, pipes, connections and basins (including non-structural stormwater management elements of its Plan), and/or structures, in both Phase 1 and if constructed, Phase 2; (ii) maintain and replace the trees in the Buffer Area should Caliber elect to construct Phase 2; (iii) maintain and repair the fence (referred to in sub paragraph h below) should Caliber elect to construct Phase 2; and (iv) maintain and repair all drainage, stormwater management facilities, improvements, pipes, lines, connections and basins located on the Caliber Property in connection with Phase 1 and, if constructed, Phase 2, so as to comply with the Plan and the stormwater management plan, including all applicable laws and regulations, unless such stormwater management and/or drainage structure (or non-structural elements of the stormwater management system of the Plan) is required to be maintained by the municipality.

e. The Declaration of the Homeowners Association in the case of a

Homeowners Association, or Master Deed in the case of a Condominium Association to be adopted and recorded shall specifically provide that the above provisions are being made in part for the protection of the Northgate Property which is an intended third party beneficiary.

f. Siltation/Cleanup of Detention Basins: The Developer shall be obligated to clean up and remove any siltation or debris caused by it (including for any Phase of construction, be it in Phase 1 and/or Phase 2), from Northgate's detention basins (including the drainage channels leading to same) in the event the municipal or state agency having jurisdiction thereof has determined the Developer was responsible for such siltation and has directed it to do so, or a court of competent jurisdiction and/or arbitration has so determined same. Caliber has the right to inspect Northgate's basins and channels prior to the commencement of construction of the Project to determine existence and level of siltation, if any, with a representative of Northgate present.

g. Bonding: Should Caliber elect to construct Phase 2, the cost of planting the trees along the border of the Northgate Property and Caliber Property as shown on the Phase 1 and Phase 2 Combined Plan shall be subject to any bond requirements imposed by Washington Township.

h. Fence: Should Caliber elect to construct Phase 2, Caliber shall construct and maintain a two (2) or three (3) wood split-rail fence or such fence as may reasonably be approved by Northgate and Washington Township. One fence shall be installed along the border of the Caliber Property and Northgate Property to the rear of Units 26-28 and a separate but same type fence shall be installed to the rear of Units 29-33 as shown on the Phase 1 and 2 Combined Plan. The Declaration of Homeowners Association in the case of a homeowner's project, or the Master Deed in the case of the Condominium Association shall provide that it is required to maintain, repair, and replace when reasonably necessary such fence(s). The fence type and location shall be subject to all applicable regulatory approvals and restrictions including but not limited to state wetland or open water regulations that may prohibit the installation of all or a portion of the fence in certain areas.

8. Northgate's Reservation of Rights; Non-Waiver of Damages; No Easement Rights Given to Caliber.

Northgate reserves the right to intervene, make comments, or object in the event of breach or non-compliance by Caliber with (i) any NJDEP requirements or (ii) any condition of any approvals of any governmental agency that would result in a material change under this Agreement, or (iii) any change or revisions to the Plans, not permitted under this Agreement, or (iv) any breach of this Settlement Agreement. Northgate's sole remedy hereunder in the event of Caliber's failure to comply with this Agreement or if any of the above occurs, is to renew or present objections or comments to the development of the Caliber Property and/or enforce this Settlement Agreement in a court of competent jurisdiction for breach of contract. Northgate shall not be deemed to have waived any objections that are not asserted in connection with the application for any governmental approvals, notwithstanding the prior lack of objection by Northgate, so that its objection by agreement herein may be made to all approvals of said application or amended application.

a. Drainage Easement: Nothing contained herein shall be deemed to grant any drainage or stormwater runoff easement or rights to the Developer or its Homeowners Association or Condominium Association on, over, or through the property administered by the Northgate Condominium Association, Inc. Northgate does not agree or consent to the Developer: (i) increasing the rate of water runoff onto its property (ii) increasing the volume of water discharge on, over, or through Northgate's property, or (iii) decreasing the water quality of the runoff or drainage on, over or through the Northgate Property or the discharge of garbage, debris or silt. Nothing contained herein shall constitute an admission by Caliber that any drainage easement from Northgate is required to construct the Project.

b. Nothing contained herein shall constitute a waiver of any claim for damages by Northgate from any stormwater or runoff or drainage onto Northgate's Property by the withdrawal of Northgate's objections.

9. Entire Agreement: This Agreement contains the entire agreement between the Parties. There are no promises, agreements, conditions, undertakings, warranties, or representations, oral or written, express or implied, between the Parties relating to the subject matters of this Agreement, other than as set forth in this Agreement. This Agreement may not be modified orally or in any other manner than by an agreement in writing signed by Caliber and Northgate, their respective heirs, successors and assigns. This Agreement shall be attached to the Hillsdale Planning Board Resolution (and Washington Township Land Use Board Resolution in the case of Phase 2), as a condition of approval, subject to consent and approval of those Boards to same.

10. Authority: Both Caliber and Northgate represent that they are fully and completely authorized to enter into this Agreement. Northgate's By-laws and Master Deed authorizes the persons, as members of the Board of Directors, to sign this Agreement on Northgate's behalf and, further, the Board of Directors has sent a comprehensive summary of this Agreement to all unit owners although no vote is required under the Master Deed or any other applicable governing documents of the Northgate Condominium Association, Inc.

11. Binding Nature: This Agreement shall be binding upon and inure to the benefit of Northgate, Caliber and their respective heirs, successors and assigns, and it is intended to run with land of both the Caliber Property and the Northgate Property.

12. Governing Law: This Agreement shall be governed by and construed in accordance with the laws of the State of New Jersey. In the event that any provision of this Agreement shall be deemed unenforceable, same shall not affect the enforceability of the remaining provisions of this Agreement.

13. Copies of Submissions to Northgate: Caliber shall provide the Association with copies of all submissions, documents, and applications to all governmental agencies at the time of such submission to said governmental agency, including the Hillsdale Planning Board, the Washington Township Land Use Board, Bergen County Planning Board and the NJDEP.

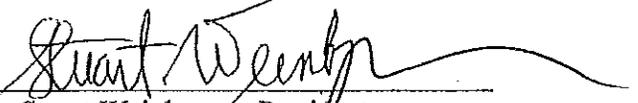
IN WITNESS WHEREOF, the Parties have executed, sealed, and delivered this Agreement as of the day and year first above written.

WITNESS/ATTEST:



Siobhan Spillane Bailey, Esq.
Attorney at Law
State of New Jersey

CALIBER BUILDERS, INC.



By: Stuart Weinberger, President

NORTHGATE CONDOMINIUM
ASSOCIATION, INC.

By: _____, President

By executing below Golden Orchards Associates, LP consents to the terms and conditions of this Settlement Agreement. This consent is binding on the Successors and Assigns of Golden Orchards Associates, LP, including any new association formed to administer the Property.

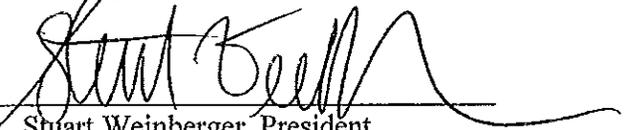
WITNESS/ATTEST:



Siobhan Spillane Bailey, Esq.
Attorney at Law
State of New Jersey

GOLDEN ORCHARDS
ASSOCIATES, LP

By: General Orchard Corp.,
General Partner



By: Stuart Weinberger, President

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WITNESS/ATTEST:

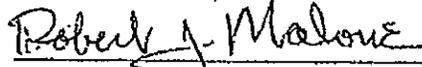
CALIBER BUILDERS, INC.

By: Stuart Weinberger, President



PAUL GORDON

NORTHGATE CONDOMINIUM
ASSOCIATION, INC.



By: _____, President

ROBERT J. MALONE

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WITNESS/ATTEST:

GOLDEN ORCHARDS
ASSOCIATES, LP

By: _____

JOINDER OF NORTHGATE'S PROFESSIONALS

The undersigned represent that no third party has asked them to review the Plan or represent them as of the date of this Agreement and that they have not agreed to represent any third party as of the date of this Agreement except as follows:

The Hogrefes asked for one of the Association's engineers to review the Plans for them, but Northgate did not agree to same, and upon information and belief, are having a separate engineer undertake that review.

WITNESS/ATTEST:

Shiraine Bjornstal

BEATTIE PADOVANO, L.L.C.

John J. Lamb
By: John J. Lamb, Esq.

Janice F. Nelson

BOSWELL ENGINEERING

Jeffrey L. Morris
By: Jeffrey L. Morris, P.E., P.L.S.

THONET ASSOCIATES, INC.

John A. Thonet
By: John A. Thonet, P.E., P.P.

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By: Jeffrey L. Morris, P.E., P.T.S.

John A. Thonot

THONOT ASSOCIATES, INC.
John A. Thonot
By: John A. Thonot, P.E., P.P.