

State of Alabama                     )  
  )  
County of Shelby                    )

**SETTLEMENT AGREEMENT AND  
MUTUAL RELEASE OF CLAIMS**

This Settlement Agreement and Mutual Release of Claims (hereinafter referred to as "Agreement") is hereby made and entered into by and among plaintiffs **ROBERT MCGUFFIE** and **KATHY MCGUFFIE**, defendants **TEC SPECIALTY PRODUCTS, INC.**, and **H.B. FULLER COMPANY**, defendant **GENERAL COATINGS, INC.**, defendant **TROY DILLARD d/b/a DILLARD PLASTERING COMPANY, INC.**, defendant **DENMAN BUILDING, INC.** and their insurers and assigns, hereinafter sometimes collectively referred to as the "Parties."

**WITNESSETH**

**WHEREAS**, Robert and Kathy McGuffie instituted an action in the Circuit Court of Jefferson County, Alabama entitled *Robert and Kathy McGuffie v. TEC Specialty Products, Inc. f/k/a TEC, Inc., an H.B. Fuller Company.; General Coatings, Inc.; Troy Dillard, d/b/a Dillard Plastering Company, Inc. and Denman Building, Inc.*, Civil Action Number CV-01-4403, arising out of alleged defects in the construction of their personal residence located at 1925 Cahaba Crest Drive, Birmingham, Alabama 35242, according to the survey:

Lot 15, Block 1, according to the survey of Altadena Woods, First Sector, as recorded in Map Book 10, page 104 A & B, in the Probate Office of Shelby County, Alabama; being situated in Shelby County, Alabama.

(hereinafter referred to as the "Relevant Property"); and

**WHEREAS**, on or about May 23, 2002, Plaintiffs made a motion to transfer said action to the Circuit Court of Shelby County, Alabama, which motion was granted on or about June 13, 2002; and

**WHEREAS** the parties to this Agreement desire to settle and finally resolve all matters in controversy between and among them in the above-referenced civil action relating to Robert and Kathy McGuffie's personal residence;

✓  
Maynard Cooper + Gale P.C.  
1901 Sixth Ave. North  
2400 Answorth Harbor Plaza  
B'ham, AL 35203-2602

**NOW, THEREFORE**, in consideration of the covenants and promises set forth herein, the payment of and other good and valuable consideration described below, the receipt and sufficiency of which are hereby acknowledged, the Parties to this Agreement do hereby agree as follows:

1. Upon execution of this Agreement by Robert and Kathy McGuffie, Denman Building, Inc., General Coatings, Inc., Troy Dillard d/b/a Dillard Plastering Company, Inc. and TEC Specialty Products, Inc. shall pay and deliver to Robert and Kathy McGuffie the total sum of Ninety Five Thousand and No/100 (\$95,000.00) Dollars (the "Settlement Amount") made payable to H. Arthur Edge, III and W. Brian Collins, in trust for Robert and Kathy McGuffie.

2. For and in consideration of the payment of the Settlement Amount, Robert and Kathy McGuffie, on behalf of themselves, their heirs, administrators, executors, successors, and assigns do hereby release, remise, acquit and forever discharge Denman Building, Inc., Denman Construction Company, Inc., Denman Builders, Inc., Rodney Denman, General Coatings, Inc., Troy Dillard d/b/a Dillard Plastering Company, Inc., TEC Specialty Products, Inc. and H.B. Fuller Company, their employees, officers, shareholders, agents, servants, successors, heirs, administrators, executors, insurers, attorneys, and assigns, and do further release all other persons and entities, specifically including any alleged tortfeasors, known and unknown, from any and all claims, demands, actions, or causes of action or suits of law or in equity of whatever kind or nature, whether based upon alleged tort or alleged contract, vicarious liability, or any other legal or equitable theory of recovery, including but not limited to allegations of fraud, known or unknown, past, present or future, suspected to exist or not suspected to exist, anticipated or not anticipated, which have arisen or are now arising or hereafter may arise, in connection with the construction of the Relevant Property and/or the EIFS cladding applied to the Relevant Property. The effect of this paragraph of the Agreement is intended to be a general release of all claims or causes of action of any kind or nature for property damage, including but not limited to claims related to the manufacture,

marketing, distribution, sale, purchase, or installation of EIFS cladding, or claims that Robert McGuffie and/or Kathy McGuffie may have against any person or entity in connection with the construction of, materials used in the construction of, repairs made to, their term of residency in, or of any future sale of the Relevant Property and/or real property upon which the house at 1925 Cahaba Crest Drive, Birmingham, Alabama 35242 is situated. Furthermore, the effect of this paragraph of the Agreement is intended to be a general release of all claims for personal injury that are in any way related to the EIFS cladding. All claims for personal injury not related to the EIFS cladding are not released herein and are expressly reserved.

3. In consideration of their respective contributions to the settlement amount, the payment, receipt and sufficiency of which is hereby acknowledged, Denman Building, Inc., Denman Construction Company, Inc., Denman Builders, Inc., Rodney Denman, General Coatings, Inc., Troy Dillard d/b/a Dillard Plastering Company, Inc., TEC Specialty Products, Inc. and H.B. Fuller Company do hereby fully release, remise, acquit and forever discharge one another, and all of their employees, officers, shareholders, respective agents, servants, successors, heirs, administrators, executors, insurers and assigns, from any and all claims, demands, actions, or causes of action or suits of law or in equity of whatever kind or nature, whether based upon alleged tort or alleged contract, vicarious liability, or any other legal or equitable theory of recovery, including but not limited to allegations of fraud, known or unknown, past, present or future, suspected to exist or not suspected to exist, anticipated or not anticipated, which have arisen or are now arising or hereafter may arise, in connection with the construction of the Relevant Property and/or the EIFS cladding applied to the Relevant Property. The releases contained in this paragraph of the Agreement are specific to Denman Building, Inc., Denman Construction Company, Inc., Denman Builders, Inc., Rodney Denman, General Coatings, Inc., Troy Dillard d/b/a Dillard Plastering Company, Inc., TEC Specialty Products, Inc. and H.B. Fuller Company, and in no way limit the rights of Denman Building, Inc., Denman Construction Company, Inc., Denman Builders, Inc., Rodney Denman,



General Coatings, Inc., Troy Dillard d/b/a Dillard Plastering Company, Inc., TEC Specialty Products, Inc. and H.B. Fuller Company or their respective insurers with respect to claims against any other entities.

4. Robert and Kathy McGuffie agree that upon execution of this Agreement, they shall file a voluntary Dismissal with Prejudice, dismissing Denman Building, Inc., General Coatings, Inc., Troy Dillard d/b/a Dillard Plastering Company, Inc., TEC Specialty Products, Inc. and H.B. Fuller Company from the above-referenced civil action currently pending in the Circuit Court of Shelby County, Alabama. All parties agree that they will bear their own costs, attorney's fees, disbursements and expenses of any kind incurred in prosecuting and/or defending the above-referenced civil action, and further agree to execute any other documents necessary to effectuate fully the terms of this Agreement.

5. Robert and Kathy McGuffie agree and understand that it is the objective of Denman Building, Inc., Denman Construction Company, Inc., Denman Builders, Inc., Rodney Denman, General Coatings, Inc., Troy Dillard d/b/a Dillard Plastering Company, Inc., TEC Specialty Products, Inc. and H.B. Fuller Company, and the purpose of this Agreement, that Denman Building, Inc., Denman Construction Company, Inc., Denman Builders, Inc., Rodney Denman, General Coatings, Inc., Troy Dillard d/b/a Dillard Plastering Company, Inc., TEC Specialty Products, Inc., H.B. Fuller Company, and their insurers, be released from any and all liability arising out of or relating to the construction of the Relevant Property and/or the EIFS cladding applied to the Relevant Property, including claims related to the defense, investigation, settlement or adjustment of such liability, and from any and all suits or claims by Robert and Kathy McGuffie, subsequent purchasers, or anyone claiming rights by or through Robert McGuffie or Kathy McGuffie, which have been or may be asserted against Denman Building, Inc., Denman Construction Company, Inc., Denman Builders, Inc., Rodney Denman, General Coatings, Inc., Troy Dillard d/b/a Dillard Plastering Company, Inc., TEC Specialty

Products, Inc., H.B. Fuller Company and/or their insurers arising out of or relating to the construction of the Relevant Property or the EIFS cladding applied to the Relevant Property.

Therefore, Robert and Kathy McGuffie further agree to release and hold harmless Denman Building, Inc., Denman Construction Company, Inc., Denman Builders, Inc., Rodney Denman, General Coatings, Inc., Troy Dillard d/b/a Dillard Plastering Company, Inc., TEC Specialty Products, Inc. and H.B. Fuller Company in any civil action subsequently filed against them for matters released herein arising out of or relating to the construction of the Relevant Property or the EIFS cladding applied to the Relevant Property.

6. The Parties hereby acknowledge and agree that payment of the Settlement Amount, or any portion of the Settlement Amount, is not an admission of liability on the part of Denman Building, Inc., Denman Construction Company, Inc., Denman Builders, Inc., Rodney Denman, General Coatings, Inc., Troy Dillard d/b/a Dillard Plastering Company, Inc., TEC Specialty Products, Inc. and/or H.B. Fuller Company or their insurers, but is made solely in order to compromise the disputed claims for the purpose of avoiding further litigation regarding the construction of the Relevant Property and/or the EIFS cladding applied to the Relevant Property.

7. It is expressly understood and agreed that this is a full, final and complete settlement and release as to Denman Building, Inc., Denman Construction Company, Inc., Denman Builders, Inc., Rodney Denman, General Coatings, Inc., Troy Dillard d/b/a Dillard Plastering Company, Inc., TEC Specialty Products, Inc. and H.B. Fuller Company and their insurers, relating to the construction of the Relevant Property and/or the EIFS cladding applied to the Relevant Property, and that the terms of this Agreement may not be amended orally.

8. If any paragraph or part of this Agreement is found void or unenforceable, the remainder of this Agreement shall not be affected by such a finding.

9. This Agreement shall be binding on the Parties' employees, officers, agents, shareholders, successors in interest, heirs, executors, administrators and assigns.

10. The undersigned have read this Agreement, and acknowledge that they have had the advice of counsel and that no promise or representation of any kind, other than as contained herein, has been made by the Parties hereby released or any one acting for them. The Parties to this Agreement have relied fully and completely on their own judgment and the advice of their attorneys in executing this Agreement.

11. This Agreement shall be construed in accordance with the laws of the State of Alabama.

12. Defendants Denman Building, Inc., General Coatings, Inc., Troy Dillard d/b/a Dillard Plastering Company, Inc., TEC Specialty Products, Inc. and H.B. Fuller Company represent and agree that their attorneys may sign this Agreement for them.

13. This Agreement may be executed in original counterparts, each of which shall be deemed an original and all of which shall constitute the same instrument.

14. This release is taken and the consideration stated above is paid by the liability insurance carriers for Denman Building, Inc., General Coatings, Inc., Troy Dillard d/b/a Dillard Plastering Company, Inc., TEC Specialty Products, Inc. and H.B. Fuller Company, and the insurance carriers are acting as independent contractors and not as agents of any party released hereby.

15. The parties and their counsel hereby agree and stipulate that the terms of this Agreement shall be kept fully confidential, and shall not be published, released, displayed, or disseminated in any form or fashion, other than between and among the parties to this Agreement and prospective purchasers of the Relevant Property and their agents, except by specific written agreement of the Parties or upon order of a Court of competent jurisdiction. However, it shall not be a violation of the Agreement for Robert and Kathy McGuffie to disclose that the case has been resolved in a manner satisfactory to them.

IN WITNESS WHEREOF, the undersigned have hereunto set their hands and seals this 30 day of July, 2002.

Robert McGuffie  
Robert McGuffie

Sworn to and subscribed before me this 30 day of July, 2002.

Marilyn K. Braswell  
NOTARY PUBLIC  
My Commission Expires \_\_\_\_\_

MARILYN K. BRASWELL  
Notary Public Alabama State at Large  
My Commission Expires February 20, 2000

Kathy McGuffie  
Kathy McGuffie

Sworn to and subscribed before me this 30 day of July, 2002.

Marilyn K. Braswell  
NOTARY PUBLIC  
My Commission Expires \_\_\_\_\_

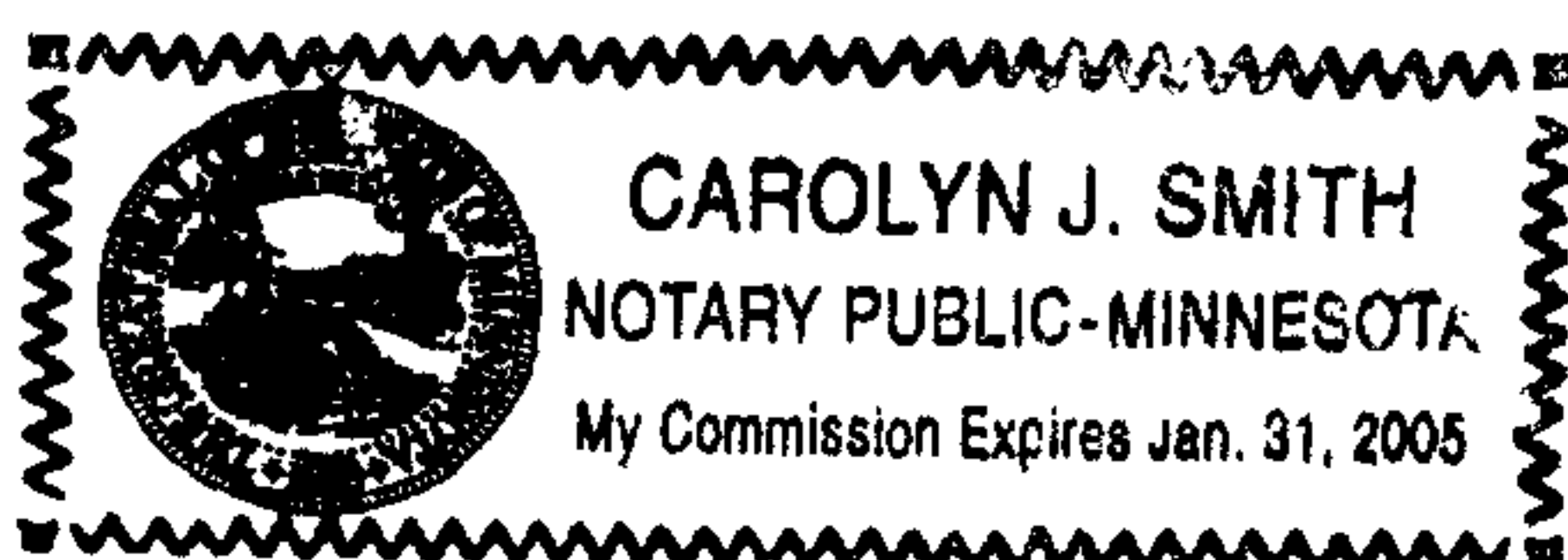
MARILYN K. BRASWELL  
Notary Public Alabama State at Large  
My Commission Expires February 28, 2005

TEC SPECIALTY PRODUCTS, INC. and H.B. FULLER COMPANY

By: Scott B. Payton  
Name: Scott B. Payton  
Title: Attorney

Sworn to and subscribed before me this 22nd day of July, 2002.

Carolyn J. Smith  
NOTARY PUBLIC  
My Commission Expires 1-31-05





**DENMAN BUILDING, INC.**

By: [Signature]  
Name: Chris Mims  
Title: Attorney

Sworn to and subscribed before me  
this 16<sup>th</sup> day of August, 2002.

[Signature: Angela P. Perkins]  
NOTARY PUBLIC  
My Commission Expires  
NOTARY PUBLIC STATE OF ALABAMA AT LARGE  
MY COMMISSION EXPIRES: Sept 20, 2004  
BONDED THRU NOTARY PUBLIC UNDERWRITERS

**GENERAL COATINGS, INC.**

By: [Signature]  
Name: Teresa D. Davenport  
Title: Attorney

Sworn to and subscribed before me  
this 13 day of August, 2002.

[Signature: Barbara C. Swett]  
NOTARY PUBLIC  
My Commission Expires 9/15/05

**TROY DILLARD, d/b/a/ DILLARD PLASTERING  
COMPANY, INC.**

By: [Signature: Lucy W. Jordan]  
Name: Lucy W. Jordan  
Title: Attorney

Sworn to and subscribed before me  
this 22<sup>nd</sup> day of Aug, 2002.

[Signature: Pauline D. Bizzio]  
NOTARY PUBLIC  
My Commission Expires 3-3-03