

BERANBAUM MENKEN LLP

Bruce Menken
Jason Rozger
80 Pine Street, 33rd Floor
New York, New York 10005
(212)509-1616
(212)509-8088

MEHRI & SKALET, PLLC

Raymond C. Fay
Taryn Null
1250 Connecticut Ave NW, Suite 300
Washington, DC 20036
(202)822-5100
(202)822-4997 (fax)

Attorneys for Plaintiffs

OGLETREE, DEAKINS, NASH, SMOAK & STEWART, P.C.

Grant Petersen
David Copus
Dominick Capozzola
10 Madison Avenue, Suite 400
Morristown, NJ 07960
(973) 656-1600
(973) 656-1611

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

-----		Hon. Steven M. Gold, U.S.M.J.
ROBERTO RAMOS, <i>et al.</i> ,	:	Case No. 1:07-cv-00981-SMG
	:	
Plaintiffs,	:	<i>Civil Action</i>
	:	
v.	:	
	:	JOINT STIPULATION AND
	:	AGREEMENT REGARDING CLASS
SIMPLEXGRINNELL LP,	:	ACTION SETTLEMENT
	:	OF CLAIMS OTHER THAN “TESTING
Defendants.	:	AND INSPECTION CLAIMS”

**TO THE HONORABLE COURT, ALL PARTIES AND THEIR RESPECTIVE
COUNSEL OF RECORD:**

This Joint Stipulation Regarding Class Action Settlement (hereinafter “Stipulation” or “Settlement” or “Agreement”) is made and entered into by and between Plaintiffs Roberto Ramos, Frank Rodriguez, Jose Luis Maldonado, Jose Fernandez, Chris Maietta, Randy Wray,

Rogelio Smith, Agban Agban, Yadira Gonzalez, Maximo Estrella, Jr., Jaime Oyarvide, Nacim Bennekaa, Breno Zimerer, Omar Florez, and Rafiu Owolabi (“Plaintiffs” or “Class Representatives”), on behalf of themselves and on behalf of others similarly situated; and SimplexGrinnell LP (“SimplexGrinnell” or “Defendant”). Subject to the approval of the Court, the Action is hereby being compromised and settled with respect to claims other than Testing and Inspection Claims as explained below, pursuant to the terms and conditions set forth in this Stipulation. This Settlement shall be binding on Plaintiffs and the class they represent, and Defendant, subject to the terms and conditions hereof and the approval of the Court.

THE PARTIES STIPULATE AND AGREE AS FOLLOWS:

I. DEFINITION OF TERMS

The following terms, as used throughout this Stipulation, are defined as follows:

1. The Action. The term “the Action” shall refer to the legal action filed in the United States District Court, Eastern District of New York, Case No. 1:07-cv-0981(SMG), entitled *Roberto Ramos, et al., individually and on behalf of all other persons similarly situated who are or were employed by SimplexGrinnell LP with respect to Public Works Projects mentioned in this Complaint, v. SimplexGrinnell LP*, except that the claims alleged in the First Amended Complaint relating to Testing and Inspection Claims shall be excluded from this definition, and shall also be excluded from the definition of Settlement below, so that Plaintiffs may have the option to appeal the summary judgment ruling dismissing those claims.

2. Class Representatives or Plaintiffs. The terms “Class Representatives” or “Plaintiffs” shall refer to plaintiffs Roberto Ramos, Frank Rodriguez, Jose Luis Maldonado, Jose Fernandez, Chris Maietta, Randy Wray, Rogelio Smith, Agban Agban, Yadira Gonzalez, Maximo Estrella, Jr., Jaime Oyarvide, Nacim Bennekaa, Breno Zimerer, Omar Florez, and Rafiu Owolabi.

3. Defendant or SimplexGrinnell. The terms “Defendant” or “SimplexGrinnell” shall refer to the named defendant in the Action, SimplexGrinnell LP, and its present and former parent companies, subsidiaries, related or affiliated companies, shareholders, owners, officers,

directors, employees, agents, attorneys, insurers, successors and assigns, and any individual or entity which could be jointly liable with Defendant.

4. Parties. The term “the Parties” shall refer collectively to Plaintiffs and Defendant.

5. Class Counsel. The term “Class Counsel” shall refer collectively to (1) Bruce E. Menken and Jason J. Rozger, Beranbaum Menken, 80 Pine Street, 33rd Floor, New York, New York 10005; and (2) Raymond C. Fay and Taryn Null, Mehri & Skalet, PLLC, 1250 Connecticut Ave NW, Suite 300, Washington, DC 20036.

6. Defendant’s Counsel. The term “Defendant’s Counsel” shall refer collectively to Grant Petersen, David Copus, Dominick C. Capozzola, and Jocelyn Merced, Ogletree, Deakins, Nash, Smoak & Stewart, P.C., 10 Madison Avenue, Suite 400 Morristown, NJ 07960.

7. Settlement Administrator. The term “Settlement Administrator” shall refer to Settlement Services, Inc., 2032D Thomasville Road, Tallahassee, FL 32308.

8. The Class. The term “the Class” shall refer to all laborers, workmen and mechanics who furnished labor to SimplexGrinnell on non-federal public works projects in the State of New York at any time from February 6, 2001, or from July 14, 2002 for sprinkler work, until the final judgment in this matter, and who have not been paid prevailing wages and benefits as required by law, irrespective of whether or not such individuals receive a Settlement Share under this Settlement.

9. Class Counsel Fees Payment. The term “Class Counsel Fees Payment” means the amount awarded to Class Counsel by the United States District Court for the Eastern District of New York (hereinafter the “Court”), to compensate them for their fees in connection with the Action, including their pre-filing investigation, their filing of the Action and all related litigation activities, this Settlement, and all post-Settlement compliance procedures.

10. Class Counsel Litigation Expenses Payment. The term “Class Counsel Litigation Expenses Payment” means the amount awarded to Class Counsel by the Court to compensate them for their expenses in connection with the Action, including their filing of the Action and all related litigation activities, this Settlement, and all post-Settlement compliance procedures.

11. Class Members. The term “Class Members” means all members of the Class as defined in Paragraph 8, above.

12. Class Notice. The term “Class Notice” means the Notice of Class Action Settlement, Proposed Settlement, Preliminary Approval of Settlement, and Hearing Date for Final Court Approval, attached as Exhibit A to this Agreement and incorporated by reference into this Agreement.

13. Class Notice Packet. The term “Class Notice Packet” means the Class Notice and the Information Correction Form (attached hereto as Exhibit B).

14. The Class Period. The term “Class Period” shall mean the time period of February 6, 2001 to the date of the Court’s Final Approval of the Settlement.

15. Class Representative Enhancement Payment. The term “Class Representative Enhancement Payment” means the special payment made to each Plaintiff in his or her capacity as Class Representative to compensate him or her for initiating the Action, performing work in support of the Action, granting a general release of all claims against SimplexGrinnell in addition to those claims he will be releasing as a Participating Class Member, and undertaking the risk of liability for attorneys’ fees and expenses in the event he or she were unsuccessful in the prosecution of the Action.

16. Final Approval Hearing. The term “Final Approval Hearing” means the hearing to be conducted by the Court following Class Notice and the expiration of all dates set forth therein to determine whether to approve finally and implement the terms of this Agreement.

17. Settlement Amount. The term “Settlement Amount” means the amount of Five Million, Five Hundred Twenty Five Thousand Dollars (\$5,525,000) to be paid by SimplexGrinnell as provided by this Agreement.

18. Net Settlement Amount. The term “Net Settlement Amount” means the Settlement Amount to be paid by SimplexGrinnell pursuant to this Settlement, less (i) the Class Representative Enhancement Payment approved by the Court; (ii) the Class Counsel Fees Payment and the Class Counsel Litigation Expenses Payment approved by the Court; (iii) the

Settlement Administrator's reasonable fees and expenses approved by the Court; and (iv) any other fees or expenses (other than attorneys' fees and expenses) incurred in implementing the terms and conditions of this Agreement.

19. Non-Participating Class Member. The term "Non-Participating Class Member" means a Class Member who has submitted a valid and timely Election Not to Participate in Settlement (Opt-Out Form).

20. Participating Class Member. The term "Participating Class Member" means a Class Member who has not submitted a valid and timely Request To Be Excluded From Lawsuit (Opt-Out Form).

21. Preliminary Approval of the Settlement. The term "Preliminary Approval of the Settlement" means the Court's preliminary approval of the Settlement without material change.

22. Settlement. The term "Settlement" means the disposition of the Action and all related claims effectuated by this Agreement, with the exception of Testing and Inspection Claims.

23. Settlement Share. The term "Settlement Share" means each Participating Class Member's share of the Net Settlement Amount as provided by this Agreement.

24. Testing and Inspection Claims. The term "Testing and Inspection Claims" shall refer to the claims alleged in the Plaintiffs' July 14, 2008 First Amended Complaint relating to the testing and inspection of fire alarms, sprinkler and suppression systems, and other life safety systems, which were dismissed in the Court's June 21, 2011 Memorandum and Order granting partial summary judgment. (See Docket Entry 154, pp. 27-31, Discussion, Part 2.b.)

II. BACKGROUND OF THE LEGAL ACTION

25. Original Complaint. On February 6, 2007, Class Representatives (except Plaintiff Rafiu Owolabi, who did not join the action until later) filed a proposed Class Action Complaint against Defendant and John Doe Bonding Companies #1-3, in the Supreme Court for the State of New York, Kings County, on behalf of themselves and all others similarly situated. The action was assigned the index number 4393/07. The Complaint alleged causes of action for: (1) Breach

of Contract; (2) Quantum Meruit; (3) Unjust Enrichment; (4) New York Overtime; and (5) Failure to Pay Wages. The Complaint sought recovery of unpaid prevailing wages, injunctive relief, attorneys' fees and costs, and pre-judgment interest.

26. Removal. On March 7, 2007, SimplexGrinnell removed the action to the United States District Court for the Eastern District of New York under the Class Action Fairness Act. Plaintiffs agreed to dismiss the John Doe Bonding Companies.

27. First Amended Complaint. On July 14, 2008, Plaintiffs filed a First Amended Complaint with the approval of the Court, adding further specification to claims relating to sprinkler and suppression work. Pursuant to the Court's Order granting leave to amend, dated July 11, 2008, claims relating to sprinkler and suppression work did not relate back to the filing of the Original Complaint. The Plaintiffs' First Amended Complaint added Rafiu Owolabi as a party and deleted the reference to John Doe Bonding Companies from the caption.

28. Class Certified and Summary Judgment Granted in Part. On June 21, 2011, the Court issued a Memorandum and order dated June 21, 2011, which addressed several motions, including the Plaintiffs' Motion for Class Certification and Defendant's Motion for Summary Judgment. The Court granted Plaintiffs' Motion for Class Certification, and it granted Defendant's Motion for Summary Judgment, in part, dismissing the following claims: (1) Testing and Inspection claims; and (2) Plaintiffs' Fifth Cause of Action ("Failure to Pay Wages"). In September, 2011, under the Court's direction, the Plaintiffs issued Notices of Pendency of Class Action, notifying the Class Members about the lawsuit and providing them with an opportunity to opt out of the case.

29. Investigation. The Parties have conducted significant discovery and investigation of the facts and law during the prosecution of the Action. Such discovery and investigation have included the exchange of the relevant time and pay records of the putative class; analyses by both Parties of the exchanged time and pay records; the informal exchange of information; discussions and meetings between representatives of the Parties; interviews of potential witnesses and Class Members; and analysis of relevant records. The Parties have also conducted

the depositions of the class representatives and numerous employees of Defendant and third party witnesses, exchanged written discovery including Requests for Production of Documents and Interrogatories. In addition, counsel for the Parties have investigated the applicable law regarding the claims and defenses to such claims, as well as the damages alleged by Plaintiffs.

30. Benefits of Settlement. Class Representatives and Class Counsel recognize the uncertainty and risk of the outcome of further litigation, and the difficulties and delays inherent in such litigation. Class Representatives and Class Counsel also are aware of the burdens of proof necessary to establish liability for the claims asserted in the Action, the defenses thereto, and the difficulties inherent in the Action. Based on the foregoing, Class Representatives and Class Counsel have determined that the settlement set forth in this Stipulation is a fair, adequate and reasonable settlement, and is in the best interest of the Class Members. Defendant has concluded that any further defense of this Action would be protracted and expensive, and the results uncertain. Substantial amounts of time, energy and resources have been, and will continue to be devoted to the defense of the Action unless this Settlement is made. Therefore, Defendant has agreed to settle in the manner and upon the terms set forth in this Stipulation to fully and finally resolve the claims asserted in the Action, except for the Testing and Inspection claims.

31. Denial of Wrongdoing. Defendant has denied and continues to deny each of the claims asserted by Class Representatives in the Action. Defendant has asserted and continues to assert defenses to Class Representatives' claims, and has expressly denied and continues to deny any wrongdoing whatsoever. Neither this Stipulation nor any action taken to carry out the Settlement may be construed as an admission by Defendant of any fault, wrongdoing, or liability whatsoever.

32. All Claims and Defenses Relating to Testing and Inspection Claims Reserved. The parties reserve all claims, defenses, and arguments relating to the Testing and Inspection claims defined in Paragraph 24, either at the appellate level or—if Plaintiffs prevail in whole or in part on their appeal—on remand to the District Court, subject to and consistent with the

decision of the Court of Appeals. Such claims are to be excluded from the Settlement and the claims and associated defenses and arguments are not affected in any way by the Settlement. If the Plaintiffs obtain a judgment on the Testing and Inspection claims, amounts paid in this Settlement will not be set off from the recovery on the Testing and Inspection claims.

III. DATE OF SETTLEMENT

33. The Class. This Stipulation is made as of the date set forth below by and between Plaintiffs on behalf of themselves and the Class, on the one hand, and Defendant on the other hand, subject to the approval of the Court.

34. Effective Date. As used in this Stipulation, “Effective Date” means the date by which the Court has held a Final Approval Hearing and entered a Final Order and Judgment approving the Stipulation.

IV. CLASS MEMBERS INCLUDED IN SETTLEMENT

35. The Class. On June 21, 2011, the Court certified the Class, which is defined above in Paragraph 8.

36. Excludes Testing and Inspection Claims. The Parties agree that, for purposes of Settlement, Testing and Inspection Claims that may be held by Class Representatives and Class Members are not included in the claims ultimately to be dismissed through this Stipulation.

37. Class Members’ Objections to This Settlement. Any Class Member may comment on or object to the Settlement provided herein by filing a written comment on or objection to the Settlement with the Court and serving the written comment or objection to the Settlement on counsel for the Parties no more than 30 days after the Settlement Administrator mails the initial Class Notice. The written comment on or objection to the Settlement must set forth the grounds for the comment or objection and indicate whether the Class Member intends to appear and comment or object at the Final Approval Hearing. The failure to so indicate will constitute a waiver of the right to appear at the hearing. A Class Member who does not file and serve a written comment or objection in the manner and by the deadline specified above will be

deemed to have waived any comments or objections and will be foreclosed from making any comments or objections (whether by appeal or otherwise) to the Settlement. In the event that the Court approves this Settlement notwithstanding the objections of Class Members, Class Members who object to the Settlement will nonetheless be bound by the Settlement unless such Class Members have opted out of the Settlement, as detailed in Paragraph 38.

38. Non-Participating Class Members. The Class Members received Notices of Pendency of Class Action in September, 2011, at the direction of the Court, and they were given opportunities to opt out of the case. (Docket No. 162 and Order of September 14, 2011.) Eighteen of the Class Members in fact returned valid Requests to be Excluded from Lawsuit, and are no longer Class Members: Edward Chris Tafel; Albert Mathews; Javier Vasquez; Harry Ferrer; Michael Anthony Reggio; Thomas K. Gillette; Jose Begazo; James P Trombley; David S. Jennings; Michael Thomas Cancemi; Bryan D. Turk; Carlos Bustamante; Robert Cardio; Jason E. Wilishefski; Joseph Stasys Jr; Peter W. Doner; Jeffrey Allen Green; and Dennis Kennan..

39. Effect of Settlement of Claims Other Than Testing and Inspection Claims. The Settlement contained herein, including the Release outlined below, shall be effective and binding upon all Class Members who have not excluded themselves from the lawsuit.

V. RELEASES

40. Release By Participating Class Members. As of the Date of Final Approval, Participating Class Members (including Class Representatives) release Defendant and Defendant's predecessors, successors, as well as their current, former and future subsidiaries, affiliates, fiduciaries, owners, partners, insurers, agents, employees, assigns, subrogees, privies, officers, officials, directors, administrators, attorneys and shareholders ("Released Parties") from the Released Class Claims as defined below:

With the exception of Testing and Inspection Claims, which are excluded from the Settlement, any and all claims, actions, demands, causes of action, suits, debts, obligations, damages, rights or liabilities, of any nature and description whatsoever, known or unknown that have been or could have been asserted by Class Representatives, or the Class Members or any of

their respective heirs, executors, administrators, beneficiaries, predecessors, successors, attorneys, assigns, agents and/or representatives arising out of any claims that were or could reasonably have been encompassed in the Action, from the beginning of time up to and including the date of Final Approval of the Settlement (collectively referred to as “Released Class Claims”).

41. General Releases By Class Representative. In addition to the release set forth in the above paragraph, and in consideration in part for the Class Representative Enhancement Payments, Class Representatives makes the additional general release of all claims as follows: Class Representatives release Released Parties from any and all claims, actions, demands, causes of action, suits, debts, obligations, damages, rights or liabilities of any nature and description whatsoever, known or unknown, that Class Representative may possess against the Released Parties arising from Class Representatives’ employment with Defendant, including but not limited to claims for the Age Discrimination in Employment Act (42 U.S.C. § 621), Title VII of the Civil Rights act of 1964 as amended (42 U.S.C. § 2000e), the Equal Pay Act of 1963 (29 U.S.C. § 206(d)), the Civil Rights Acts of 1866 and 1871 (42 U.S.C. § 1981), the Worker Adjustment and Retraining Notification Act (29 U.S.C. § 1651), the Employee Retirement Income Security Act (29 U.S.C. § 1001), the Family and Medical Leave Act (29 U.S.C. §2601), the Americans with Disabilities Act (42 U.S.C. § 12,101), the Occupational Safety and Health Act (29 U.S.C. § 651), the New York State Human Rights Law, as amended; the general regulations of the New York State Division of Human Rights, New York Executive Law Section 290 et seq., New York Rights of Persons With Disabilities, New York Whistleblower Law, New York State Labor Relations Act, New York Labor Law, New York Equal Rights Law, New York Wage Hour and Wage Payment Laws, New York Minimum Wage Law, Equal Pay Law for New York, as amended, New York Adoptive Parents’ Child Care Leave Law, New York Smokers’ Right Law, New York Bone Marrow Leave Law, New York State Workers Adjustment and Retraining Notification (WARN) Act, New York City Administrative Code, as amended, New York City Human Rights Law, as amended; or any other federal, state or local statute concerning

the employment relationship or prohibiting retaliation or discrimination on the basis of age, race, creed, color, religion, national origin, sex, disability, marital status or any other protected classification which I have, or at any time had, including but not limited to all claims for compensatory damages, punitive damages, attorney's fees, salary, commissions, bonuses, expense reimbursements, severance payments, deferred compensation payments, or other monies due. Class Representatives hereby acknowledge that upon receiving the sums provided to them pursuant to this Agreement that they will have received all wages, damages and penalties owing to them by Defendant, and further, that they are not owed any additional wages, penalties, or damages from Defendant. Class Representatives' release shall cover the time period from prior to his or her employment with Defendant up to the Effective Date.

VI. AMOUNT AND DISTRIBUTION OF SETTLEMENT

42. **Settlement Amount.** The Settlement Amount shall be up to the total sum of: (1) Five Million Five Hundred Twenty-Five Thousand Dollars (\$5,525,000); and (2) the amount of the employer's share of payroll taxes to be paid on the Settlement Shares as outlined in Paragraph 45(h) herein. Defendant will not be obligated to pay more than the amount of Five Million Five Hundred Twenty-Five Thousand Dollars (\$5,525,000) plus the amount of the employer's share of the payroll taxes to be paid on the Settlement Shares ("Settlement Amount"), under any circumstances.

43. **Deductions From Settlement Amount.** Deductions from the Settlement Amount, all subject to Court approval, shall be made for:

a. **Class Counsel Fees Payment.** Class Counsel will apply to the Court for an award of not more than One Million Eight Hundred Forty-One Thousand, Six Hundred Sixty-Seven Dollars (\$1,841,667) (33 1/3% of the Settlement Amount) as their Class Counsel Fees Payment. The attorneys' fees award shall be paid from the Settlement Amount. Defendant agrees not to oppose any such applications which are consistent with this paragraph. The amount of attorneys' fees shall include payment for time expended by class counsel up to and including the final approval of the Settlement, and any time on appeal expended in defense of the

Settlement.

b. Class Counsel Litigation Expenses Payment. Class Counsel will apply to the Court for an award of not more than Three Hundred Sixty Thousand Dollars (\$ 360,000) as their Class Counsel Litigation Expenses Payment, and Defendant will not oppose these requests. The Settlement Administrator will pay the amount approved by the Court (but not more than Three Hundred Sixty Thousand Dollars (\$ 360,000) out of the Settlement Amount.

c. Approval by Court of Lesser Amounts. If the Court approves a Class Counsel Fees Payment or a Class Counsel Litigation Expenses Payment of less than One Million Eight Hundred Forty-One Thousand, Six Hundred Sixty-Seven Dollars (\$1,841,667) or Three Hundred Sixty Thousand Dollars (\$ 360,000), respectively, the remainder will be retained in the Net Settlement Amount for distribution to Participating Class Members.

d. Tax Treatment of Class Counsel Fees and Expenses. Tax deductions and withholdings will not be taken from the Class Counsel Fees and Expenses Payment and instead one or more Forms 1099 will be issued to Class Counsel by the Settlement Administrator.

e. Class Representative Enhancement Payment. Class Counsel may apply for an enhancement award to each Class Representative in an amount not to exceed Two Thousand Five Hundred Dollars (\$2,500) per Class Representative, for a total amount no greater than Thirty-Seven Thousand Five Hundred Dollars (\$37,500) for all fifteen Class Representatives. The enhancement award shall be paid from the Settlement Amount. Defendant agrees not to oppose any such applications which are consistent with this paragraph.

f. Settlement Administration Costs and Fees. All actual costs for settlement administration, including related accounting costs, up to a maximum of Fifty Thousand Dollars (\$50,000), shall be paid from the Settlement Amount.

g. Payment of Individual Settlement Shares to Settlement Class Members. Subject to the terms and conditions of this Stipulation, the Settlement Administrator will pay a Settlement Share from the Net Settlement Amount to each Participating Class Member. The Settlement Share for each Participating Class Member will be based on the calculations in Table

4 Modified (Supp.)-ALTERNATIVE of the Supplemental Expert Report of Plaintiffs' Expert Witness, Dr. David Crawford, dated September 8, 2011. Participating Class Members shall take a *pro rata* share of the amounts identified for them in Column 8 of Table 4 Modified (Supp.)-ALTERNATIVE in Dr. Crawford's report, such share to be the percentage of the Net Settlement Amount divided by the total amount of damages in Table 4 Modified (Supp.)-ALTERNATIVE, Column 8, after subtracting the amounts in the Table for Non-Participating Class Members.

h. Withholding. Fifty percent (50%) of each Settlement Share (the "Wage Portion") is intended to settle each Participating Class Member's claims for unpaid wages. Accordingly, the Wage Portion will be reduced by the Participating Class Member's applicable tax deductions and withholdings which will be remitted by the Settlement Administrator. The employer's share of legally required payroll taxes for the Wage Portion will be paid separate and in addition to the Settlement Amount by the Defendant. The Settlement Administrator will issue a Form W-2 with respect to the Wage Portion.

i. Interest and Penalties. Fifty percent (50 %) of the Settlement Share (the "Non-Wage Portion") is intended to settle each Participating Class Member's claims for interest and penalties (36% deemed interest and 14% deemed penalties for unpaid overtime pursuant to New York Labor Law Section 198(1-a) (allowing liquidated damages of one hundred percent for wage claims)). Accordingly, the Non-Wage Portion will not be reduced by tax deductions and withholdings; and, instead, the Settlement Administrator will issue a Form 1099 with respect to the Non-Wage Portion.

j. Effect of Non-Participating Class Members. Non-Participating Class Members will receive no Settlement Share, and their election not to participate will reduce neither the Maximum Settlement Amount nor the Net Settlement Amount.

44. Uncashed Settlement Share Checks. A Participating Class Member must cash his or her Settlement Share check within one hundred eighty (180) calendar days after it is mailed to him or her. If a check is returned to the Settlement Administrator, the Settlement Administrator will make all reasonable efforts to re-mail it to the Participating Class Member at his or her

correct address. If any Participating Class Member's Settlement Share check is not cashed within one hundred eighty (180) calendar days after its last mailing to the Participating Class Member, the Settlement Administrator will return any funds to SimplexGrinnell. In such event, the Participating Class Member nevertheless will remain bound by the Settlement.

VII. SETTLEMENT ADMINISTRATION

45. Settlement Administrator's Duties. The Settlement Administrator shall be responsible for (1) preparing, printing, and mailing to Class Members the Class Notice Packet; (2) setting up a toll-free telephone number to receive calls from Class Members;; (3) providing the Parties with periodic status reports about the delivery of Class Notice Packets and receipt of completed Opt-Out Forms; (4) calculating Settlement Shares; (5) delivering approved fees and expenses to Class Counsel and mailing Settlement Shares to Settlement Class Members; (6) filing any required reports with the Court; (7) remitting tax payments due and issuing the tax reports required under this Settlement; and (8) such other tasks as the Parties mutually agree or the Court orders the Settlement Administrator to perform. Specifically, the Settlement Administrator shall perform the following duties:

a. Mailing of Class Notice Packet. Within ten (10) days of receipt of the Defendant's records pursuant to Paragraph 48 herein, the Settlement Administrator shall mail a copy of the Class Notice Packet to all Class Members by first class regular U.S. mail, using the most current mailing address information possessed by Defendant, unless modified by any updated address information that the Settlement Administrator obtains in the course of administration of the Settlement (including a search of the National Change of Address Database). The Settlement Administrator will engage in address searches consistent with the agreement of the Parties, including skip tracing. Any returned envelopes from this mailing with forwarding addresses will be utilized by the Settlement Administrator to forward the Class Notice Packet to the Class Members.

b. Re-Mailing of Returned Class Notice Packet. Class Notice Packets returned to the Settlement Administrator as non-delivered shall be resent to the forwarding

address, if any, on the returned envelope. If a Class Notice Packet is returned without a forwarding address, the Settlement Administrator will promptly, and not longer than 15 days after the initial mailing date, search for a more current address for the Class Member and re-mail the Class Notice Packet to the Class Member. The Settlement Administrator will use the Class Members' Data and otherwise work with SimplexGrinnell to find that more current address. The Settlement Administrator will be responsible for taking reasonable steps to trace the mailing address of any Class Member for whom a Class Notice Packet is returned by the U.S. Postal Service as undeliverable. These reasonable steps shall include, at a minimum, the tracking of all undelivered mail; performing address searches (or "skip traces") for all mail returned without a forwarding address; and promptly re-mailing to Class Members for whom new addresses are found. If the Class Notice Packet is re-mailed, the Settlement Administrator will note for its own records and notify Class Counsel and SimplexGrinnell's Counsel of the date of each such re-mailing as part of a weekly status report provided to the Parties. A returned Class Notice Packet will be forwarded only once per Class Member by the Settlement Administrator. Upon completion of these steps by the Settlement Administrator, Defendant shall be deemed to have satisfied its obligation to provide the Notice to the affected member of the Class. The affected member of the Class shall remain a member of the Class and shall be bound by all the terms of this Stipulation and the Court's Order and Final Judgment.

c. Information Correction Form. Each Information Correction Form sent to each Class Member shall state the following: (1) the name, address, and last four digits of the Social Security Number of the Class Member; and (2) the latest W-4 information SimplexGrinnell has for each Class Member.

d. Payment of Settlement Shares. The Settlement Administrator shall be solely responsible for the disbursement of the settlement payments. Participating Class Members with damages in Column 8 of Table 4 Modified (Supp.)-ALTERNATIVE of Dr. Crawford's report will receive a Settlement Share.

e. Initial Determination of Settlement Shares. Each Class Member's

Settlement Share will be determined as set forth in Paragraph 43(g) above.

f. Declaration of Due Diligence. No later than ten (10) days prior to the Final Approval Hearing, the Settlement Administrator shall provide both Parties with a declaration of due diligence to be filed with the Court.

g. Allocating Portions of the Settlement Shares as Wages and Penalties and Interest. The Settlement Administrator shall be responsible for determining the portion of each Settlement Share to be allocated as (1) wages and (2) penalties and interest. Fifty percent (50%) of each Settlement Share shall be allocated as wages. Fifty percent (50%) of each Settlement Share shall be allocated as penalties and interest.

h. Taxation of Settlement Shares. The Settlement Administrator shall be responsible for the appropriate payroll withholding of the Settlement Shares. The portion of each Settlement Share allocated as wages shall be subject to payroll withholding. Appropriate withholding of federal, state and local income taxes, including each claimant's share of FICA taxes (on the portion of the award that constitutes wages) shall be deducted from each Settlement Share. The employer's share of payroll withholding shall be paid by Defendant. The Settlement Administrator shall issue an IRS Form W-2 to each Settlement Class Member for the portion of the Settlement Share that is designated as wages. The Settlement Administrator shall issue an IRS Form 1099 to each Settlement Class Member for the portion of the Settlement Share that is designated as interest and penalties. The Settlement Administrator shall issue an IRS Form 1099 to Class Representative for the enhancement fee paid pursuant to Paragraph 43(e) herein for his role as Class Representative. All Settlement Class Members and the Class Representatives will be responsible for correctly characterizing this compensation for tax purposes and for paying any taxes on the amounts received. The Settlement Class Members and Class Representatives agree to indemnify Defendant for any liability it incurs to any tax authority on account of the Settlement Class Members' or Class Representative's failure to pay all taxes due on the enhancement fees; however, each Class Member or Class Representative's liability is limited to the liability caused by that Class Member or Class Representative's failure.

i. Mailing of Settlement Shares. The Settlement Administrator shall mail all Settlement Class Members their Settlement Shares within thirty (30) days of the latest of the following dates: (a) in the event that no written objections are filed prior to the Final Approval Hearing, or that any filed written objections are withdrawn prior to the conclusion of the Final Approval Hearing, the Effective Date; or (b) if written objections are filed and not withdrawn but no appeal is filed in connection with such objections, the expiration date for filing any appeal of the Judgment; or (c) if written objections are filed and not withdrawn and an appeal is filed in connection with any such objections, the date of final affirmance on an appeal of the Judgment, the expiration of the time for a petition to review the Judgment and, if review is granted, the date of final affirmance of the Judgment following review. Each check issued to a Settlement Class Member shall remain valid and negotiable for one hundred eighty (180) days from the date of issuance (“Check Cashing Deadline”). Any Settlement Share not cashed by the Check Cashing Deadline shall be canceled automatically, in which event the Settlement Class Member’s claim will be deemed void and the funds shall be returned to SimplexGrinnell as set forth in Paragraph 44, above.

j. Certifying the Class Members Bound by the Settlement. Within sixty (60) days from the Effective Date, the Settlement Administrator shall file written certification with the Court with copies to counsel for all Parties that all Settlement Class Members have been mailed their Settlement Shares.

k. Payment of Attorneys’ Fees and Expenses and Class Representative Enhancement Payment. Within seven (7) days of the latest of the dates described in Paragraph 45(i) above, the Settlement Administrator shall pay via wire transfer the Class Counsel Fees Payment and Class Counsel Litigation Expenses Payment to Class Counsel, as detailed in Paragraphs 43(a) and 43(b) of the Stipulation, and shall send checks made payable to the Class Representatives for the Class Representative Enhancement Payments, as detailed in Paragraph 43(e) of the Stipulation.

l. Disputes Regarding The Settlement Administrator’s Performance of

Duties. All disputes relating to the Settlement Administrator's performance of its duties shall be referred to the Court, if necessary, which will have continuing jurisdiction over the terms and conditions of this Stipulation until all payments and obligations contemplated by this Stipulation have been fully carried out.

VIII. DUTIES OF THE PARTIES PRIOR TO PRELIMINARY COURT APPROVAL

46. Prompt Submission. The Parties shall promptly submit this Stipulation to the Court in support of Plaintiffs' Motion for Preliminary Approval and determination by the Court as to its fairness, adequacy, and reasonableness, and shall apply to the Court for the entry of an order substantially in the following form:

- a. Scheduling a fairness hearing on the question of whether the proposed Settlement, including payment of attorneys' fees, the Class Representative's enhancement, and the amount of Settlement Shares to be paid to Settlement Class Members, including the methodology used in calculating such amounts, should be finally approved as fair, reasonable and adequate as to the members of the Class;
- b. Approving as to form and content the attached proposed Class Notice Packet and all documents included therein;
- c. Directing the mailing of the Class Notice Packet, by first class U.S. mail to the Class Members, pursuant to the terms specified herein; and
- d. Preliminarily approving the settlement subject only to the objections of Class Members and final review by the Court.

47. Amendment of This Stipulation To Conform To The Court's Order. To the extent that the Court does not approve this Stipulation, or any specific term contained herein, and the Court allows the Parties to amend this Stipulation, the Parties agree to cooperate in good faith to amend the Stipulation in accordance with the Court's direction, and to retain all other terms of the Stipulation that the Court approves.

IX. DUTIES OF THE PARTIES FOLLOWING PRELIMINARY COURT APPROVAL

48. Defendant's Provision of Class Member Data To Settlement Administrator. No

later than seven (7) days following preliminary approval of this Settlement by the Court, Defendant shall provide the Settlement Administrator in electronic format the following information that is within Defendant's possession for each Class Member: (1) the Class Member's name, (2) last known address, (3) last four digits of the Class Member's social security number; and (4) the Class Members' most recent W-4 information. This information shall be based on Defendant's payroll and other business records and in a format readily accessible to Defendant. Within ten (10) days of receipt of the information from Defendant, the Settlement Administrator will mail the Class Notice Packet to the Class Members.

49. Disputes Arising From Settlement Administration. If either of the Parties disagrees with the Settlement Administrator's determination of a class member's Settlement Share, it must file a motion with the Court no later than fifteen (15) days from notice of the Settlement Administrator's determination, requesting that the Court determine the amount of the Settlement Share or the validity of the information contained in the Information Correction Form. If such a motion is not filed, the Parties shall be barred from contesting the amount of a Settlement Share or the validity of the information contained in the Information Correction Form at any later date. If such a motion is filed, the Settlement Administrator's determination shall have no binding effect, and the Court will have sole authority to resolve the matter. All other deadlines prescribed by the Stipulation and timing of actions to take place pursuant to the Stipulation shall be stayed from the date of filing the motion described herein until the date that the dispute is resolved.

50. Motion for Final Approval of the Settlement. Class Counsel shall timely prepare, subject to Defendant's review and comment, a Motion for Final Approval of the Settlement. Class Counsel will timely file, within five (5) days of the Fairness Hearing, the Motion for Final Approval of the Settlement, for Approval of the Motion for Attorneys' Fees and Expenses, and for Class Representatives' Enhancements, which will include a proposed Final Order and Judgment ordering:

- i. Approval of the Settlement, adjudging the terms thereof to be fair,

reasonable and adequate, and directing consummation of its terms and provisions;

ii. Approval of Class Counsel's application for an award of attorneys' fees, costs and expenses as provided herein;

iii. Approval of the enhancement payments to the Class Representatives;

iv. Permanently barring and enjoining all members of the Class from prosecuting against the Released Parties any individual or class or collective claims released herein pursuant to Paragraphs 40-41 above, upon satisfaction of all payments and obligations hereunder; and,

v. Reserving jurisdiction over the construction, interpretation, implementation, and enforcement of the parties' settlement and over the administration and distribution of settlement benefits.

51. Fairness Hearing. Forty-five (45) days after the mailing of the Class Notice Packet, or as soon thereafter as may be practicable, the Parties shall attend a Final Settlement Approval Hearing with the Court to finally approve the Settlement as fair, reasonable, and adequate as to Class Members, attorney's fees to Class Counsel, the enhancement awards to Class Representatives, the Settlement Administration fees and costs, the Settlement Shares to be paid to the Settlement Class Members, including the methodology used to calculate such awards, and the disposition of unclaimed funds (if any).

X. DUTIES OF THE PARTIES FOLLOWING FINAL COURT APPROVAL

52. Final Settlement and Approval and Entry of Judgment. With the motion for final approval of the Settlement by the Court, the Parties shall submit a Final Judgment ("Final Judgment") for the Court's approval and entry. After entry of the Final Judgment, the Court shall have continuing jurisdiction over the administration of the Settlement.

53. Payment of Settlement Amount. Defendant shall deposit, not later than fifteen (15) days following the Effective Date, the following amounts into an account established by the Settlement Administrator: (1) Class Counsel Fees Payment approved by the Court (not to exceed

One Million Eight Hundred Forty-One Thousand, Six Hundred Sixty-Seven Dollars (\$1,841,667)); (2) Class Counsel Litigation Expenses Payment approved by the Court (not to exceed Three Hundred Sixty Thousand Dollars \$360,000 (3) Class Representative's enhancement fee approved by the Court (not to exceed \$37,500 in the aggregate); (4) actual settlement administration costs (not to exceed \$50,000.00); (5) the Net Settlement Amount; and (6) the employer's share of payroll taxes as provided in Paragraph 45(h) herein. The Settlement Administrator will retain exclusive authority over the deposited funds. The Settlement Administrator shall make all payments and other disbursements required by this Stipulation from the Settlement Amount. Defendant shall have no further obligations over the distribution of the Settlement Amount.

54. Provision of Final Order and Judgment to Settlement Administrator. Following final approval by the Court of the Settlement provided for in the Stipulation, Class Counsel shall provide the Settlement Administrator with a copy of the Final Order and Judgment.

XI. ADDITIONAL TERMS

55. Nullification of Settlement. This Stipulation shall be null and void and any order of judgment entered by the Court in furtherance of the Settlement shall be vitiated nunc pro tunc if any of the following occurs:

- a. the Court does not preliminarily approve the settlement;
- b. the Court does not finally approve the settlement;
- c. the Court does not enter a Final Judgment which becomes final as a result of the occurrence of the Effective Date; or
- d. The Settlement does not become final for any other reason.

In such a case, the Parties and any funds awarded under this Stipulation shall be returned to their respective status as of the date and time immediately prior to the execution of this Stipulation, and the Parties shall proceed in all respects as if this Stipulation had not been executed. Except as relates to Testing and Inspection Claims, if an appeal is filed from the Court's Judgment, administration of the Settlement shall be immediately stayed pending final

resolution of the appeal process.

56. No Admissions. Nothing contained herein is to be construed or deemed an admission of liability or wrongdoing by Defendant which is expressly denied by Defendant. This Stipulation and attached exhibits are settlement documents and shall be inadmissible in any proceeding, except an action or proceeding to approve, interpret, or enforce this Stipulation. This settlement may not be used for any purposes in any other litigation.

57. Public Comment. The Parties and their counsel agree that they will not, unless required by law, issue any press release concerning this settlement or the claims that have been settled. Plaintiffs and their counsel further agree that any communications they make with clients or prospective clients about this settlement will be limited to the facts of the settlement, the nature of the claims, the amount of the settlement, and the identity of the parties. In addition, Plaintiffs and their counsel agree to refrain from referencing or discussing the settlement or the Action in connection with advertisements placed on or in (a) written media (newspapers, magazines, etc.), (b) the internet, (c) unsolicited telephone calls, letters or email communications, (d) radio, or (e) television; except that Plaintiffs' counsel may post information on their firm websites as stated below. Additionally, if questioned about this settlement by the press or if Plaintiffs or their counsel publish any information on websites or make any other public comment regarding this settlement, such information will be limited to (a) the facts of the settlement, (b) the nature of the claims, (c) the amount of the settlement, and (d) the identity of the parties; however, this limitation does not in any way apply to claims not settled in this settlement. Any comments by Plaintiffs or Plaintiffs' counsel that characterize, or may be viewed as characterizing, SimplexGrinnell as a bad actor, such as affirmative representations that the company failed to pay prevailing wages or failed to comply with the law, as it relates to claims that were settled in the Action, are prohibited.

58. Amendment or Modification. This Stipulation may be amended or modified only by a written instrument signed by counsel for all Parties.

59. Entire Agreement. This Stipulation and accompanying exhibits constitute the

entire agreement between the Parties, and no oral or written representations, warranties or inducements have been made to any Party concerning this Stipulations other than the representations, warranties and covenants contained and memorialized herein.

60. Construction. The Parties agree that the terms of this Stipulation and the accompanying exhibits are the result of lengthy, arms-length negotiations and that this Stipulation shall not be construed in favor of or against any Party.

61. Parties' Authority. The signatories to this Stipulation represent that they are fully authorized to enter into this Stipulation and bind the Parties hereto to the terms and conditions hereof.

62. Attorney Authorization. Class Counsel and SimplexGrinnell's Counsel warrant and represent that they are authorized by Plaintiff and SimplexGrinnell, respectively, to take all appropriate action required or permitted to be taken by such Parties pursuant to this Agreement to effectuate its terms, and to execute any other documents required to effectuate the terms of this Agreement. The Parties and their counsel will cooperate with each other and use their best efforts to effect the implementation of the Settlement. In the event the Parties are unable to reach agreement on the form or content of any document needed to implement the Agreement, or on any supplemental provisions that may become necessary to effectuate the terms of this Agreement, the Parties will seek the assistance of the Court, and in all cases all such documents, supplemental provisions and assistance of the Court will be consistent with this Agreement.

63. Successors and Assigns. This Stipulation is binding upon, and inures to the benefit of the Parties' successors or assigns. The Parties represent and warrant that they have not directly or indirectly, assigned, transferred, or encumbered to any person or entity any portion of any claim, demand, action, or cause of action or rights herein released and discharged except as set forth herein.

64. Enforcement of Actions. In the event a Party to this Stipulation institutes any legal action, arbitration, or other proceeding against any other Party to enforce the provisions of this Stipulation or to declare rights or obligations under this Stipulation, the successful Party

shall be entitled to recover from the unsuccessful Party or Parties, reasonable attorney's fees and costs, including expert witness fees incurred in connection with any enforcement proceedings.

65. Governing Law. All terms of this Stipulation shall be governed by and interpreted according to the laws of the State of New York.

66. Cooperation in Drafting. The Parties have cooperated in the drafting and preparation of this Agreement. This Agreement will not be construed against any Party on the basis that the Party was the drafter or participated in the drafting.

67. Headings. The descriptive heading of any section or paragraph of this Agreement is inserted for convenience of reference only and does not constitute a part of this Agreement.

68. Jurisdiction of the Court. The Court shall retain jurisdiction with respect to the interpretation, implementation, and enforcement of the terms of this Stipulation and all orders and judgments entered in connection therewith.

69. Counterparts. This Stipulation may be executed in one or more counterparts. All executed counterparts and each of them shall be deemed to be one and the same instrument.

70. Notices. Unless otherwise specifically provided in this Stipulation, all notices, demands or other communications given will be in writing and will be deemed to have been duly given as of the third business day after mailing by U.S. registered or certified mail, return receipt requested, addressed as follows:

To the Class:

Bruce E. Menken
Jason J. Rozger
Beranbaum Menken LLP
80 Pine Street, 33rd Floor
New York, New York 10005

Raymond C. Fay
Taryn Null
Mehri & Skalet, PLLC
1250 Connecticut Ave NW, Suite 300
Washington, DC 20036.

To Defendant:

David Copus
Dominick Capozzola
OGLETREE, DEAKINS, NASH,
SMOAK & STEWART, P.C.
10 Madison Avenue, Suite 400
Morristown, NJ 07950

71. Enforceability. The Parties intend for this Agreement to be enforceable in the United States District Court for the Eastern District of New York, by and subject to the Court's pending and/or ancillary jurisdiction.

DATED: June 29, 2012

BERANBAUM, MENKEN LLP
MERHI & SKALET, PLLC

By: /s/ Bruce E. Menken
Bruce Menken
Jason Rozger
BERANBAUM MENKEN LLP
80 Pine Street, 33rd Floor
New York, New York 10005

Raymond C. Fay
Taryn Null
MEHRI & SKALET, PLLC
1250 Connecticut Ave NW, Suite 300
Washington, DC 20036

Attorneys for Plaintiffs Roberto Ramos, Frank Rodriguez, Jose Luis Maldonado, Jose Fernandez, Chris Maietta, Randy Wray, Rogelio Smith, Agban Agban, Yadira Gonzalez, Maximo Estrella, Jr., Jaime Oyarvide, Nacim Bennekaa, Breno Zimerer, Omar Florez, and Rafiu Owolabi

DATED: June 29, 2012

OGLETREE, DEAKINS, NASH, SMOAK &
STEWART, P.C.

By: /s/ Grant Petersen
Grant Petersen

David Copus
Dominick Capozzola
10 Madison Avenue, Suite 400
Morristown, NJ 07960
(973)656-1600
(973)656-1611 (fax)
grant.petersen@odnss.com
david.copus@odnss.com
dominick.capozzola@odnss.com
Attorneys for Defendant
SIMPLEXGRINNELL LP