

**Exhibit "A"**

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF INDIANA  
INDIANAPOLIS DIVISION**

IN RE READY-MIXED CONCRETE	)	Master Docket No.
ANTITRUST LITIGATION.	)	1:05-cv-00979-SEB-JMS
THIS DOCUMENT RELATES TO:	)	_____
ALL ACTIONS	)	

**SETTLEMENT AGREEMENT WITH SOUTHFIELD CORPORATION  
F/K/A PRAIRIE MATERIAL SALES, INC. AND GARY MATNEY**

This Settlement Agreement ("Agreement") is made and entered into as of this 24th day of April, 2008 (the "Execution Date") by and among defendant Southfield Corporation, an Illinois corporation formerly known as Prairie Material Sales, Inc. ("Southfield Corporation"), defendant Gary Matney ("Matney"), and plaintiff class representatives, Kort Builders, Inc., Dan Grote, Cherokee Development, Inc., Winger/Stolberg Group, Inc., Marmax Construction, LLC, Boyle Construction Management, Inc., and T&R Contractor, Inc. (collectively, "Plaintiffs"), both individually and on behalf of a proposed class of purchasers of Ready-Mixed Concrete who purchased Ready-Mixed Concrete, which was delivered from a facility within the Central Indiana Area from July 1, 2000 through May 25, 2004, directly from any Defendants (or any predecessors, parents, subsidiaries, or affiliates thereof) named in the Second Amended Consolidated Class Action Complaint (the "Complaint") in the above-captioned consolidated action (the "Action") pending in the United States District Court for the Southern District of Indiana (the "Court").

WHEREAS, Plaintiffs are prosecuting the Action on their own behalf and on behalf of the proposed Class against (among others) Southfield Corporation and Matney (together referred to herein as "Southfield"); and

WHEREAS, Plaintiffs allege that Southfield Corporation and Matney participated in an unlawful conspiracy to raise, fix, maintain, or stabilize the price of Ready-Mixed Concrete in the Central Indiana Area at artificially high levels, in violation of Section 1 of the Sherman Act; and

WHEREAS, Matney is the individual who first brought information regarding Other Defendants' participation in the alleged price-fixing conspiracy to the attention of the United States Department of Justice ("DOJ") and cooperated with DOJ's investigation; and

WHEREAS, Southfield Corporation and Matney each have denied and do deny participating in the conspiracy alleged in the Complaint and believe that they have good defenses to the claims alleged against them in the Complaint; and

WHEREAS, there has been no determination by the Court of any wrongdoing or liability of any kind by Southfield Corporation or Matney; and

WHEREAS, Plaintiffs, through their counsel, have conducted an investigation into the facts and the law regarding the Action and have concluded that a settlement with Southfield Corporation and Matney according to the terms set forth below is in the best interest of Plaintiffs and the proposed Class; and

WHEREAS, Southfield Corporation and Matney have agreed to enter into this Agreement to avoid further expense, inconvenience, and the distraction of burdensome and protracted litigation;

NOW, THEREFORE, in consideration of the covenants, agreements and releases set forth herein and for other good and valuable consideration, it is agreed by and among the undersigned that the Action be settled, compromised and dismissed on the merits with prejudice as to claims against Southfield Corporation and Matney only, subject to the approval of the

Court, with each side to bear its own costs and attorneys' fees, and on the following terms and conditions.

**A. Definitions**

The following terms, as used in this Agreement, have the following meanings:

1. "Central Indiana Area" means Boone, Hamilton, Hancock, Hendricks, Johnson, Madison, Marion, Monroe, Morgan, and Shelby Counties, in the State of Indiana.
2. "Class" and "Settlement Class" mean all persons or entities who purchased Ready-Mixed Concrete directly from any of the Defendants or any of their co-conspirators, which was delivered from a facility within the Counties of Boone, Hamilton, Hancock, Hendricks, Johnson, Madison, Marion, Monroe, Morgan, and Shelby, in the State of Indiana, at any time from and including July 1, 2000 through and including May 25, 2004, but excluding Defendants, their co-conspirators, their respective parents, subsidiaries, and affiliates, and federal, state, and local government entities and political subdivisions.
3. "Class Counsel" shall refer to the law firms of Cohen & Malad, LLP, One Indiana Square, Suite 1400, Indianapolis, Indiana, and Susman Godfrey, LLP, 901 Main Street, Suite 5100, Dallas, Texas.
4. "Class Member" means each member of the Class who does not timely elect to be excluded from the Class.
5. "Class Period" means the period from and including July 1, 2000 through and including May 25, 2004.
6. "Class Representatives" or "Plaintiffs" means Plaintiffs Kort Builders, Inc., Dan Grote, Cherokee Development, Inc., Wininger/Stolberg Group, Inc., Marmax Construction, LLC, Boyle Construction Management, Inc., and T&R Contractor, Inc.

7. "Defendants" means the Defendants named in the above-captioned Action, and includes Irving Materials, Inc., Shelby Gravel, Inc. d/b/a Shelby Materials, Builder's Concrete & Supply, Inc., Southfield Corporation f/k/a Prairie Material Sales, Inc., American Concrete Company, Inc., Hughey, Inc., d/b/a Carmel Concrete Products, MA-RI-AL Corporation, Beaver Materials Corporation, Ricky Beaver, Chris Beaver, Fred R. "Pete" Irving, Price Irving, John Huggins, Daniel C. Butler, Gus B. ("Butch") Nuckols, III, John J. Blatzheim, Scott D. Hughey, Richard Haehl, Philip Haehl, and Gary Matney. "Other Defendants" means all Defendants except Southfield Corporation and Matney.

8. The "Effective Date" of this Agreement shall be the first day on which the following are true: (a) the Court has entered a final order approving this Agreement under Rule 23(e) of the Federal Rules of Civil Procedure and a final judgment dismissing the Action against Southfield on the merits with prejudice as to all Settlement Class Members and without costs, and (b) the time for appeal or to seek permission to appeal from the Court's approval of this Agreement and the final judgment has expired, or the final judgment has been affirmed in its entirety by the Court of last resort to which such appeal has been taken and such affirmance has become no longer subject to further appeal or review.

9. "Execution Date" means the last date on which this Agreement is signed by a party hereto, which is the date first written above.

10. "Ready-Mixed Concrete" means a product comprised of cement, sand, gravel, water, and occasionally additional additives.

11. "Releasees" means and refers individually and collectively to: (A) Southfield Corporation and its subsidiaries and affiliates (collectively, "Category A Releasees"); (B) the predecessors, successors and assigns of Category A Releasees, or any of them (collectively,

"Category B Releasees"); (C) past and present officers, directors, managers, employees, agents, members, partners, stockholders, attorneys, servants, and other representatives or stakeholders of any one or more of the Category A Releasees or Category B Releasees (collectively, "Category C Releasees"); (D) heirs, executors, administrators, guardians, successors and assigns of Category C Releasees, or any of them; and (E) Matney and his heirs, executors, administrators, guardians, successors and assigns. For the avoidance of doubt, and without in any way limiting the generality of the foregoing definition of Releasees, it is hereby acknowledged that: (i) Southfield Concrete LLC, formerly known as Hoosier Concrete LLC, is among the Category A Releasees; (ii) Votorantim Cimentos North America, Inc., acquirer of assets comprising Southfield Corporation's former Ready-Mixed Concrete business and certain related businesses, is among the Category B Releasees; and (iii) Doug Dalton (referred to in Paragraph 31(d) below), and Alan Oremus (referred to in Paragraph 31(e) below) are among the Category C Releasees. Notwithstanding the foregoing, "Releasees" does not include any Other Defendant, any person or entity not covered by the foregoing definition of Releasees who may be subsequently added or joined as a defendant in the Action, or any person or entity not covered by the foregoing definition of Releasees who is shown or alleged to have been a co-conspirator of Defendants with respect to the conspiracy alleged in the Complaint.

12. "Releasers" shall refer jointly and severally and individually and collectively to the Class Representatives and their respective past and present parents, attorneys, subsidiaries, affiliates, agents, heirs, executors, administrators, guardians, successors and assigns; the Class members and their respective past and present parents, attorneys, subsidiaries, affiliates, agents, heirs, executors, administrators, guardians, successors and assigns; and Class Counsel.

13. "Settlement Amount" means the sum of \$19,000,000, a portion of which may be refunded to Southfield Corporation pursuant to Paragraph 23 of this Settlement Agreement.

14. The "Settlement Fund" means the account established by order of the Court and maintained under the Court's jurisdiction as a Qualified Settlement Fund within the meaning of Treasury Regulation 1.468B-1, as amended, for the purpose of investing, conserving and protecting the Settlement Amount, and any interest earned thereon, prior to distribution, and distribution as directed by the Court.

**B. Stipulation to Certification of Settlement Class**

15. The parties to this Agreement hereby stipulate that, for purposes only of this settlement and for no other purpose, the requirements of Federal Rules of Civil Procedure 23(a) and 23(b)(3) are satisfied and, subject to Court approval, the following class (the "Settlement Class") shall be certified for settlement purposes as to Southfield:

All Persons who purchased Ready-Mixed Concrete directly from any of the Defendants or any of their co-conspirators, which was delivered from a facility within the Counties of Boone, Hamilton, Hancock, Hendricks, Johnson, Madison, Marion, Monroe, Morgan, or Shelby, in the State of Indiana, at any time during the period from and including July 1, 2000 through and including May 25, 2004, but excluding Defendants, their co-conspirators, their respective parents, subsidiaries, and affiliates, and federal, state, and local government entities and political subdivisions.

In the event this settlement is not approved or becomes void or ineffective for any reason, the execution of this Settlement Agreement and any related papers, the certification of the Settlement Class, and any act taken or court paper filed in furtherance of this Settlement Agreement shall not be used to urge that a litigation class should be certified against Southfield Corporation or Matney, and Southfield and Matney each retains the right to object to the maintenance of this or any other action as a class action and to contest this or any other action on any other grounds.

**C. Approval of this Agreement and Dismissal of Claims**

16. Plaintiffs and Southfield shall use their best efforts to effectuate this Agreement, including cooperating in promptly seeking both the Court's certification of the Settlement Class under Federal Rules of Civil Procedure 23(a) and 23(b)(3) and the Court's approval of procedures (including the giving of class notice under Federal Rules of Civil Procedure 23(d) and (e)) to secure the prompt, complete, and final dismissal with prejudice of the Action as to Southfield Corporation and Matney.

17. As soon as practicable, but in no event later than ten (10) business days after the Execution Date, Plaintiffs shall submit to the Court a motion for certification of the Settlement Class and preliminary approval of this Settlement Agreement (the "Motion"). The Motion shall include: (a) a copy of this Settlement Agreement executed by the parties hereto; (b) a request that the Court certify, pursuant to Federal Rules of Civil Procedure 23(a) and (b)(3) and the terms of this Agreement, the Settlement Class defined herein; (c) a request that the Court preliminarily approve this Settlement Agreement as fair, reasonable and adequate to the Plaintiffs and members of the Settlement Class ("Preliminary Approval Order"); (d) a request that the Court approve and direct, as the best notice practicable under the circumstances: (i) mailed notice to Settlement Class members in the form attached hereto and marked as Exhibit "A" and (ii) published notice to Settlement Class members in the form attached hereto and marked as Exhibit "B"; (e) a request that the Court approve and enter a proposed Preliminary Approval Order in the form attached hereto and marked as Exhibit "C"; and (f) a request that the Court schedule a hearing on final approval of this Agreement at the convenience of the Court. Individual notice of the settlement in the form attached hereto and marked as Exhibit "A" shall be mailed to persons and entities who are identified by Southfield or by Other Defendants as direct purchasers of

Ready-Mixed Concrete who purchased Ready-Mixed Concrete directly from any of the Defendants or any of their co-conspirators, which was delivered from a facility within the Central Indiana Area, at any time during the Class Period, but excluding Defendants, their co-conspirators, their respective parents, subsidiaries, and affiliates, and federal, state, and local government entities and political subdivisions. Southfield Corporation hereby represents that it has previously supplied to Class Counsel the names and addresses of potential Class Members within Southfield's possession, custody or control.

Subject to the Court's approval, notice in the form attached hereto and marked as Exhibit "B" shall be published twice in the Indianapolis Star.

Within 10 days of the filing of the Motion, Southfield shall provide notice of this settlement, the filed Motion and other court papers to federal and state government officials as required by 28 U.S.C. § 1715.

18. Plaintiffs and Southfield shall jointly seek entry of an Order and Final Judgment, in the form attached hereto and marked as Exhibit "D":

- (a) as to the Action, approving finally this Agreement and its terms as being a fair, reasonable, and adequate settlement as to the Settlement Class Members within the meaning of Rule 23 of the Federal Rules of Civil Procedure and directing its consummation according to its terms;
- (b) directing that, as to Southfield Corporation and Matney, the Action be dismissed with prejudice and without assessment of costs or attorneys' fees against Southfield Corporation or Matney;
- (c) reserving exclusive jurisdiction over the settlement, the Settlement Fund and this Agreement, including the administration and consummation of this settlement; and
- (d) determining under Federal Rule of Civil Procedure 54(b) that there is no just reason for delay and directing that the judgment of dismissal as to Southfield Corporation and Matney shall be final and entered forthwith.



19. This Agreement shall become final on the Effective Date, and shall relate back to the Execution Date. It is agreed that neither the provisions of Rule 60 of the Federal Rules of Civil Procedure nor the All Writs Act, 28 U.S.C. §1651, shall be taken into account in determining the occurrence of the Effective Date. Notwithstanding the foregoing, on the date that Plaintiffs and Southfield have executed this Agreement, Plaintiffs and Southfield shall be bound by its terms, and this Agreement shall not be rescinded except in accordance with paragraphs 23 or 28 of this Agreement.

**D. Release and Discharge**

20. Upon the Effective Date and in consideration of payment of the Settlement Amount as specified in Section E of this Agreement, and for other valuable consideration, the Releasees, and each of them, shall be completely released, acquitted, and forever discharged from any and all claims, demands, actions, suits and causes of action, whether class, individual or otherwise in nature, that Releasers, or any of them, ever had, now has, or hereafter can, shall, or may have on account of or arising out of or resulting from conduct (including any conspiracy, combination or agreement) concerning the pricing, selling, discounting, marketing, manufacturing, or distributing of Ready-Mixed Concrete in the Central Indiana Area during the Class Period, including but not limited to any conduct alleged, and causes of action asserted, or that could have been alleged or asserted, in the Complaint filed in the Action or any amendment thereto which arise under any federal or state antitrust statute, law, rule or regulation, including, without limitation, the Sherman Antitrust Act, 15 U.S.C. §§ 1 *et seq.* ("Released Claims"), provided, however, that nothing herein shall release any claim not associated with anticompetitive conduct, including, but not limited to, personal injury, wrongful death, product defect or breach of contract claims between the parties. The Releasers shall not, after the

Effective Date of this Agreement, seek to recover against any of the Releasees for any of the Released Claims.

21. Upon the Effective Date, for good and valuable consideration, the Releasees shall be completely released, acquitted, and forever discharged from any and all Released Claims by Releasers against any and all of the Releasees. The failure of any member of the Settlement Class to opt out by the opt-out date set by the Court or to obtain any payment from the Settlement Fund shall not affect the releases herein. Nor shall the releases be affected in any way by any subsequent determination that the allocation of any payment to the Settlement Class from the Settlement Fund was unfair. Upon the Effective Date, for good and valuable consideration, any claims against Releasers, arising out of, relating to or in connection with the Action as against Southfield are hereby released by the Releasees and their counsel, and they are permanently enjoined and barred from instituting, asserting or prosecuting any and all claims which the Releasees or their counsel or any of them, had, have or may in the future have against Releasers, arising out of, relating to or in connection with the Action as against Southfield.

**E. Payments**

22. Settlement Payment. Southfield Corporation, on behalf of itself, Matney and all other Releasees, shall pay or cause to be paid the Settlement Amount in settlement of the Action. The Settlement Amount shall initially be paid on the Execution Date to Wells Fargo Bank, N.A., as escrow agent (the "Escrow Agent"), to be held in an interest-bearing escrow account in accordance with the terms and conditions of an escrow agreement in the form and substance of Exhibit "E" attached hereto (the "Escrow Account"). Within three (3) business days after the Court's entry of the Preliminary Approval Order, Class Counsel shall deliver to the Escrow Agent and Southfield Corporation a certified copy of the Preliminary Approval Order and wire

transfer instructions for payment of funds to the Settlement Fund Account. Within five (5) business days after a copy of the Preliminary Approval Order is delivered to the Escrow Agent, the Escrow Agent shall remit the sum of the \$19,000,000 by wire-transfer from the Escrow Account into the Settlement Fund account at the financial institution designated in the Preliminary Approval Order in accordance with instructions from Class Counsel, to be administered in accordance with the provisions of Section F of this Agreement. All interest earned on the Settlement Amount while on deposit in the Escrow Account shall be remitted to Southfield Corporation by wire transfer to an account designated by Southfield Corporation. In the event the Court declines to enter the Preliminary Approval Order, the Escrow Agent shall, within five (5) business days after receiving notification of the Court's decision not to enter the Preliminary Approval Order, remit the entire Settlement Amount, together with all interest earned thereon while held in the Escrow Account, to Southfield Corporation by wire transfer to an account designated by Southfield Corporation.

23. Effect of Opt-Outs. Southfield represents that it has not encouraged, and agrees that it will not, directly or indirectly, encourage any potential Class Member to exercise their right to exclude themselves from this settlement. Southfield further represents that it has not provided, and except with the prior consent of Class Counsel will not provide assistance, advice, counsel or information to any potential Class Member related to the potential Class Member's right to request exclusion from this settlement. Within ten (10) days after the deadline for Class Members to exclude themselves from the Settlement Class, Class Counsel shall deliver to Southfield Corporation's counsel of record in the Action a list of the potential Class Members who submitted requests for exclusion from the Settlement Class (including requests for exclusion deemed by Class Counsel to be untimely or otherwise invalid) together with Class Counsel's

good faith computation, based on data provided by Defendants, of the total amount of Defendants' collective dollar sales of Ready-Mixed Concrete from facilities within the Central Indiana Area during the Class Period to those members of the Class who submitted timely and valid requests for exclusion from this Settlement ("Opt-Out Sales"). If the amount of Opt-Out Sales, as agreed by the parties or determined by the Court, is \$26,800,000 or less, then the Settlement Amount shall not be adjusted and shall remain at \$19,000,000. If the amount of Opt-Out Sales, as agreed by the parties or determined by the Court, is greater than \$26,800,000 but less than \$134,000,000, then the Settlement Amount and Settlement Fund shall be reduced by an amount equal to \$15.00 for every \$1,000 by which the amount of Opt-Out Sales exceeds \$26,800,000 (the "Refund Amount"). For purposes of illustration, if the Opt-Out Sales were \$56,342,111, then the Refund Amount would be \$443,130, calculated by rounding the amount of Opt-Out Sales downward to the nearest even thousand dollar increment (in this illustration, \$56,342,000), then subtracting \$26,800,000 from \$56,342,000 to arrive at the amount by which the rounded amount of Opt-Sales exceeds \$26,800,000 (in this illustration, \$29,542,000), then multiplying \$29,542,000 by 1.5% (0.015) to arrive at the Refund Amount of \$443,130. The Refund Amount, if any, together with all interest earned on the Refund Amount while held in the Settlement Fund shall be promptly paid to Southfield Corporation by wire transfer to an account designated by Southfield Corporation; provided, however, that if the amount of Opt-Out Sales is \$134,000,000 or more, then Plaintiffs and Southfield Corporation shall each have the right, at their/its sole option and discretion, and without incurring any liability to each other or to any other party to this Agreement, to elect at any time prior to final Court approval of this settlement to rescind this Agreement in its entirety, in which case any and all amounts then constituting the Settlement Fund (including all interest earned thereon) shall be returned forthwith to Southfield

Corporation, less only such disbursements properly made in accordance with this Agreement. Southfield Corporation shall have the right to dispute the accuracy of Class Counsel's computation of Opt-Out Sales and the right to receive copies of all requests for exclusion from the Settlement Class (including requests for exclusion deemed by Class Counsel to be untimely or otherwise invalid). If there is any dispute regarding the timeliness or validity of any requests for exclusion, the amount of Opt-Out Sales or calculation of the Refund Amount, the parties shall attempt in good faith to resolve the dispute. If the dispute cannot be resolved by the parties, then it shall be submitted to the Court for final determination pursuant to Paragraph 33 of this Agreement, in connection with which the Court may direct the parties to exchange any non-privileged information, data or data compilations relevant to a determination of the amount of Opt-Out Sales or the Refund Amount.

24. Joint and Several Liability; Insolvency. The obligations pursuant to paragraph 22 of this Agreement are joint and several as to each of the Category A Releasees. In the event of default, insolvency or a declaration of bankruptcy by any one or more of the Category A Releasees, the remainder of the Category A Releasees, jointly and severally, shall continue to be obligated to fulfill all the provisions and obligations of paragraph 22 of this Agreement unless the Agreement is properly rescinded pursuant to paragraphs 23 or 28 of this Agreement.

**F. The Settlement Fund**

25. The Settlement Fund shall at all times be subject to the jurisdiction of the Court. Before the Court issues a final order approving this Agreement, disbursements for reasonable expenses (not including attorneys' fees) associated with the following may be made from the Settlement Fund as directed by Class Counsel: providing notice of the settlement to the Settlement Class, administering the settlement, and any payments and expenses incurred in

connection with taxation matters relating to the settlement and this Agreement as addressed by paragraph 30 of this Agreement. Such reasonable expenses shall not be refundable to Southfield in the event the Agreement is disapproved, rescinded, or otherwise fails to become effective. In no event shall Southfield have any liability with respect to the giving of notice of this settlement to Settlement Class members, including, but not limited to, the expense and cost of such notice.

26. After the Effective Date, Plaintiffs and Class Counsel shall have the right to seek, and Southfield shall not oppose, Court approval of payments from the Settlement Fund for distribution to Settlement Class members or to reimburse Class Counsel for reasonable expenditures made or to be made by Class Counsel in the prosecution of the Action against the Other Defendants. In no event shall Southfield have any responsibility, financial obligation, or liability whatsoever with respect to the investment, distribution, or administration of the Settlement Fund, including, but not limited to, the costs and expenses of such distribution and administration.

27. Class Counsel shall be reimbursed and paid solely out of the Settlement Fund for all fees and expenses including, but not limited to, attorneys' fees and expenses. Plaintiffs and Class Counsel shall have the right to seek, and Southfield shall not oppose, the Court's approval of the payment of attorneys' fees in an amount not to exceed 33 1/3 % of the Settlement Amount, and reimbursement of reasonable expenses, to be paid from the Settlement Fund. No attorneys' fees or expenses, other than the reimbursement of any costs or expenses advanced by Class Counsel associated with providing notice of the settlement to the Settlement Class, administering the settlement, or in connection with taxation matters relating to the settlement and this Agreement as addressed by paragraph 30 of this Agreement, shall be paid to Class Counsel prior to the Effective Date. Southfield shall not be liable for any costs, fees or expenses of any of

Plaintiffs' respective attorneys, experts, advisors, agents, or representatives, but all such costs, fees, and expenses as approved by the Court shall be paid out of the Settlement Fund.

**G. Rescission if the Agreement is Not Finally Approved**

28. If the Court refuses to approve this Agreement or any part hereof, or if such approval is modified or set aside on appeal, or if the Court does not enter the final judgment substantially as provided for in paragraphs 18 and 19 of this Agreement, or if the Court enters the final judgment and appellate review is sought and, on such review, such final judgment is not affirmed, then Southfield Corporation and the Plaintiffs shall each, in its or their sole discretion, and without incurring any liability to each other or to any other party to this Agreement, have the option to rescind this Agreement in its entirety and any and all amounts then constituting the Settlement Fund (including all interest earned thereon) shall be returned forthwith to Southfield Corporation, less only such disbursements properly made in accordance with this Agreement. A modification or reversal on appeal of any amount of Class Counsel's attorneys' fees and expenses awarded by the Court from the Settlement Fund or any Plan of Allocation of the Settlement Fund shall not be deemed a modification of all or a part of the terms of this Agreement or such final judgment.

29. Southfield and Plaintiffs expressly reserve all of their rights if the Agreement does not become effective or if it is rescinded pursuant to paragraph 23 or 28 of this Agreement. Southfield Corporation and Matney each enters this Agreement without in any way acknowledging any fault, liability or wrongdoing of any kind. Nothing contained in this Agreement or any notice or other exhibit to this Agreement, including the Class definition and any reference to "co-conspirators" in this Agreement or in any notice of other exhibit to this Agreement, shall be construed in any way as an admission or evidence of any illegal conduct,

fault, liability or wrongdoing of any kind by Southfield Corporation or Matney. Further, Plaintiffs and Southfield agree that this Agreement, whether or not it is finally approved and whether or not rescinded pursuant to paragraph 23 or 28 of this Agreement, and any and all negotiations, documents, and discussions associated with it, shall not be deemed or construed to be an admission or evidence of any violation of any statute or law, or of any liability or wrongdoing by any defendant, or of the truth of any of the claims or allegations contained in the Complaint or any other pleading filed by Plaintiffs in the Action, and evidence thereof shall not be discoverable or used directly or indirectly, in any way, whether in the Action or in any other action or proceeding.

**H. Taxes**

30. The Settlement Fund shall be established and maintained at all times as a Qualified Settlement Fund within the meaning of Treasury Regulation Section 1.468B-1, as amended. Class Counsel shall be solely responsible for filing all informational and other tax returns necessary to report any net taxable income earned by the Settlement Fund and shall file all informational and other tax returns necessary to report any income earned by the Settlement Fund and shall be solely responsible for taking out of the Settlement Fund, as and when legally required, any tax payments, including interest and penalties due on income earned by the Settlement Fund. All taxes (including any interest and penalties) due with respect to the income earned by the Settlement Fund shall be paid from the Settlement Fund. Southfield shall have no responsibility to make any filings relating to the Settlement Fund and will have no responsibility to pay tax on any income earned by the Settlement Fund or pay any taxes on Settlement Fund, unless the settlement is not consummated and the Settlement Fund is returned to Southfield. In the event the settlement is not consummated, Southfield shall be responsible for the payment of



all taxes on said income that have not already been paid out of the Settlement Fund as provided in this Agreement. However, Southfield shall not be responsible for paying any interest or penalties relating to tax filings made by Class Counsel or tax payments owed as a result of those filings or the lack of timely filing thereof.

**I. Miscellaneous**

31. Discovery and Future Cooperation.

(a) Limitation On Future Cooperation With Other Defendants. Southfield agrees to withdraw from any joint defense or similar agreement it or its counsel may have with any Other Defendant or counsel for any Other Defendant, and agrees not to voluntarily assist Other Defendants in their defense of the claims brought against them by the Plaintiffs and the proposed class in the Action unless Southfield is ordered to do so by a court of competent jurisdiction or it is otherwise required to do so by law, in which case Southfield shall advise Class Counsel of the substance of any such assistance provided to other Defendants; provided, however, that the limitation on future cooperation with Other Defendants shall apply only to this Action and shall not apply to any other investigation, litigation or proceeding.

(b) Agreement To Assist Plaintiffs With Records and Data. Southfield Corporation agrees to cooperate in good faith with, and to provide reasonable technical assistance to, Class Counsel with respect to obtaining and understanding Southfield Corporation's operational and financial records, including electronic transaction and customer data, to the extent reasonably necessary for Plaintiffs to provide court-ordered notices to potential Class Members, to facilitate distribution of funds to Class Members, or to otherwise assist Plaintiffs in their prosecution of this Action, up to a maximum of

twenty (20) hours of attorney time and an additional twenty (20) hours of non-attorney time by paralegals, legal assistants or Southfield Corporation non-attorney personnel. The parties shall cooperate in good faith to minimize the amount of time required by Southfield's attorneys in providing cooperation or assistance to Class Counsel by employing the services of non-attorneys wherever feasible. The obligations set forth in this subparagraph apply both to records and electronic data already provided by Southfield Corporation and, to the extent reasonably necessary, relevant, discoverable and non-privileged, records and electronic data, if any, in Southfield Corporation's possession or control that may be requested by Class Counsel in the future. If Class Counsel finds it necessary to utilize more than twenty (20) hours of attorney time from Southfield's attorneys for cooperation or assistance pursuant to this subparagraph, then such cooperation or assistance will be provided only on the condition that Class Counsel first confirms in writing their agreement to pay the usual and customary hourly rate for each hour, or portion thereof, beyond twenty (20) spent by the attorney(s) who provide the cooperation or assistance to Class Counsel. Likewise, if Class Counsel find it necessary to utilize more than twenty (20) hours of non-attorney time for paralegals or legal assistants employed by Southfield's counsel, or by Southfield non-attorney personnel, for cooperation or assistance pursuant to this subparagraph, then such cooperation or assistance will be provided only on the condition that Class Counsel first confirms in writing their agreement to pay for each hour or portion thereof in excess of twenty (20) spent by paralegals or legal assistants employed by Southfield's counsel, or Southfield's non-attorney personnel, the reasonable and customary hourly rate charged by Southfield's paralegals and/or legal assistants and a reasonable charge sufficient to fairly

compensate Southfield for the lost time of its non-attorney personnel who provide the cooperation or assistance to Class Counsel.

(c) Additional Specific Provisions Related to Matney. In addition to the provisions in Paragraphs 31(a) and (b), Matney agrees that: (1) he will supply to Class Counsel upon future request an affidavit or declaration statements under oath and subject to the penalties for perjury, consistent with but not limited to statements made by Matney in his interrogatory answers in the Action; and (2) in the event of a trial in the Action, upon request by Class Counsel, he will appear voluntarily as a witness at trial without the necessity of a subpoena. In order to facilitate future communications, Matney agrees to keep his counsel advised of his whereabouts while the Action remains pending. If Matney changes counsel while the Action remains pending, he agrees to notify Class Counsel and Southfield Corporation's counsel of the name, address and phone number of his new counsel. In the event that Matney is without counsel in connection with this matter, he agrees to keep Class Counsel and Southfield Corporation's counsel advised of his whereabouts while the Action remains pending. All communications between Class Counsel and Matney will be conducted through Matney's counsel for so long as Matney is represented by counsel in connection with this matter. Plaintiffs agree to withdraw the pending Notice of Deposition directed to Matney and, except as provided herein, not to serve any further notice for Matney's deposition or otherwise seek to take his deposition during the course of this Action; provided, however, that: (i) if Matney removes himself from or is otherwise outside the subpoena power of the Court in this Action and fails to provide affidavits or declaration statements under oath as agreed herein, or fails to appear voluntarily to testify at trial as agreed herein, Class Counsel may subpoena and depose

Matney; and (ii) if any of the Other Defendant seeks and obtains the right to take Matney's deposition, without instigation from Plaintiffs or Class Counsel, then Class Counsel may question Matney during any such deposition testimony as they deem necessary.

(d) Additional Specific Provisions Related to Southfield Corporation and Doug Dalton. In addition to the provisions in Paragraphs 31(a) and (b), Southfield Corporation agrees that: (1) it will supplement, or has supplemented, its existing interrogatory answers to include responsive information related to Bloomington and Monroe County; and (2) it will supply to Class Counsel upon future request affidavits, declarations or certifications as to the authenticity of documents and data, or, proffer a 30(b)(6) witness to authenticate documents and data, produced by Southfield Corporation. Plaintiffs agree to withdraw the pending Fed. R. Civ. P. 30(b)(6) Notice of Deposition directed to Southfield Corporation and the notice of deposition directed to Doug Dalton, and not to serve any further notice for a deposition on Southfield Corporation or Doug Dalton or otherwise seek to take such depositions during the course of this Action except, as necessary, for the Fed. R. Civ. P. 30(b)(6) deposition of Southfield Corporation for authentication of documents and data as contemplated herein; provided, however, that if any of the Other Defendants seeks and obtains the right to take Doug Dalton's deposition or to conduct a 30(b)(6) deposition of Southfield Corporation, without instigation from Plaintiffs or Class Counsel, then Class Counsel may question the witness during any such deposition testimony as they deem necessary.

(e) Additional Specific Provisions Related to Alan Oremus. In addition to the provisions in Paragraphs 31(a) and (b), Southfield Corporation Chief Executive Officer

Alan Oremus agrees that: (a) he will supply to Class Counsel upon future request truthful affidavit or declaration testimony; and (b) in the event of a trial, he will submit to a deposition taken solely for the purposes of preserving his testimony for trial. In order to facilitate future communications, Alan Oremus agrees to keep counsel for Southfield Corporation advised of his whereabouts while the Action remains pending. In the event that Alan Oremus is without counsel, he agrees to keep Class Counsel advised of his whereabouts while the Action remains pending. All communications between Class Counsel and Alan Oremus will be conducted through Southfield Corporation's counsel for so long as Southfield Corporation is represented by counsel in connection with this matter. Plaintiffs agree to withdraw the pending Notice of Deposition directed to Alan Oremus and, except as provided herein, not to serve any further notice for Alan Oremus's deposition or otherwise seek to take his deposition during the course of this Action; provided, however, that if any of the Other Defendants seeks and obtains the right to take Alan Oremus's deposition, without instigation from Plaintiffs or Class Counsel, then Class Counsel may question Alan Oremus during any such deposition testimony as they deem necessary.

32. This Agreement does not settle or compromise any claim by Plaintiffs or any Class Member asserted in the Action against any Other Defendant or any alleged co-conspirator other than the Releasees. All rights of any Class Member against Other Defendants, alleged co-conspirators or any other person or entity other than the Releasees are specifically reserved by Plaintiffs and the Class Members. The sales of Ready-Mixed Concrete by Southfield Corporation and its affiliates in the Central Indiana Area shall remain in the case against the

Other Defendants as a basis for damage claims and shall be part of any joint and several liability claims against Other Defendants.

33. The Court shall retain jurisdiction over the implementation, enforcement, and performance of this Agreement, and shall have exclusive jurisdiction over any suit, action, proceeding, or dispute arising out of or relating to this Agreement or the applicability of this Agreement that cannot be resolved by negotiation and agreement by Plaintiffs and Southfield.

34. This Agreement constitutes the entire agreement among Plaintiffs and Southfield pertaining to the settlement of the Action against Southfield Corporation, Matney and Releasees only and supersedes any and all prior and contemporaneous undertakings of Plaintiffs and Southfield in connection therewith. This Agreement may be modified or amended only by a writing executed by Plaintiffs, Southfield Corporation and Matney, and approved by the Court.

35. This Agreement shall be binding upon, and inure to the benefit of, the successors and assigns of Releasors and Releasees. Without limiting the generality of the foregoing and subject to the Effective Date occurring: (a) each and every covenant and agreement made herein by Plaintiffs or Class Counsel shall be binding upon all Class Members and Releasors, and (b) each and every covenant and agreement made herein by Southfield shall be binding upon all Releasees.

36. This Agreement may be executed in counterparts by Plaintiffs and Southfield, and a facsimile signature shall be deemed an original signature for purposes of executing this Agreement.

37. Neither Southfield nor Plaintiffs, nor any of them, shall be considered to be the drafter of this Agreement or any of its provisions for the purpose of any statute, case law, or rule

of interpretation or construction that would or might cause any provision to be construed against the drafter of this Agreement.

38. Nothing expressed or implied in this Agreement is intended to or shall be construed to confer upon or give any person or entity other than Plaintiffs, Settlement Class Members, Class Counsel, Releasers, and Releasees any right or remedy under or by reason of this Agreement.

39. Where this Agreement requires any party to provide notice or any other communication or document to any other party, such notice, communication, or document shall be provided by letter sent by same day facsimile transmission or electronic mail transmission with confirmation by overnight delivery or hand delivery.

40. Each of the undersigned attorneys represents that he or she is fully authorized to enter into the terms and conditions of, and to execute, this Agreement, subject to Court approval.

41. This Agreement shall be interpreted and construed in accordance with the laws of the State of Indiana, and any dispute or claims arising under or related to the terms or provisions of this Agreement, whether styled in contract, tort or otherwise, shall be governed by the internal laws of the State of Indiana without reference to choice of law or conflict of law principles.

IN WITNESS WHEREOF, the Parties have executed this Settlement Agreement as of the Execution Date set forth above.

**DEFENDANTS:**

**Southfield Corporation f/k/a Prairie  
Material Sales, Inc.,**  
by its duly-authorized officer:

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

**And Gary Matney, Individually:**

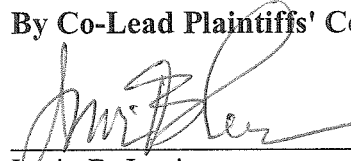
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Signature

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Date

**PLAINTIFFS:**

**Kort Builders, Inc., Dan Grote, Cherokee  
Development, Inc., Winger/Stolberg Group,  
Inc., Marmax Construction, LLC, Boyle  
Construction Management, Inc., and T&R  
Contractor, Inc.**

**By Co-Lead Plaintiffs' Counsel:**



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