

RELEASE AND SETTLEMENT AGREEMENT

This Release and Settlement Agreement (“Agreement”) is entered into by and between the following:

1. NICHOWYND URBAN CENTER CONDOMINIUM OWNERS’ ASSOCIATION
(hereinafter “the Association”);
2. GOERTZEN HOLDINGS, INTERNATIONAL, INC. and its parent companies, related companies, successors, agents, employees, owners, members, shareholders, officers and assigns (hereinafter “Goertzen”);
3. WOLFE FIRE PROTECTION, INC. and its parent companies, related companies, successors, agents, employees, owners, members, shareholders, officers and assigns ,
(hereinafter “Wolfe Fire”);and
4. WOLFE PLUMBING, INC. and its parent companies, related companies, successors, agents, employees, owners, members, shareholders, officers and assigns (hereinafter “Wolfe Plumbing”).

The Association, Goertzen, Wolfe Fire, and Wolfe Plumbing are collectively referred to as the “Parties”. The Parties enter into the Agreement for the purpose of settling any and all claims and potential claims by, between, and among them relating to the Nichowynd Urban Center Condominiums in Lynnwood, Washington (the “Project”), which is the subject of a lawsuit in Snohomish County, Washington, Superior Court Cause Nos. 12-2-09972-1 and 13-2-04570-1 (consolidated) (hereinafter the “Lawsuit”).

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I. RECITALS

- A. The Lawsuit was filed by the Nichowynd Urban Center Condominium Owners' Association against Goertzen in the Snohomish County Superior Court of Washington. The lawsuit relates to alleged construction defects at the Project and other claims.
- B. Goertzen filed third-party claims against Wolfe Fire and Wolfe Plumbing. Claims against Wolfe Plumbing were voluntarily dismissed without prejudice and subject to a tolling agreement.
- C. The Parties desire in good faith to fully and finally settle all claims and potential claims by and between the Parties arising out of, relating to, or connected with the Project.

NOW, THEREFORE, in consideration of the payments described herein and for other good and valuable consideration, the sufficiency of which is hereby acknowledged, the Parties agree as follows:

II. AGREEMENT

- 1. **Recitals.** The foregoing recitals are incorporated by reference herein and made a part hereof.
- 2. **Settlement Amount.** The total Settlement Amount is \$230,000 (Two Hundred Thirty Thousand Dollars) (hereinafter "Settlement Amount"), payable to Stein, Flanagan, Sudweeks and Houser Trust Account, Tax identification number 27-42409047. The Parties have agreed to the shares of the Settlement Amount as follows: \$100,000 from Goertzen; \$110,000 from Wolfe Fire;

and \$20,000 from Wolfe Plumbing. Settlement funds will be paid by the insurers for the respective parties: National Fire and Marine Insurance for Goertzen; First Mercury Insurance for Wolfe Fire; and Farmer's Insurance, Liberty Mutual Insurance, and Crum & Forster for Wolfe Plumbing.

3. Payment. Payment of the Settlement Amount shall be made to Stein, Flanagan, Sudweeks & Houser no later than February 23, 2015, but shall not be disbursed to the Association until this final settlement agreement has been executed by the Association.

4. Dismissal of Claims Asserted in the Lawsuit. The Parties agree to execute, following receipt of the full Settlement Amount, one or more Stipulations and Orders for Dismissal, providing for the dismissal of all claims asserted in the Lawsuit amongst the Parties with prejudice, and without costs or attorney fees to any of them.

5. Release Between Association and Goertzen. For and in consideration of payment of the Settlement Amount, the Association on its own behalf and to the full extent of its legal authority, on behalf of its members, agrees to forever release and discharge Goertzen and its respective future, present, and former heirs, assigns, successors, predecessors, members, shareholders, directors, officers, principals, construction managers, agents, employees, representatives, insurers, attorneys, experts, transferees, contractors and other affiliated persons, firms, or entities, all in their personal capacity, as well as in their representative capacity, from any and all past, present, and future claims arising from or in any way related to the design, construction, repair, marketing, sale and/or warranty of the Project, including, without limitation, all claims, disputes or controversies which were asserted or could have been asserted by the Association in the Lawsuit, including, but not limited to claims for damages, debts, losses, expenses, warranty, attorneys' fees, rights of action, and causes of action, whether statutory, in tort, in contract, or

otherwise, and whether at law or in equity or otherwise, past, present, or future, known or unknown or which could have been alleged under 64.34.304.

6. Release Between Goertzen, Wolfe Fire and Wolfe Plumbing. For and in consideration of payments of the respective shares of the Settlement Amount paid by Wolfe Fire and Wolfe Plumbing, Goertzen agrees to forever release and discharge Wolfe Fire and Wolfe Plumbing and each of their respective future, present, and former heirs, assigns, successors, predecessors, members, shareholders, directors, officers, principals, managers, agents, employees, representatives, insurers, experts, and other affiliated persons, firms, or entities, all in their personal capacity, as well as in their representative capacity, from any and all past, present, and future claims arising from or in any way related to the design, construction, repair, marketing, sale and warranty of the Project, including, without limitation, all claims, disputes or controversies which were asserted or could have been asserted in the Lawsuit, including, but not limited to claims for damages, debts, losses, expenses, warranty, attorneys' fees, rights of action, and causes of action, whether statutory, in tort, in contract, or otherwise, and whether at law or in equity or otherwise, past, present, or future, known or unknown.

7. Assumption of Risk. In providing these full and final releases, the Association and Goertzen acknowledges that they may not fully know or comprehend all damages they have suffered, but expressly agrees to assume the risk that their past, present and future damages may be greater than currently believed, and that they nevertheless desires to enter into this Agreement.

8. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Washington.

9. Joint Effort. Preparation of this Agreement has been a joint effort of the Parties and the resulting document shall not be construed more severely against any of the Parties than against the others.

10. Binding Effect and Integration. This Agreement shall be binding upon and shall inure to the benefit of the Parties hereto and the respective legal representatives, successors, or assigns and shall supersede any past agreements or obligations amongst the Parties to this agreement. This Agreement is intended by the Parties to be an executory accord and not a substituted contract.

11. Entire Agreement. This instrument contains the entire Agreement and understanding concerning the subject matter hereof and when fully executed supersedes and replaces all prior negotiations, proposed agreements and agreements, written or oral. Each of the Parties acknowledges that no party nor any agent or attorney whatsoever has made any promise, representation or warranty, express or implied, not contained herein, concerning the subject matter hereof to induce it to execute this Agreement. Each of the Parties further acknowledges that it is not executing this Agreement in reliance on any promise, representation or warranty not contained herein. This Agreement may not be supplemented, modified, or amended in any manner, except by written agreement.

12. Authority. Each of the Parties to this Agreement warrants and represents that it has full power and actual authority to enter into this Agreement, to grant the benefits granted by this Agreement, to incur the obligations set forth in this Agreement, and to carry out all actions required of them by this Agreement. All persons executing this Agreement in representative capacities represent and warrant that they have full power and authority to bind their party, and/or marital communities, and that they have not transferred or encumbered the claims released in the Agreement.

This Agreement shall bind and inure to the benefit of the Parties and their respective officers, directors, shareholders, members, affiliates, agents, employees, heirs, legatees, representatives, receivers, mortgagees, trustees, successors, and assigns.

13. No Waiver. Any failure by any of the Parties to enforce any of the provisions of this Agreement or to require at any time performance by any other party or Parties of any of the provisions hereof during the pendency of this Agreement shall in no way affect the validity of this Agreement, nor any part hereof, and shall not be deemed a waiver of the rights of any of the Parties hereinafter to enforce any and each such provision.

14. Facilitation. Each of the Parties hereto shall promptly execute and deliver such further instruments or take such further action as the attorneys for the Parties, or their insurers, may reasonably request to effectuate the intent of this Agreement.

15. No Admission. The execution of this Agreement effects the settlement of claims which are disputed, contested, and denied. Each of the Parties hereto understands and agrees that nothing herein is intended nor shall be deemed nor construed to be an admission of liability or responsibility on the part of defendants and any other party or Parties in any respect or to any extent whatsoever, and that defendants continue to deny all liability and disclaim all responsibility.

16. Free and Voluntary Agreement. The Parties hereto acknowledge that each has been fully advised by legal counsel concerning the language and legal effect of this Agreement, and knowingly enters into this agreement freely and without coercion of any kind.

17. Execution in Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed to constitute an original Agreement, and all of which shall constitute one Agreement. The execution of one counterpart by any party shall have the same force and effect as if that party had signed all other counterparts.

NICHOWYND URBAN CENTER CONDOMINIUM
OWNERS' ASSOCIATION

DATED: _____

By: _____

Its: _____

Printed Name: _____

GOERTZEN HOLDINGS INTERNATIONAL, INC.

DATED: _____

By: _____

Its: _____

Printed Name: _____

WOLFE PLUMBING, INC.

DATED: _____

By: _____

Its: _____

Printed Name: _____

WOLFE FIRE PROTECTION, INC.

DATED: _____

By: _____

Its: _____

Printed Name: _____