

SETTLEMENT AGREEMENT AND RELEASE OF CLAIMS

1. This Settlement Agreement and Release of Claims is made and entered into by and between Named Plaintiffs, acting individually and on behalf of the class defined below, and Defendants in the matter known as *Eliason v. Gentek Building Products, Inc., et. al.*, Case No. 1:10-cv-2093, pending in the United States District Court for the Northern District of Ohio, Eastern Division, before the Honorable Benita Y. Pearson. The Consolidated Master Class Action Complaint (“Complaint”) in the action was filed on September 19, 2012 as Doc. No. 102 on the *Eliason* docket.

2. Named Plaintiffs in the action are the following: DONALD ELIASON, TODD MOOS, VALDIE MAGSTADT, RUTH HANSON, GERALD HERNING, JACQUELINE HERNING, DOUGLAS and KAREN LAMM, ROBERT PATRICK, PATRICK FLECK, GARY and DONNA MCINTYRE, RHEA CLARK, DUSTIN JOHNSON, RICHARD WROUGHTON, VIRGINIA STROH, and KEVIN and CHARLENE OLSON. Defendants are Gentek Building Products, Inc. and Associated Materials, LLC.

3. Named Plaintiffs are settling this case and releasing claims on behalf of a class certified for settlement purposes only, as set forth below in paragraph 25.

DEFINITIONS

4. “**Class**,” “**Settlement Class**,” “**Class Members**” shall mean all persons, organizations, municipalities, corporations and entities that own property, whether commercial or residential, on which Gentek Steel Siding was applied during the period January 1, 1991 through the Notice Date, that is covered by a Gentek Steel Siding warranty and which siding experienced Steel Peel. Excluded from the Settlement Class are Defendants, Defendants’ employees, Defendants’ subsidiaries, the Judge to which this case is assigned and the immediate

family of the Judge to which this case is assigned, those who repaired the Steel Siding on their own, those who previously accepted a cash remedy from Gentek in lieu of a repair or replacement (though only with respect to the particular face for which the cash remedy was previously accepted), and those who previously sued Gentek claiming that their Siding experienced Steel Peel and that lawsuit was resolved through a settlement or decision by a court or arbitrator.

5. “**Class Representatives**” shall mean Virginia Stroh and Robert Patrick.

6. “**Court**” shall mean the Northern District of Ohio and the Honorable Benita Y. Pearson who presides over this matter.

7. “**Defendants**” shall mean Gentek Building Products, Inc. and Associated Materials, LLC.

8. “**Effective Date**” shall have the meaning set forth in paragraph 31 below.

9. “**Execution Date**” shall mean the date this Settlement Agreement is signed by all the parties.

10. “**Final Order and Judgment**” shall mean an order and judgment entered by the Court as set forth in paragraphs 31 and 50 below.

11. “**Gentek Steel Siding**” refers to certain steel siding under the following brand names: Gentek; Alside; Revere; Alcan; Reynolds. The steel siding covered by this settlement includes all steel siding made by Gentek, including, but not necessarily limited to, the following: Steelside, Steeltek, Driftwood, Universal, Willow, Westwood, Aspen, Sequoia, Americut, Cedarwood, Supergard, Seamless, Reynolds Continuum, Reynolds Craftmark, Perma-Finish, Saddlewood, and Satinwood. Note that the product name alone will not necessarily indicate that the siding is a Gentek product as there may be instances where other siding manufacturers

produced a siding with the same name. For example, Saddlewood and Satinwood were made by Edco for a period of time and the Edco products are not included in this settlement as Gentek has no responsibility for products made by Edco or other manufacturers.

12. **“Gentek Warranty”** or **“Gentek Steel Siding Warranty”** refers to a warranty provided with respect to any siding defined as Gentek Steel Siding.

13. **“Participating Class Member(s)”** shall mean all Class Members who do not opt out as provided in paragraphs 38-39 below.

14. **“Parties”** shall mean Plaintiffs and Defendants.

15. **“Defendants’ predecessors-in-interest”** shall include the following entities: Alcan, Revere, and Alside.

16. **“Notice”** means the notice describing the Parties’ proposed Settlement to Settlement Class Members, as approved by the Court in the Preliminary Approval Order; **“Notice Administrator”** shall mean Gilardi & Co., LLC and their related entity, Larkspur Design Group; and **“Notice Date”** shall mean the date that Notice is first disseminated.

17. **“Preliminary Approval Order”** shall mean an order of this Court preliminarily approving the Settlement.

18. **“Released Parties”** shall mean Defendants and any parent, subsidiary, affiliate, predecessor or successor, and all agents, employees, officers, directors and attorneys thereof.

19. **“Settlement”** or **“Settlement Agreement”** shall mean this Settlement Agreement, and the settlement for which it provides, resolving all claims brought against Defendants, as well as all exhibits attached hereto or incorporated herein by reference.

20. **“Settlement Class Counsel”** means Gary E. Mason of Whitfield Bryson & Mason LLP; Charles LaDuca of Cuneo Gilbert & LaDuca, LLP; Barbara Quinn Smith of

Maddox Hargett & Caruso, P.C.; John A. Peca of Climaco, Wilcox, Peca, Tarantino, & Garofoli Co., LPA; Charles E. Schaffer of Levin Fishbein Sedran & Berman; Craig Boeckel of Boeckel Law Office; Robert K. Shelquist of Lockridge Grindal Nauen, PLLP; Michael McShane of Audet & Partners, LLP; Shawn M. Raiter of Larson King LLP; Shanon J. Carson of Berger & Montague, P.C.; Michael D. Plachy of Rothgerber Johnson & Lyons LLP; Eric D. Holland of Holland, Groves, Schneller & Stolze; Richard J. Arsenault of Neblett, Beard & Arsenault; and Jordan Chaikin of Parker Waichman, LLP.

21. “**Steel Peel**” shall mean the following conditions, characterized by the separation of any layer of the finish on the steel siding from the steel siding itself: delamination, chipping, peeling, cracking and/or micro-cracking, blistering and/or flaking.

BACKGROUND

22. On September 20, 2010, Plaintiff Donald Eliason filed a class action lawsuit against Defendants alleging claims related to allegedly defective steel and aluminum siding and alleged, *inter alia*, breaches of warranty related to those same products. The case was *Eliason v. Gentek Building Products, et. al.*, 1:10-02093 (N. D. Ohio, Eastern Division). Subsequently, the following additional cases were filed:

- *McIntyre v. Gentek Building Products, et. al.*, 1:11-03401 (D. Colo.);¹
- *Clark v. Gentek Building Products, et. al.*, 2:12-02023 (D. Kan.);
- *Fleck v. Gentek Building Products, et. al.*, 0:11-03234 (D. Minn);
- *Patrick v. Gentek Building Products, Inc.*, 4:11-01891 (E.D. Mo.);
- *Stroh v. Gentek Building Products, Inc.*, 1:11-02232 (N.D. Ohio, Eastern Div.)
- *Wroughton v. Gentek Building Products, et. al.*, 1:11-2719 (N.D. Ohio, Eastern Div.);
- *Johnson v. Gentek Building Products, et. al.*, 0:12-00376 (D. Minn).

23. On September 6, 2012, all cases were consolidated before Judge Pearson in the Northern District of Ohio, Eastern Division. On September 19, 2012, the Master Consolidated Class Action Complaint was filed.

24. On November 13, 2012, the Parties participated in a mediation in San Francisco, California before mediator Anthony Piazza. This settlement is a result of that mediation.

CERTIFICATION OF A SETTLEMENT CLASS

25. For purposes of settling the lawsuit only, the Parties conditionally stipulate and agree that the requisites for establishing class certification have been met and that the following shall be the definition of the "Settlement Class": "All persons, organizations, municipalities, corporations and entities that own property, whether commercial or residential, on which Gentek Steel Siding was applied during the period January 1, 1991 through the Notice Date, who are covered by a Gentek Steel Siding warranty and whose siding experienced Steel Peel." Excluded from the Settlement Class are Defendants, Defendants' employees, Defendants' subsidiaries, counsel for both parties, the Judge to which this case is assigned and the immediate family of the Judge to which this case is assigned, those who repaired the Steel Siding on their own, those who previously accepted a cash remedy from Gentek in lieu of a repair or replacement (though only with respect to the particular face for which the cash remedy was previously accepted), and those who previously sued Gentek claiming that their Siding experienced Steel Peel and that lawsuit was resolved through a settlement or decision by a court or arbitrator.

26. In particular, for purposes of settling the lawsuit only, the Parties conditionally stipulate and agree that the following requisites have been met:

a. The Settlement Class is so numerous as to make it impracticable to join all Class Members.

- b. There is an ascertainable class.
- c. There are common questions of law and fact.
- d. Plaintiffs' claims are typical of the claims of the members of the Settlement Class.
- e. Settlement Class Counsel should be deemed "Settlement Class Counsel" and will fairly and adequately protect the interests of the Settlement Class.
- f. Settlement Class Representatives will fairly and adequately protect the interest of the Settlement Class.
- g. The prosecution of separate actions by individual members of the Settlement Class would create the risk of inconsistent or varying adjudications, which would establish incompatible standards of conduct.
- h. Questions of law and fact common to the members of the Settlement Class predominate over questions affecting individual members in the Settlement Class and a class action is superior to other available means for the fair and efficient adjudication of the controversy.
- i. The "Class Period" shall be the period from and including January 1, 1991 through and including the Notice Date.

PRELIMINARY APPROVAL OF THE SETTLEMENT

27. On or before February 11, 2013, Settlement Class Counsel shall submit to the Court a motion for: (a) preliminary approval of the Settlement; (b) certification of the Settlement Class; and (c) authorization to disseminate notice of the Settlement. The costs of notice and claims administration shall be paid by Defendants in an amount agreed to by the Parties, which amount will cover the notice plan and administration set forth in the Declaration of Alan

Vasquez as it relates to this Settlement. The Motion shall include a proposed order preliminarily approving this Settlement and a proposed form of, method for, and date of dissemination of notice. The text of the foregoing items shall be agreed upon by Settlement Class Counsel and Defendants before submission to the Court. The agreed-upon Proposed Preliminary Approval Order and Notice of Settlement are attached hereto as Exhibits A and B, respectively. The Motion shall recite and ask the Court to find that the proposed form of and method for dissemination of the notice of settlement is valid, due and sufficient notice to the Settlement Class, constitutes the best notice practicable under the circumstances, and complies fully with the requirements of Federal Rule of Civil Procedure 23. The Motion shall request approval of the notice and preliminary approval of the Settlement.

28. The Parties will move jointly for a Preliminary Approval Order:

a. Preliminarily certifying the Settlement Class and preliminarily approving the Settlement;

b. Approving the proposed form of and method for dissemination of the notice of settlement as valid, due and sufficient notice to the Settlement Class, and that it constitutes the best notice practicable under the circumstances, and complies fully with the requirements of Federal Rule of Civil Procedure 23; and

c. Setting a date for the Fairness Hearing.

29. Should the settlement not be approved by the Court or otherwise fail to become final, the Parties agree that no determination has been made regarding class certification for purposes of continuing to litigate the case, that none of the requisites for class certification (including those set forth in the preceding Paragraph 26) have been established or conceded by any party hereto, and that this Settlement Agreement, or any term hereof, may not be used as

evidence to establish or not establish the existence of a certifiable class, or any prerequisite of same. Plaintiffs believe they have filed a meritorious action and that class certification is appropriate. Defendants deny any liability or wrongdoing of any kind associated with the claims alleged in the Complaint and further deny that, for any purpose other than settling this lawsuit, this action is appropriate for class treatment.

TERMS OF SETTLEMENT

30. **Settlement Benefits:** Defendants agree to enhance their warranty procedures for Class Members whose Gentek siding was installed during the Class Period and who submit valid warranty claims related to Steel Peel. Class Members can prove their siding is experiencing Steel Peel by submitting photographs or other evidence demonstrating the problem on the building.

a. **Proof of Purchase:** (a) The Parties acknowledge that Defendants are only responsible for providing remedies for siding they manufactured and warranted. Class Members submitting a warranty claim must provide proof that their property contains siding manufactured by Defendants or Defendants' Predecessors-in-interest. The following will be acceptable proof for Class Members submitting Steel Peel claims:

- (i) A copy of the warranty that covers their siding;
- (ii) An invoice referencing Defendants' siding;
- (iii) A receipt referencing Defendants' siding;
- (iv) An affidavit from the distributor attesting to the fact that they sold

Defendants' siding to or for the benefit of the Class Member, along with the approximate date of installation. Defendants will provide a form of affidavit for Class Members to use for this purpose; or

(v) A sample of the siding (minimum 1 foot) that Defendants are able to verify as one of their products.

(b) Defendants retain the right to validate, at their option and their cost, that the siding is their product before providing a remedy under the warranty or under the terms of this Settlement Agreement.

(c) Defendants will not deny warranty coverage to any Class Member based upon a failure to register their warranty at the time of purchase.

b. **Meaning of Face:** A face is one continuous section of the structure. Typically one face is separated from another by an outside corner. An outside corner is a corner wherein the angle (measured through the air, not through the house or other structure) is greater than 180 degrees. Walls inside two outside corners typically constitute a single face. The parties recognize that it is impossible to provide a definition of “face” that will cover all of the varieties of irregular construction of homes or other structures and that there may be instances where the preceding definition of “face” does not fit and cannot apply. In that event, Gentek will apply the following criteria to determine a “face:” the smallest full section of a structure experiencing Steel Peel that would need to be repaired to ensure that the section in question displays a color and appearance which is consistent with itself. With respect to such instances of irregular construction, in the event the Class Member does not agree with Gentek’s determination of the extent of the section needing repair, the Class Member will discuss the disagreement with Gentek. Gentek will make a good faith decision based on industry norms.

c. **Claims process:** For Class Members submitting Steel Peel claims, the following exclusive repair (i.e., “refinishing,” or “repainting”) or replace (i.e., replacement of the damaged siding) program will be in effect:

(i) The first time a Class Member submits a valid warranty claim for a face, the Defendants may, at their option, elect to repair or replace the entire face. In addition to Defendants' offer to repair or replace, Defendants shall offer a cash settlement equal to Defendants' cost of the option selected (repair or replacement), in lieu of repair or replacement. The Class Member may choose to elect the repair or replacement of the entire face, whichever Defendants offer, or a cash settlement offer, equal to Defendants' cost of the option selected (repair or replacement), in lieu of repair or replacement;

(ii) The second time a valid warranty claim is submitted for that same face, Defendants may, at their option, elect to repair or replace the entire face. In addition to Defendants' offer to repair or replace, Defendants shall offer a cash settlement equal to Defendants' cost of the option selected (repair or replacement), in lieu of repair or replacement. The Class Member may choose to elect the repair or replacement of the entire face, whichever Defendants offer, or a cash settlement offer, equal to Defendants' cost of the option selected (repair or replacement), in lieu of repair or replacement;

(iii) In the event a face experiences Steel Peel for a third time, the Class Member may choose to have Defendants either refinish or replace the face, or may elect to receive a one-time \$8,000 payment. If the Class Member chooses the \$8,000 payment, Defendants will have no further obligation to the Class Member or any future property owner under the warranty.

(iv) Previous repairs made by Defendants to Class Members' Siding which occurred before the date of Final Approval of this Settlement in connection with Class Members' warranty claims count towards attempts at repair under this Settlement.

(v) If replacement is given or chosen as a remedy, whether pursuant to paragraphs (i), (ii) or (iii) above, the replacement siding provided will match the existing siding, if Defendants have or can obtain existing siding. If the siding color is no longer available, the Class Member may select a replacement color from the same product line which would maintain their current warranty coverage. If 3 of 4 separate faces of a building (or 75% or more of all faces) are affected, Defendants will replace the siding on the entire structure in the Class Member's color of choice, subject to availability.

(vi) Although there may be more than one Class Member (e.g., spouses) who purchased siding for a structure, only one warranty shall apply to each installation. For avoidance of doubt, if Class Member A makes a claim under a warranty that results in an \$8,000 payment, neither Class Member A nor Class Member B may later make a claim under the same warranty. All rights under the warranty will be extinguished.

(vii) Any sums due to Gentek under the applicable warranty for a Steel Peel claim shall be paid only at the time the first claim for Steel Peel is submitted by the Class Member.

d. **Timing of repairs:** The Parties acknowledge that the ability to complete a repair may be affected by many factors including weather, availability of contractors in times of unusual demand, homeowner absences, and more. For Class Members who have not yet submitted a Steel Peel claim for Repair under the Settlement, the following will govern Defendants' Repair warranty obligation:

(i) Defendants will have 18 months from the time a claim is perfected and completed authorization from the homeowner is received to complete the repair;

(ii) "Perfection" of the claim, or a claim being "perfected," means that the Class Member has submitted a valid Proof of Purchase and Defendants' Self-Inspection Report.

(iii) With respect to proof of purchase only, the perfection of a Class Member's claim will remain valid for any subsequent claims made for the same installation. The Class Member will still need to provide evidence of damage, as provided for in paragraph 30 ("photographs or other evidence demonstrating the problem on the building"), for any subsequent claim.

(iv) Defendants' obligation to complete the repair within 18 months will be suspended where Defendants' efforts to repair the property have been impeded by conduct of the Class Member or persons acting on their behalf, including but not limited to the Class Members' absence from the property such that the repair work cannot be scheduled or completed. By way of example, if the Class Member is absent from the property when the contractor arrives to perform the repair at a time previously agreed to by the Class Member such that the repair cannot be performed at that time, Defendants shall not be responsible for completing the repair within the 18 month period. By way of a second example, if the Class Member does not cooperate in scheduling the repair such that it can be completed within the 18 month period, Defendants shall not be responsible for completing the repair within the 18 month period. These two examples are illustrative only and are not meant to set forth all of the circumstances under which the 18 month period will be suspended as a result of conduct of the Class member or persons acting on their behalf.

(v) Defendants' obligation to complete the repair within 18 months shall also be suspended in the event of unanticipated and unusual events such as *force majeure*,

including but not limited to war, strike, fire, riot, crime, "act of God" (such as hurricane, flood, earthquake, etc.), which reasonably interfere with Defendants' ability to repair the siding.

(vi) If Defendants do not complete the repair within the 18 month period, through no fault of the Class Member or persons acting on the Class Member's behalf or any of the conditions described in the immediately preceding subparagraph (v), the Class Member may choose one of the options, as described above in this Paragraph 30(c)(iii) and on the same terms described in this Paragraph 30(c)(iii).

e. **Cap on 18 month repair obligation:** The Parties acknowledge that there are a limited number of contractors available to perform repair work and that events, including but not limited to notice of this settlement, could lead to an unusual increase in claims for some period of time that would render it impossible for Defendants to complete all of the work within the prescribed 18 month period and/or to complete it to the standard of quality that Defendants and Class Members desire. Therefore, to better ensure quality of workmanship, the Parties agree that there should be a cap on the number of repairs Defendants should be required to complete within the 18 month period. The cap shall be no more than 750 repairs in a calendar year. In the event that Defendants receive repair requests that exceed that number, the affected Class Members shall be notified that, under the terms of this Settlement Agreement, Defendants are permitted more than 18 months to complete their repair work without penalty. By way of example, assume Defendants receive 750 perfected claims for repair (Class Member or not) in calendar year 2013. If perfected claim number 751 is from a Class Member, the Class Member will be advised that Defendants will use commercially reasonable efforts to complete their repair within 18 months, but that their inability to do so will not entitle the Class Member to claim \$8,000 as a remedy.

f. With regard to claims already in process on the Effective Date, the 18 month period referenced above shall begin on the Effective Date and such claims shall be counted towards the cap referred to in paragraph d. However, the cap on Defendants' 18 month repair obligation will be pro-rated during the calendar year of the Effective Date. For example, if the Effective Date of the Settlement is July 1, 2013, the cap on Defendants' 18 month repair obligation for the calendar year 2013 shall be 375. Beginning on the January 1 immediately following the Effective Date of the Settlement, the 18 month period shall start on that January 1, and shall re-set on each January 1 thereafter. The parties agree that under no circumstances will a claim be deemed to fall outside of the cap more than once.

g. Gentek shall provide periodic reporting to a designated Settlement Class Counsel regarding the number of claims made and their aging status.

h. With regard to Named Plaintiffs' and Class Members' claims in process as of the Effective Date that have been pending for 18 months or more, Gentek will make reasonable efforts to complete those claims within 6 months except where any of the following impede completion within that time period: (1) conduct by the homeowner; (2) weather conditions; (3) unanticipated and unusual events such as *force majeure*.

i. **No other modifications of warranty:** Except as specifically provided in this Paragraph 30, no modifications or expansions to the warranties are agreed to or intended. For example, a warranty that does not apply to recreational vehicles or roofing, cannot apply to recreational vehicles or roofing by virtue of this agreement. By way of second example, a warranty that applies on a pro-rated basis to first subsequent owners of property covered by a warranty, shall still apply only on a pro-rated basis and shall continue to be limited in time, notwithstanding that the first subsequent owner is a Class Member entitled to the enhanced

benefits of this Settlement Agreement. By way of third example, a warranty that does not apply to subsequent owners beyond the first subsequent owner (who are not Class Members), will not apply to any further subsequent owners by virtue of this agreement. By way of fourth example, a warranty limited in time as to a corporate owner, will continue to be limited in time, notwithstanding that the corporate owner is a Class Member entitled to the enhanced benefits of this Settlement. These four examples are illustrative only and are not meant to identify all possible ways in which the warranty coverage is not extended or modified by virtue of this agreement.

j. For purposes of this Settlement, a builder or developer shall not count as the “original owner” if it did not reside in, or conduct business from, the structure.

EFFECTIVE DATE

31. The settlement embodied in this Settlement Agreement shall go into effect on the Effective Date. The Effective Date shall be the date when each of the following have all occurred:

a. Final approval by the Court of the Settlement Agreement, following notice to the Settlement Class and a Fairness Hearing, in accordance with Rule 23 of the Federal Rules of Civil Procedure;

b. Entry by the Court of a Final Order and Judgment in all material respects in the form set forth in Exhibit C, attached hereto (with only such changes in form as may be agreed to by Parties); and

c. The expiration of any time for appeal, review or alteration of such Final Order and Judgment, or, if any appeal is filed and not dismissed, after such Final Order and

Judgment is upheld on appeal in all material respects and is no longer subject to review upon appeal by writ of certiorari, or alteration in any respect.

32. Should the Court determine not to approve this Settlement Agreement, then either Plaintiffs or Defendants may, at their option, withdraw from the settlement and resume litigation of the case.

FEES, REIMBURSEMENT OF EXPENSES
FOR SETTLEMENT CLASS COUNSEL, AND INCENTIVE PAYMENTS TO CLASS
REPRESENTATIVES

33. In consideration for settling this matter and in exchange for the release of all claims by the Settlement Class, and subject to final approval by the Court, Defendants agree that Settlement Class Counsel should be awarded \$2,500,000 in attorneys' fees and reimbursement of expenses, subject to final approval by the Court. That sum is to compensate Class Counsel for all of the work already performed in this case and all of the work remaining to be performed in documenting the settlement, securing Court approval of the settlement, making sure that the settlement is fairly administered and implemented, and obtaining dismissal of the action. That sum is also to compensate Class Counsel for expenses incurred and to be incurred in the case.

34. Defendants shall pay the attorneys' fees and costs awarded by the Court to Settlement Class Counsel (as per the Settlement Agreement, not to exceed \$2,500,000) within 10 days after the Effective Date.

35. Subject to the approval of the District Court, Gentek will pay an incentive award to the Named Plaintiffs over and above any amounts to which they may otherwise be entitled under the Settlement to compensate them for their services in connection with this litigation. Gentek has agreed to pay a total of \$ 25,000 within 10 days of the Effective Date to an account designated by Class Counsel for distribution to the Named Plaintiffs. Gentek will not object to a

request for incentive awards totaling more than its \$25,000 obligation, subject to the limitation that its share will be limited to \$25,000. The ultimate amount of incentive award paid to each Named Plaintiff shall be determined by Class Counsel and be subject to Court approval. Subject to the above limitation, the amount of incentive award paid to each Named Plaintiff shall be determined by Class Counsel and be subject to Court approval.

NOTICE TO THE PLAINTIFF CLASS

36. Within ten (10) days after entry of the Preliminary Approval Order (“Notice Date”) preliminarily certifying the Settlement Class, or such other date as the Court may authorize, Defendants shall cause to be disseminated the Class Settlement Notice approved by the Court as follows:

a. Direct notice of the Notice of Settlement through first-class mail or e-mail to the approximately 13,000 individuals known by Defendants to have filed warranty claims;

b. Direct notice of the Notice of Settlement through purchase of a national contractor database and dissemination of notice to those contractors in the following States; Colorado, Illinois, Kansas, Missouri, Nebraska, Oklahoma, Texas, Wyoming, Arkansas, Idaho, Iowa, Minnesota, Montana, New Mexico, North Dakota, Pennsylvania, South Dakota, Utah, and Wisconsin;

c. Publishing a summary notice nationwide in national Magazines appropriate for the defined Target Audience identified in the Declaration of Alan Vasquez Re Dissemination of Notice to Class Members (*Builder Magazine*);

d. Publishing a summary notice in the nationwide (Monday through Thursday) edition of *USA Today*;

e. Publishing a summary notice in regional editions of Parade Magazine, which is inserted into Sunday editions of major newspapers in the States identified in subparagraph (b), above;

f. Sponsored Links advertising on major search engines;

g. Targeted Content Advertising through Steel Media Network, including focus on sites that fit within the demographic profile of the Settlement Class;

h. Display advertising through the Google Display Network;

i. A case dedicated website;

j. A toll-free number through which Class Members can request information; and

k. Targeted press releases through PR Newswire.

37. Defendants will pay costs of Notice as provided in Paragraph 27, *supra*.

EXCLUSION FROM THE SETTLEMENT

38. No later than 45 days after the Notice Date, Class Members must request exclusion or opt out from the Settlement Class in accordance with paragraph 39. If the Settlement is finally approved by the Court, all Class Members who have not opted out by the end of the 45-day period, pursuant to the terms set forth in paragraph 39, will be bound by the Settlement, and the relief provided by the Settlement will be their sole and exclusive remedy for the claims alleged Defendants by the Class.

39. Requests for exclusion must be: (a) in writing, dated, include the Class Member's name, phone number and the Class Member's mailing address and the property address where the siding was installed, if different; (b) include an express statement of desire to be excluded from the Settlement Class; (c) signed by the Class Member and must advise that the Class Member is requesting exclusion from the Class and this Settlement – any request made verbally

or signed by counsel as opposed to the Class Member themselves, shall not be sufficient notice of the Class Member opting out of this Settlement; (e) mailed to the Notice Administrator; and (e) postmarked within the 45-day period described in paragraph 38. Requests for exclusion sent by a Class Member to incorrect locations shall not be valid.

40. Settlement Class Counsel shall file a list of all opt outs and copies of their opt-out forms with the Court at the same time they file their memorandum in support of final approval of the Settlement, which is no later than 34 days before the Fairness Hearing.

41. The Parties acknowledge and agree that if there are substantial exclusions from the class, exposing Defendants to the potential for individual claims by Class Members presently or in the future, the financial considerations and risks associated with this settlement for Defendants would change. Therefore, the Parties agree that if more than 250 Class Members choose to exclude themselves from the Settlement Class, Defendants may, in their sole discretion, elect to terminate the settlement. Defendants shall advise Settlement Class Counsel in writing of their decision to terminate the settlement no later than 10 days after expiration of the last day to submit requests for exclusion. Along with the termination notice, Defendants must provide copies of each written exclusion on which they rely. Defendants may withdraw their election to terminate the Settlement. Settlement Class Counsel may attempt to cause any Class Member(s) to retract their exclusion. If Defendants have exercised the cancellation option and if Class Counsel cause retraction of one or more requests for exclusion, with the effect that the total number of exclusions is less than 250, then Defendants' attempted termination will be ineffective, and deemed a nullity. To retract a prior request for exclusion, a Class Member must provide to Class Counsel a written notice stating their desire to retract their request for exclusion from the Settlement Class and such retraction must be deemed effective by the Court..

OBJECTIONS

42. Any Class Member who has an objection to certification of the class and/or approval of this settlement or any terms hereof, must make that objection according to the following procedure:

- a. The objection must be in writing and post-marked no later than 45 days after the Notice Date;
- b. The objection must set forth all objections and the reasons therefore, and must include any written material on which the objection is based or on which she intends to rely;
- c. The objection must state whether the Class Member or her lawyer intends to appear at the Fairness Hearing and must identify any witnesses intended to be called, the subject area of the witnesses' testimony, and all documents to be used or offered into evidence, at the Fairness Hearing;
- d. The objection must be signed by the Class Member and Class Member's counsel - an objection signed by counsel alone shall not be sufficient;
- e. The objection must contain the caption of this litigation and include the name, mailing address, property address where the siding was installed, date of purchase, and telephone number of the Class Member; and
- f. The objection and/or any notice of intent to appear at the Fairness Hearing must be mailed to:

The Court:

Clerk of the Court
United States District Court for the Northern District of Ohio
Thomas D. Lambros Federal Building and U.S. Courthouse
125 Market Street

Youngstown, Ohio 44503

Class Counsel:

WHITFIELD BRYSON & MASON LLP
Gary E. Mason
1625 Massachusetts Ave., NW
Suite 605
Washington, DC 20036

OR

CUNEO GILBERT & LADUCA, LLP
Charles J. LaDuca
8120 Woodmont Avenue
Suite 810
Bethesda, MD 20814

OR

MADDOX HARGETT & CARUSO, P.C.
Barbara Quinn Smith
9930 Johnnycake Ridge Road
Suite 3F
Mentor, OH 44060

Gentek Building Products, Inc.:

QUINN EMANUEL URQUHART & SULLIVAN, LLP
Karin Kramer
50 California Street
33rd Floor
San Francisco, California 94111

Objections sent by Class Members to incorrect addresses shall not be valid.

43. Failure to comply timely and fully with these procedures shall result in the invalidity and dismissal of any objection. Class Members who fail to file and serve timely written objections as specified in paragraph 42 shall be deemed to have waived any objections and shall not be heard at the Fairness Hearing and shall be foreclosed from making any objections (whether by appeal or otherwise) to this Settlement.

44. Settlement Class Counsel shall be obliged to file any objections with the Court at the same time they file their memorandum in support of final approval of the Settlement.

RELEASE BY THE CLASS

45. It is the desire of the Parties to fully, finally, and forever settle, compromise, and discharge all disputes and claims which exist between them arising from the underlying allegation that Defendants or either of them engaged in unlawful conduct as alleged in the Complaint. In order to achieve a full and complete release of Defendants from such disputes and claims, each Class Member through execution of the Settlement Agreement by the Class Representatives, acknowledged that this settlement is intended to include in its effect all claims arising from the underlying allegation that Defendants or any of them engaged in unlawful conduct, including all claims set forth in the Complaint and any claims that could have been set forth in the Complaint. Further specification of the release by the Class Members is set forth below. Upon final approval by the Court, each Class Member, releases the following: Defendants and any current, former, and future parent, subsidiary, affiliate, predecessor or successor, and all agents, employees, officers, directors and attorneys thereof (collectively, "Released Parties"). The Class Members release the Released Parties from any and all claims, debts, liabilities, obligations, guarantees, costs, expenses, attorneys' fees, damages, rights or equitable, legal or administrative relief, of any basis or source, whether known or unknown, that were, have been, or could have been, now, in the past, or in the future, asserted or alleged in this action or that relate to any aspect of the subject matter of this action whether such claims are contingent or absolute, mature or not yet mature, discoverable or undiscoverable, whether concealed or hidden, asserted or that might have been asserted against the Released Parties based upon, arising out of, or related in any way whatsoever to any of the facts, transactions, events, occurrences, disclosures, statements, acts, omissions or failures to act which were or could have

or might have been alleged in or embraced or otherwise referred to or encompassed by the Class Action, or which relate to the subject matter of the Class Action, regardless of upon what legal theory based, whether legal or equitable, including without limitation, claims for negligence, gross negligence, fraud, breach of warranty, violations of the common law, administrative rule or regulation, tort, contract, equity, or otherwise or of any state or federal statutes, rules or regulations.

TERMINATION OF THIS SETTLEMENT

46. Any party shall have the right to terminate and cancel this settlement upon any of the following events:

- a. The Court declines or fails to approve the Settlement Agreement as written.
- b. The Court declines to enter an order preliminarily approving the settlement.
- c. The Court does not hold a Fairness Hearing.
- d. The Order and Judgment dismissing this case are not entered by the Court, or are reversed by a higher court.
- e. The Court declines to dismiss the settling Defendants.
- f. Defendants decide, in their sole discretion to terminate the settlement because 250 or more potential Class Members have opted out of the settlement, as provided in Paragraph 42.

FAIRNESS HEARING

47. The Fairness Hearing shall be scheduled no earlier than 100 days following the date the Preliminary Approval Order is signed.

48. At the Fairness Hearing the Court shall, inter alia, (i) consider any properly filed objections to the Settlement, (ii) determine de novo whether the Settlement is fair, reasonable, and adequate, was entered into in good faith and without collusion, and should be approved, and shall provide findings in connection therewith, and (iii) enter the Final Order and Judgment, including final approval of the Settlement Class and the Settlement.

FINAL APPROVAL OF THIS SETTLEMENT AND DISMISSAL OF ALL CLAIMS

49. Settlement Class Counsel and Defendants shall recommend approval of this Settlement by the Court. The Parties shall use their best efforts to effectuate this Settlement, including cooperating in seeking judicial approval for the establishment of procedures (including the filing of class notice under Federal Rules of Civil Procedure 23(c)) to secure the prompt, complete, and final dismissals with prejudice of this litigation and Defendants.

50. The Settling Parties jointly shall seek entry of an Final Order and Judgment, the terms of which shall include:

- a. Finding that the notice given constitutes due, adequate and sufficient notice, and meets the requirements of due process, the Federal Rules of Civil Procedure, and any applicable state laws;
- b. Finding that Defendants have served upon the appropriate State official of each State in which a Class Member resides, and the appropriate Federal official, a notice of proposed settlement that complies with the requirements of the Class Action Fairness Act, 28 U.S.C. §§ 1711-15;
- c. Certifying the Settlement Class pursuant to Fed. R. Civ. P. 23(b)(3);
- d. Finding that the Settlement is fair, reasonable and adequate, was entered into in good faith and without collusion, and should be approved; and approves the Settlement;

e. Approving the Release provided in paragraph 45 and orders that, as of the Effective Date, the Released Parties will be released as to those claims;

f. Dismissing all of the Participating Class Members' claims against Defendants with prejudice;

g. Finding that, pursuant to Fed. R. Civ. P. 54(b), there is no just reason for delay of entry of final judgment with respect to the foregoing.

PARTIES' AUTHORITY

51. The signatories to this Settlement Agreement represent that they are fully authorized to enter into this settlement and bind the Parties to the terms and conditions set forth herein.

MUTUAL FULL COOPERATION

52. The Parties agree to cooperate with each other to accomplish the terms of this Settlement Agreement, including but not limited to, execution of such documents and taking of such other action as may reasonably be necessary to implement the terms of this settlement. The Parties to this Settlement Agreement shall use their best efforts, including all efforts contemplated by this Settlement Agreement and any other efforts that may become necessary by order of the Court, or otherwise, to effectuate this Settlement Agreement and the terms set forth herein. As soon as practicable after execution of this Settlement Agreement, Class Counsel shall, with the assistance and cooperation of Defendants and their counsel, take all necessary steps to secure the Court's final approval of this Settlement Agreement. In the event there is not a final settlement for any reason, including but not limited to the fact that the Court declines to approve the settlement on the terms set forth herein, the litigation shall return to its status as of the execution of this Settlement Agreement, and nothing in the Settlement Agreement shall be used to the prejudice of either party.

NO ADMISSION

53. Nothing contained herein, nor the consummation of this Settlement Agreement, is to be construed or deemed an admission of liability, culpability, negligence, or wrongdoing on the part of Defendants. Defendants specifically deny any liability. Each of the Parties hereto has entered into this Settlement Agreement with the intention to avoid further disputes and litigation and the inconvenience and expenses that further disputes and litigation would entail.

NO ADMISSIBILITY

54. The Parties specifically acknowledge, agree and admit that this Settlement Agreement, along with all related drafts and communications, shall be considered a compromise within the meaning of Federal Rules of Evidence 408 and any equivalent state rules of evidence, and not be offered as evidence in any court or other proceeding for any purpose, except in a proceeding to enforce the terms of the settlement.

CONSTRUCTION

55. The Parties hereto agree that the terms and conditions of this Settlement Agreement are the result of lengthy, intensive, arms-length negotiations between the Parties, and that this Settlement Agreement shall not be construed in favor of or against any party by reason of the extent to which any party or his, her, or its counsel participate in drafting of this Settlement Agreement.

CAPTIONS AND INTERPRETATIONS

56. Paragraph titles or captions contained herein are inserted as a matter of convenience and for reference, and in no way define, limit, extend, or describe the scope of this Settlement Agreement or any of its provisions. Each term of this Settlement Agreement is contractual and not merely a recital.

MODIFICATION

57. This Settlement Agreement may not be changed, altered, or modified, except in writing and signed by the same Parties whose signatures are below.

INTEGRATION CLAUSE

58. This Settlement Agreement contains the entire agreement between the Parties relating to the settlement and transaction contemplated hereby, and all prior or contemporaneous agreements, understandings, representations, and statements, whether oral or written and whether by a party or such party's legal counsel, are merged herein.

CLASS COUNSEL SIGNATORIES


59. It is agreed that because of the large number of Class Members, it is impossible or impractical to have each Class Member execute this Settlement Agreement and that Class Counsel and the Class Representatives may sign on behalf of the absent Class Members. The Notice will advise all Class Members of the binding nature of the release.

COUNTERPARTS

60. This Settlement Agreement may be executed in counterparts, and when each party has signed and delivered at least one such counterpart, each counterpart shall be deemed an original, and, when taken together with other signed counterparts, shall constitute one Settlement Agreement, which shall be binding upon and effective as to all Parties.

DATED: 2/13/13

QUINN EMANUEL URQUHART &
SULLIVAN, LLP

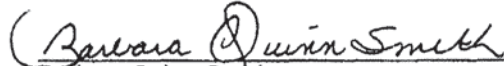
By 

Claude M. Stern
Attorney for Defendants Gentek Building
Products, Inc. and Associated Materials, LLC

DATED:

2/13/13


By


Barbara Quinn Smith
MADDOX HARGETT & CARUSO, P.C.

DATED:

2/13/13

By


Charles J. LaDuca
CUNEO GILBERT & LaDUCA, LLP

DATED:

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**Attorneys for Plaintiffs and the
Settlement Class**