

## SETTLEMENT AGREEMENT

This Settlement Agreement ("Agreement") is among Virginia L. Mortara ("Mortara") of 319 El Vedado Way, Palm Beach, FL, Diana S. Wister ("Wister") of 335 El Vedado Way, Palm Beach, FL, and Laurel, Inc., a United States Virgin Islands Corporation ("Laurel, Inc"), owning a property at 358 El Brillo Way, Palm Beach, FL, each referred to herein individually as a "Party" or collectively as the "Parties" as of the date last signed below ("effective date of this Agreement") to settle the dispute among the Parties concerning the pending Variance Application filed by Mortara before the Town Council of the Town of Palm Beach, Florida ("Variance Proceeding"), and for other good and valuable consideration, the sufficiency and validity of which is hereby acknowledged. The Parties agree as follows:

### 1. Background.

- a) On November 14, 2012, Mortara filed an application (Application No. 4-2013) ("Variance Application") before the Town Council of the Town of Palm Beach, Florida for variances from the Town's zoning code to allow construction of a 6' by 30' dock at her property at 319 El Vedado Way, Palm Beach, FL
- b) Wister and Laurel have actively opposed the granting of the Variance Application by the Town Council in the Variance Proceeding.
- c) Consideration of the Variance Application has been deferred at Mortara's request on two occasions and is currently scheduled for consideration by the Town Council on March 13, 2013

### 2. Settlement Actions

Entry into this Agreement shall not constitute, shall not be a waiver of, and the Parties shall retain, any rights or actions available to the Parties, in law, in equity, or otherwise, whether arising before or after the effective date of this Agreement, except as expressly set forth herein.

- a) Limitations as Conditions to Granting of Variance Application. Mortara agrees to the following limiting conditions upon and to the granting of the Variance Application:
  - i. No dock, pier, wharf, or mooring piling shall be built, installed, constructed, erected, permitted or allowed on or at Mortara's property at 319 El Vedado Way, Palm Beach, FL waterward of the existing seawall (mean high water line) except only a lateral wharf not more than six feet in width (north to south) and twenty feet in length (east to west) and no closer than fifteen feet to a property line of either Laurel's property or Wister's property (an "Allowed Dock"). Nothing herein shall prevent reconstruction, repair or replacement of the

existing seawall in substantially the same location, and such construction shall not diminish the size of the Allowed Dock.

ii. No sail boat, jet ski, wave runner or other motorized vessel shall be kept or docked at an Allowed Dock or operated therefrom and no mooring whip, mooring lift, or other mooring device or piece of mooring equipment to permit the docking, securing or storage of such a sail boat, jet ski, wave runner or other motorized vessel shall be installed on Mortara's property at 319 El Vedado Way, Palm Beach, Florida or any Allowed Dock thereat.

b) Recordation of Agreement and Declaration of Restrictive Covenants. Mortara agrees to execute in recordable form, deliver to Laurel and Wister, and record (or, at their election, allow them to record) the Agreement and Declaration of Restrictive Covenants in the form attached hereto and made a part hereof as Exhibit A ("Declaration of Restrictive Covenants") in the official records of Palm Beach County, Florida promptly upon granting of the Variance Application by the Town Council of the Town of Palm Beach, Florida.

b) Agreement by Wister and Laurel not to Oppose Variance Application.

Wister and Laurel agree that they will not oppose the granting of the Variance Application provided it is made expressly subject to the and conditioned upon the limitations and conditions set out at section 2(a)(i) and 2(a)(ii) above and provided, further, that Mortara deliver a duly executed original of the Declaration of Restrictive Covenants upon granting of the Variance Application by the Town Council of the Town of Palm Beach.

### 3. Settlement of Contested Disputes.

Laurel, Wister and Mortara are entering into this Agreement in order to settle contested disputes between the Parties in the Variance Proceeding. Entry into the Agreement shall not constitute an admission of any fault, liability, or wrongdoing on the part of any of the Parties. This Agreement shall not, and cannot, be offered by the Parties or their representatives, assignees, or subsidiaries, as evidence in any civil or administrative proceeding, unless the proceeding is based upon alleged non-compliance with the terms of this Agreement.

### 4. Breaches and Waivers.

Laurel, Wister and Mortara agree that the waiver of any breach of this Agreement, or section thereof, by any Party shall not be deemed a waiver of any other subsequent or prior breach by any Party.

### 5. Attorneys Fees and Other Costs and Damages.

In the event any litigation, action, or proceeding in court, any state or local agency, council or commission concerning this Agreement or the enforcement, validity or interpretation hereof, the prevailing party shall be entitled to the payment of all their costs, expenses and fees including, without limitation, reasonable attorney's fees.

6. Notice.

Any and all notices required or permitted to be delivered pursuant to the terms of this Agreement shall be effective upon receipt, but in any event no later than three (3) days after posting by United States Mail, certified or registered, postage pre-paid or one (1) day after delivery to an overnight courier service such as Federal Express to the addresses listed below. Any of the Parties described herein may change their address by giving notice to all of the Parties set forth in this subsection.

Laurel:

6100 Red Hook Quarter, B3St. Thomas, VI 00802

Attention: Darren K. Indyke, Vice President

Mortara:

Mrs. Virginia Mortara

P.O. Box 145  
Harrington Park, N.J. 07640

Wister:

Mrs. Diana S. Wister  
335 El Vedado Way  
Palm Beach, FL 33480

7. Opportunity to Cure.

Prior to the institution of any litigation, action or proceeding of any kind to enforce this Agreement or the restrictive covenants contemplated herein, the aggrieved Benefitted party or Parties shall provide Mortara written notice as set forth above describing the alleged violation. Mortara shall have Five (5) business days from receipt of such notice to cure any alleged violation.

8. Non-Admission of Claims.

This Agreement represents a good-faith settlement of the Variance Proceeding without an admission by any Party as to the merits of any claim(s) or counterclaim(s) raised by any

other Party in the action.

9. Enforcement.

Each Party to this Agreement shall have the right to enforce this Agreement through any remedy available, in law or equity, including, but not limited to, a suit for damages, specific performance or other injunctive relief. If legal action is taken to enforce this Agreement, the prevailing party shall be entitled to recover reasonable attorney's fees incurred in enforcing the Agreement, including fees incurred on any appeal.

10. Jurisdiction; Venue; Governing Law.

The Parties agree that the venue with regard to any action brought to enforce the terms and the subject matter of this Agreement shall be in a court of competent jurisdiction located in Palm Beach County, Florida. The Agreement shall be enforced and construed according to the laws of the State of Florida.

11. Binding Upon Successors/Related Parties.

The terms of this Agreement shall be binding upon and shall inure to the benefit of the Parties. Parties shall also include their officers, directors, shareholders, partners (both limited and general), managers, members, employees, agents, servants and representatives of entities, related entities and individuals and the personal representatives and heirs of individuals, as well as the successors and assigns of all of them.

12. Effective Date.

The effective date of this Agreement is the date in which the last Party to the Agreement executes same.

13. Agreement Null and Void.

This Agreement shall automatically become null and void and of no further force and effect in the event the Town of Palm Beach denies the Variance Application, as it may be modified or amended in the Variance Proceeding and does not grant any new, substituted, or related variance to Mortara for a dock or related matter within three months hereof.

14. Counterparts.

This Agreement may be executed in counterparts or via facsimile and shall be as binding as if an original.

(Signatures on following Page)

AGREED UPON and EXECUTED as of the date indicated below each signature:

\_\_\_\_\_  
Virginia L. Mortara

Date: March 12, 2013

Laurel, Inc.

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

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

Its: \_\_\_\_\_

Date: \_\_\_\_\_, 2013

\_\_\_\_\_  
Diana S. Wister

Date: \_\_\_\_\_, 2013