

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA**

DEAN MAHAN, GRETCHEN SILVERMAN, STEVEN MCKENNA, THOMAS SCHAUPPNER, MARJORIE ZACHWIEJA, JOHN FORCELLA, SHEILA SHAPIRO, SABRINA W. HASS and DR. LANNY W. HASS, AMY BIONDI-HUFFMAN, and BRIAN HATHAWAY, on behalf of themselves and all others similarly situated,

Plaintiffs,

v.

TREX COMPANY, INC., a Delaware corporation,

Defendant.

CASE NO.: CV 09-00670-JSW

**CLASS ACTION**

**AMENDED STIPULATION OF SETTLEMENT AND RELEASE**

**THIS AMENDED STIPULATION OF SETTLEMENT AND RELEASE** (“Settlement,” “Stipulation,” “Agreement,” or “Settlement and Release”) is made by and between the Plaintiffs in this case, for themselves and on behalf of the Plaintiff Settlement Class as hereinafter defined (“Settlement Class”) and Defendant Trex Company, Inc. as hereinafter defined (“Trex” or “Defendant”). The Plaintiffs and Defendant, collectively, are referred to hereinafter as the “Parties.”

Subject to Court approval as required by the Federal Rules of Civil Procedure, it is hereby stipulated and agreed by the Parties that, in consideration of the promises and covenants set forth in this Agreement and upon the entry by the Court of a Final Order and Judgment

approving the Settlement and directing the implementation of the terms and conditions of the Settlement as set forth in this Agreement, this Action shall be settled and compromised upon the terms and conditions contained herein.

### **RECITALS**

**WHEREAS**, the Plaintiffs are parties to a Class Action entitled *Mahan et. al v. Trex Company, Inc.*, Case No.: CV 09-00670-JSW, pending in the United States District Court, Northern District of California (the “Action”), which alleges generally that Defendant has violated federal, state, and common law by misrepresenting or concealing the characteristics of certain Trex decking, railing, and fencing (“Trex Product”), by breaching warranties, and/or by defrauding consumers, or treating consumers unfairly, in the design, manufacture, marketing, and sale of Trex Product; and

**WHEREAS**, the Plaintiffs, while believing that the claims asserted in the Action have merit, have examined the benefits to be obtained under the terms of the proposed Settlement and Release, and have considered the risks associated with the continued prosecution and possible appeal of this litigation, and the likelihood of success on the merits of the Action, and believe that, in consideration of all the circumstances, the Settlement and Release embodied in this Stipulation is fair, reasonable, adequate and in the best interests of the Settlement Class; and

**WHEREAS**, Class Counsel performed substantial investigation regarding the claims asserted and the defenses that were or could have been asserted in the Action. Among other things, Class Counsel propounded formal discovery requests, analyzed thousands of pages of documents produced by Defendant, reviewed public documents, inspected Trex Product in various states, retained and consulted with experts, deposed in-house personnel from Trex’s research and development group and Trex’s marketing group, issued third-party subpoenas to

various vendors and consultants to Trex, and researched the applicable law regarding the claims asserted and the potential defenses thereto; and

**WHEREAS**, Defendant, while denying wrongdoing of any kind whatsoever, and without admitting liability, nevertheless has agreed to enter into this Stipulation and the Settlement and Release contained herein to avoid further expense, inconvenience and the distraction of burdensome and protracted litigation, and to be completely free of any further controversy with respect to the claims which were asserted or could have been asserted by Plaintiffs in the First Consolidated Class Action Complaint (“Complaint”) filed in the Action.

**NOW, IN CONSIDERATION AND RECEIPT OF THE FOREGOING AND OTHER GOOD AND VALUABLE CONSIDERATION AS DESCRIBED HEREIN, IT IS HEREBY AGREED** that the Action be settled and compromised upon approval of the Court after hearing as provided herein, on the following terms and conditions:

**A. DEFINITIONS**

As used in this Agreement and the Exhibits annexed hereto, and in addition to any definitions elsewhere in this Agreement, the following terms shall have the meanings set forth below:

1. **“Action”** means the above-captioned action, *Mahan et. al v. Trex Company, Inc.*, Case No.: CV 09-00670-JSW, in the United States District Court, Northern District of California.

2. **“Agreement”** or **“Settlement”** or **“Settlement Agreement”** means this Settlement Agreement, including and incorporating herein by reference all Exhibits.

3. **“Attorneys’ Fees and Costs”** means the amount awarded by the Court as compensation for the services provided by Plaintiffs’ counsel (which includes all counsel

representing Plaintiffs' in this matter, including Class Counsel and all other counsel who signed the First Consolidated Amended Complaint in this matter) to date and into the future to effectuate this Settlement, to include reimbursement of costs, expenses, and interest (including expert witness fees and expenses), which is not to exceed \$1,475,000 (One Million Four Hundred Seventy Five Thousand). The Attorneys' Fees and Costs shall be paid in addition to, and shall not be a reduction of, the compensation payable to Eligible Claimants pursuant to this Agreement.

4. **"Claim"** or **"Claims"** means a Claim for a Covered Condition to a Trex Product submitted to the Claims Office pursuant to the Claims Program established by this Agreement.

5. **"Claims Adjudicator"** shall mean Epiq Systems, Inc. ("Epiq"), a third-party administrator paid by the Defendant to receive and determine the validity of any appeal of a decision made by Trex with respect to a Claim made hereunder.

6. **"Claimant"** means anyone who submits a Claim in the Claims Program.

7. **"Claim Form"** means the document made available pursuant to the provisions of the Notice Plan that a Class Member must submit, subject to the provisions of this Stipulation, in order to obtain benefits from the Agreement. The Claim Form shall be in substantially the form set forth in Exhibit A to this Agreement.

8. **"Claims Office"** means the office or department established by Defendant for the purpose of implementing and managing the Claims Program established by this Agreement.

9. **"Claim Period"** or **"Claims Period"** means that period of time that expires nine (9) months from entry of the Court's order granting preliminary approval of the Settlement. All Class Members who do not submit a timely Claim Form and Supplemental Form, if applicable,

within the Claim Period shall be barred from recovering under the Claims Program.

10. **“Claims Program”** means the procedure set forth in Section D for submitting and processing Claims.

11. **“Class Counsel”** means Hagens Berman Sobol Shapiro LLP.

12. **“Class Member”** or **“Class Members”** means any Person who is included within the definition of the Settlement Class (and that Person’s heirs, executors, administrators, successors, and assigns), and who does not validly and timely request exclusion from the Settlement Class, in accordance with the provisions of the Notice Plan.

13. **“Class Period”** means the period of time between August 1, 2004 and the date of entry of the Court’s order granting preliminary approval of the Settlement.

14. **“Covered Condition”** means any condition related to or arising from mold, mildew, fungal, or other dark or gray growth or spotting, or any color variation or color fading.

15. **“Court”** means the United States District Court, Northern District of California.

16. **“Effective Date”** means that date described in Section M, Paragraph 2, herein.

17. **“Eligible Claimant”** means a Class Member who submits a Claim, and substantially all information and materials required therein, within the time limits set out in this Agreement.

18. **“Fairness Hearing”** means the settlement approval hearing(s) to be conducted by the Court in connection with the determination of the fairness, adequacy and reasonableness of this Agreement in accordance with Fed. R. Civ. P. 23(c).

19. **“Final Order and Judgment”** means the Order to be entered by the Court, in a form that is mutually agreeable to the Parties, approving this Agreement as fair, adequate and

reasonable and in the best interests of the Settlement Class as a whole in accordance with Fed. R. Civ. P. 23(e), confirming the Settlement Class certification, and making such other findings and determinations as are necessary and appropriate to effectuate the terms of this Agreement.

20. **“MPC”** shall have the meaning given to such term in Section E.

21. **“Notice of Proposed Class Action Settlement”** means the Court-approved written notice to Class Members.

22. **“Notice Plan”** or **“Notice”** means the notice, plan, and schedule for providing class-wide mailed and published notice of the Settlement and certification of the Settlement Class, including the Notice of Proposed Class Action Settlement, all as more particularly described in forms to be mutually agreed upon by the Parties and attached hereto as Exhibit G.

23. **“Opt-Out Period”** means the 45-day period from the last date that Notice is sent by Trex or first published in accordance with the Notice Plan by the notice provider (as certified by Trex and the notice provider).

24. **“Parties”** means Plaintiffs, the Settlement Class, and the Defendant.

25. **“Person”** or **“Persons”** means any individual, legal entity, association, or their successors or assigns.

26. **“Plaintiffs”** means the individuals acting as named representative Plaintiffs in this Action (i.e., Dean Mahan, Gretchen Silverman, Steven McKenna, Thomas Schauppner, Marjorie Zachwieja, John Forcella, Sheila Shapiro, Sabrina W. Hass and Dr. Lanny W. Hass, Amy Biondi-Huffman, and Brian Hathaway).

27. **“Preliminary Approval”** means the Court’s provisional certification of the Settlement Class, preliminary approval of this Agreement, and approval of the Notice of

Proposed Class Action Settlement pursuant to Fed. R. Civ. P. 23(c)(2) and (e).

28. **“Release”** means the release set forth in Section I of this Agreement.

29. **“Released Claims”** means and includes, in addition to all claims set forth in the Complaint by Plaintiffs, any and all causes of action, claims, liabilities, rights, matters, suits, proceedings, damages, equitable, legal and administrative relief, interest, attorneys’ fees, expenses and costs, disbursements, losses, penalties, punitive damages, exemplary damages, damages based on a multiplication of compensatory damages, damages based on emotional distress and mental anguish, demands, obligations, rights, liens, entitlements, indemnities, and contributions of any kind or nature whatsoever related to a Covered Condition of Trex Product, whether known, unknown or presently unknowable, suspected or unsuspected, latent or patent, accrued or unaccrued, asserted or unasserted, fixed or contingent, liquidated or unliquidated, matured or unmatured, and whether based on federal or state statute, regulation, ordinance, contract, common law, or any other source that has been, could have been, may be, or could be directly or indirectly alleged, asserted, described, set forth or referred to now, in the past, or in the future by Plaintiffs or the Settlement Class relating to a Covered Condition of Trex Product against the Released Parties either in this Action, or in any other court action or proceeding, or before any administrative or regulatory body, tribunal or arbitration panel, on the basis of, connected with, arising out of, or in any way related to, in whole or in part, Defendant’s design, specification, manufacture, production, promotion, advertising, sale, representation, distribution, or installation of Trex Product as it relates to a Covered Condition. The Released Claims include, without limitation, all causes of action related to a Covered Condition of Trex Product and related to the above without regard to whether such cause of action is or could be brought pursuant to common law, or any federal or state statute, regulation, or ordinance, including but

not limited to federal or state statutes or regulations concerning unfair competition; unfair or deceptive methods of competition; unfair, deceptive, fraudulent, unconscionable, false or misleading conduct, acts, advertising or trade practices; consumer protection (including violations of the Song-Beverly Consumer Warranty Act and the Magnuson-Moss Warranty Act); or under the common law of any state as a claim for breach of contract, breach of express and implied warranties, reformation of warranty, breach of fiduciary duty, fraud, intentional misconduct, unjust enrichment, misrepresentation (negligent or otherwise), tort, negligence, breach of constructive trust, breach of the implied covenant of good faith and fair dealing, or any other common law or statutory basis. In addition, the Class Members shall be deemed to, and do hereby, release and forever discharge, any other persons or entities from claims related to a Covered Condition of Trex Product for which the Defendant could be liable to any Class Members arising out of or related to the design, specification, manufacture, production, promotion, advertising, sale, representation, distribution, or installation of the Trex Product as it relates to a Covered Condition. The term “Released Claims” does not include the following: any claim for bodily injury, including claims for pain and suffering, emotional distress, mental anguish or similar damages associated with such bodily injury.

30. **“Required Cleaning Instructions”** means the cleaning instructions set forth in Exhibit B to this Agreement.

31. **“Released Parties”** or **“Released Party”** means Defendant, and any of its past or present officers, stockholders, directors, agents, employees, attorneys, affiliates, subsidiaries or divisions, and any parent companies, predecessors, successors, assigns, or legal representatives of the foregoing entities or persons, or any vendor, distributor, dealer, contractor, person or entity who sells, distributes and/or installs Trex Product. In addition, the Class Members shall be

deemed to, and do hereby, release and forever discharge any other persons or entities from Claims for which the Defendant could be liable to any Class Members arising out of or related to a Covered Condition of Trex Product and whether based on the design, specification, manufacture, production, promotion, advertising, sale, representation, distribution, or installation of Trex Product.

32. **“Second Required Cleaning”** shall have the meaning given to such terms in Section D.

33. **“Settlement and Release”** means the terms agreed to in this Stipulation.

34. **“Settlement Class”** means all Persons in the United States or its territories who own or owned a Trex Structure built with Trex Product purchased during the Class Period. Included within the Settlement Class are the legal representatives, heirs, successors in interest, transferees, and assignees of all such foregoing holders and/or owners, immediate and remote. Excluded from the Settlement Class are: Defendant and its subsidiaries and affiliates; all Persons who, in accordance with the terms of this Agreement, properly execute and timely file during the Opt-Out Period a request for exclusion from the Settlement Class; all governmental entities; and the judge(s) to whom this case is assigned and any immediate family members thereof.

35. **“Still-Photographs or Still-Photographic Proof”** means the photographs that a Class Member submits with a Claim Form or Supplemental Claim Form in the Claims Program. These photographs shall be date-stamped if date-stamping is available. Still-Photographs or Still-Photographic Proof requires photographs taken during the day with a film camera or digital camera.

36. **“Supplemental Claim Form”** means the document made available pursuant to the provisions of the Notice Plan that a Class Member must submit, subject to the provisions of

this Stipulation, in order to obtain certain benefits from the Agreement. The Supplemental Claim Form shall be in substantially the form set forth in Exhibit C to this Agreement.

37. **“Tier 1 Relief,” “Tier 2 Relief,” “Tier 2 Certificate,” “Tier 3 Relief,” “Tier 3 Certificate,” and “Tier 3 Refund”** shall have the meanings given to such terms in Section D.

38. **“Tier 1 Claimant”** means any Class Member that elects to and is eligible to receive Tier 1 Relief.

39. **“Trex” or “Defendant”** means Defendant Trex Company, Inc., and any of its past or present officers, stockholders, directors, agents, employees, attorneys, affiliates, subsidiaries or divisions, and any parent companies, predecessors, successors, assigns, or legal representatives of the foregoing entities or persons, or any vendor, distributor, dealer, or contractor who markets, sells, or installs Trex Product.

40. **“Trex Product”** means any and all Trex non-shelled wood-plastic composite decking, railing, or fencing material sold under the trademarks “Accents®”, “Accents Fire Defense®”, “Origins®”, “Brasilia®”, “Contours®”, “Profiles®”, “Traditional Railing”, “Designer Series Railing<sup>TM</sup>”, “Seclusions®”, or “Surroundings®”.

41. **“Trex Structure”** means a deck, railing, fencing, or other structure built with Trex Product.

42. **“Trex’s Costs”** shall have the meaning given to such terms in Section E.

43. **“Video or Video Proof”** means the date-stamped video that a Class Member submits with a Claim Form or Supplemental Claim Form in the Claims Program. Video Proof requires video taken during the day with a video camera, including but not limited to a cellular phone or tablet video camera. Unless otherwise specified, Video Proof shall require the

submission of Video lasting no more than 15 seconds.

**B. CERTIFICATION OF SETTLEMENT CLASS**

1. The Parties to this Agreement agree that this Action shall be certified and proceed as a class action solely for purposes of settlement under Fed. R. Civ. P. 23(b)(2) and Fed. R. Civ. P. 23(b)(3), consisting of all Settlement Class members, with the named Plaintiffs as the Settlement Class representatives and Class Counsel as counsel for the Settlement Class. This Agreement is for settlement purposes only, and neither the fact of, nor any provision contained in, this Agreement or its Exhibits, nor any action taken hereunder, shall constitute, be construed as, or be admissible in evidence as, any admission of the validity of any claim or any fact alleged by Plaintiffs in this Action or in any other pending or subsequently filed action or proceeding of any wrongdoing, fault, violation of law, or liability of any kind on the part of Defendant or admission by Defendant of any claim or allegation made in this Action or in any other action or proceeding. This Agreement shall, however, be admissible in any other action or proceeding to enforce the terms of the Agreement.

2. Any certification of a conditional, preliminary or final Settlement Class pursuant to the terms of this Agreement shall not constitute, and shall not be construed as, an admission on the part of Defendant that this Action, or any other proposed or certified class action, is appropriate for trial class treatment pursuant to Fed. R. Civ. P. 23 or any similar state or federal class action statute or rule. This Agreement is without prejudice to the rights of Defendant to: (1) oppose final certification in this Action should this Settlement not be approved or implemented for any reason; (2) oppose certification in any other proposed or certified class action; or (3) use the certification of this Settlement Class to oppose certification of any other proposed class action arising out of the issues and claims that are asserted herein.

3. In the event this Stipulation is terminated pursuant to its own terms, or a Final Approval of the Settlement for any reason does not occur, the Settlement Class defined herein shall cease to exist and the Action shall proceed as if no Settlement Class or Agreement had ever existed, and Defendant shall not have waived any and all rights it might have to oppose class certification, and to defend itself against the allegations of Plaintiffs' Complaint.

**C. SUBMISSION FOR PRELIMINARY APPROVAL**

1. As soon as possible after execution of this Agreement, the Parties shall jointly submit this Agreement, through their respective attorneys, to the Court for Preliminary Approval.

**D. CLAIMS PROGRAM: PREREQUISITES AND AVAILABLE RELIEF**

1. *General.* Any relief set forth in this Agreement shall be made available to eligible and qualifying Class Members only after the Effective Date of this Agreement. All Class Members will be eligible, subject to the following conditions, to submit a Claim Form and Supplemental Claim Form to Trex. The Claim Form and Supplemental Claim Form will be substantially in the forms attached hereto as Exhibits A and C. Defendant shall provide Claim Forms and Supplemental Claim Forms to potential Class Members upon request, and whenever a request is made for one form, both the Claim Form and Supplemental Claim Form will be provided concurrently. The Notice Plan will set forth the method by which a potential Class Member may request a Claim Form and Supplemental Claim Form, including both a toll-free number and web-address for downloading Claim Forms and Supplemental Claim Forms.

2. *Compensatory Relief:* Subject to the limitations set forth in Section E, in exchange for the Release provided herein, Defendant shall provide the following options for compensatory relief to Claimants who qualify under the terms of this Settlement Agreement:

a. *Tier 1 Eligibility and Relief.*

Tier 1 Eligibility:

To be eligible for Tier 1 Relief (as described in detail below), Class Members, within the Claims Period, must submit to Trex a Claim Form and related information as set forth herein. The determination of whether a particular Claim Form is valid and complete shall be made by Trex in accordance with the terms of this Agreement. Upon request from Class Counsel, Trex shall provide all information in support of such a determination to Class Counsel and will reconsider such determination upon request from Class Counsel, who may provide supplemental information to Trex to consider. Proof of timeliness will be by way of postmark, fax date and time stamp, or the date and time stamp on electronic mail. The Claim Form will require Class Members to:

- (1) Certify under penalty of perjury that they own a Trex Structure.
- (2) Submit proof of ownership of the property on which the Trex Structure is installed (e.g., a copy of a deed, mortgage bill, or utility bill).
- (3) Submit proof of purchase or installation of the Trex Product during the Class Period (e.g., purchase receipt or contractor receipt).
- (4) If the Claim is made for mold, mildew, fungal, or other dark or gray growth/spotting, certify under penalty of perjury that they have cleaned their Trex Structure at least one time with a deck cleaning product containing detergent and sodium hypochlorite (bleach), or with another cleaning product recommended at the time of that cleaning by Trex.
- (5) Submit Still-Photographic or Video Proof that the Trex Structure is exhibiting: (i) mold, mildew, fungal, or other dark or gray growth/spotting

covering at least one-third of the surface of the Trex Structure, despite cleaning; or, (ii) significant color variation or color fading (as defined in Exhibit D).

Tier 1 Relief:

Upon the submission of the foregoing information, the Class Member will qualify for and be entitled to a one-time cash payment of \$150, subject to *pro rata* reductions if the Tier 1 set-aside described in this paragraph is oversubscribed but in no event less than \$20 unless *pro rata* reductions are required pursuant to Section E below (“Tier 1 Relief”). At least \$1.4 million will be set aside to pay Tier 1 Claimants. The \$1.4 million amount was arrived at by taking the number of Class Members receiving Class Notice by Regular Mail or E-Mail (as set forth in Section F.2(ii) below) based on Defendant’s records (approximately 70,000) and multiplying that number by \$20. The \$1.4 million number is provided for illustration purposes; the final number will be determined after Defendant, in consultation with Class Counsel, determines the total number of Class Members to whom Class Notice by Regular Mail or E-Mail will be sent. If the Class Member opts for this Tier 1 Relief, he or she will check a box on the Claim Form so indicating. Trex will make such payment promptly, *i.e.*, no later than 30 days following the date on which Claims become payable following the cost-cap calculations described in Section E below, subject to the yearly cost-cap described in Section E below. If a Claimant opts and qualifies for, and receives, Tier 1 Relief, then the Tier 1 Relief will be the sole relief to which the Claimant is entitled. Any amount of the Tier 1 set-aside described in this paragraph that remains following the processing of Tier 1 claims will be available for Tier 2 Relief and Tier 3 Relief.

b. *Tier 2 Eligibility and Relief.*

Tier 2 Eligibility:

Tier 2 Relief will be available to Class Members who do not opt for Tier 1 Relief. To be eligible for Tier 2 Relief (as described in detail below), Class Members, within the Claims Period, must submit to Trex a Claim Form and related information as set forth herein. Further, Class Members who opt for Tier 2 Relief will check a box on the Claim Form so indicating, and they also will provide the information described below. The determination of whether a particular Claim Form is valid and complete shall be made by Trex in accordance with the terms of this Agreement. Upon request from Class Counsel, Trex shall provide all information in support of such a determination to Class Counsel and will reconsider such determination upon request from Class Counsel, who may provide supplemental information to Trex to consider. Proof of timeliness will be by way of postmark, fax date and time stamp, or the date and time stamp on electronic mail. The Claim Form will require Class Members to:

- (1) Certify under penalty of perjury that they own a Trex Structure.
- (2) Submit proof of ownership of the property on which the Trex Structure is installed (*e.g.*, a copy of a deed, mortgage bill, or utility bill).
- (3) Submit proof of purchase or installation of the Trex Product during the Class Period (*e.g.*, purchase receipt or contractor receipt).
- (4) Certify under penalty of perjury that they have cleaned their Trex Structure at least one time previously with a deck cleaning product containing detergent and sodium hypochlorite (bleach), or with another cleaning product recommended at the time of that cleaning by Trex.
- (5) Submit Still-Photographic or Video Proof that the Trex Structure is exhibiting mold, mildew, fungal, or other dark or gray growth/spotting

covering at least one-third of the surface of the Trex Structure, despite cleaning.

In addition, a Class Member seeking Tier 2 Relief must submit to Trex a Supplemental Claim Form within the time periods set forth below and prior to the end of the Claims Period, providing visual evidence (as further discussed below) that (a) the Class Member has cleaned his or her Trex Structure a second time (the “Second Required Cleaning”) with a product recommended in Trex’s Mold Technical Bulletin dated September 19, 2011 (attached hereto as Exhibit E) and pursuant to the Required Cleaning Instructions (both of which will be attached to the Supplemental Claim Form and will be made available at the settlement website or by request via a toll-free telephone number), and (b) within the time periods set forth below, that the Second Required Cleaning did not resolve the mold, mildew, fungal, or other dark or gray growth/spotting problem and that the mold, mildew, fungal, or other dark or gray growth/spotting continues to cover at least one-third or more of the surface of the Trex Structure. The determination of whether a particular Supplemental Claim Form is valid and complete shall be made by Trex in accordance with the terms of this Agreement. Upon request from Class Counsel, Trex shall provide all information in support of such a determination to Class Counsel and will reconsider such determination upon request from Class Counsel, who may provide supplemental information to Trex to consider. Proof of timeliness will be by way of postmark, fax date and time stamp, or the date and time stamp on electronic mail. The Supplemental Claim Form will require Class Members to:

- (1) Certify under penalty of perjury that they have performed the Second Required Cleaning. (Proof that a product recommended in Trex’s

Mold Technical Bulletin dated September 19, 2011 was purchased can be by means of purchase receipts or UPC codes).

(2) Submit Still-Photographic Proof or Video Proof of the Second Required Cleaning referenced in the immediately preceding sub-paragraph to verify that the Second Required Cleaning was completed. If the Claimant opts to use Still-Photographic Proof for verification purposes, the Claimant will be required to take and transmit to Trex, in its capacity as settlement administrator, via email or regular mail, six photographs, one of which will be a photograph of the container of the cleaning product placed on the Claimant's Trex Structure, one of which will show the Claimant's Trex Structure immediately before the cleaning, three of which will show someone cleaning the Claimant's Trex Structure with the recommended cleaning product, and one of which will show the Claimant's Trex Structure immediately after the cleaning. If the Claimant chooses Video instead, the Claimant must submit to Trex, in its capacity as settlement administrator, at least 60 seconds of Video, which must include footage of the container of the cleaning product placed on the Claimant's Trex Structure, as well as footage of the Trex Structure immediately before cleaning, footage of someone cleaning the Trex Structure with the recommended cleaning product, and footage of the Trex Structure immediately after the cleaning. The Claimant will be instructed to use a date stamp for the photographs or videotape, if available, and

regardless of whether a date stamp is available or not, to keep a record of the date of cleaning.

(3) Submit Still-Photographic Proof or Video Proof verifying that the Second Required Cleaning did not resolve the mold, mildew, fungal, or other dark or gray growth/spotting problem and that the mold, mildew, fungal, or other dark or gray growth/spotting continues to cover at least one-third or more of the surface of the Trex Structure. In order to prove that the mold, mildew, fungal, or other dark or gray growth/spotting continues to cover at least one-third or more of the surface of the Trex Structure following the Second Required Cleaning, the Claimant must take three additional Still-Photographs or at least 60 seconds of additional Video showing that the mold, mildew, fungal, or other dark or gray growth/spotting continues to cover at least one-third or more of the surface of the Trex Structure. Post-cleaning Still-Photographs or Video showing that the mold, mildew, fungal, or other dark or gray growth/spotting continues to cover at least one-third or more of the surface of the Trex Structure must be sent to Trex in its capacity as claims administrator, along with the Supplemental Claim Form and other necessary materials described above (which are listed on the Supplemental Claim Form attached hereto as Exhibit C) within three (3) months of the date of cleaning and in no event later than the end of the Claims Period. If a Class Member shows through relevant weather reports that drought conditions existed in the area where the Class Member's Trex Structure is located

such that weather conducive to mold growth did not occur during the nine-month Claim Period, then the Claim Period for that individual Class Member will extend for an additional three (3) months. If Trex disputes that such drought conditions existed, then any such dispute will be forwarded to the Claims Adjudicator, which will resolve the dispute at Trex's expense. The Claims Adjudicator's resolution of the dispute will be final. Proof of when these Still-Photographs or Video were taken will be by date stamp if available, or by Class Member certification on the Supplemental Claim Form of the date on which they were taken if a date stamp is not available. If Trex disputes that the Still-Photographs or Video show(s) that mold, mildew, fungal, or other dark or gray growth/spotting continues to cover at least one-third or more of the surface of the Trex Structure, then the Parties will submit the Still-Photographs or Video to the Claims Adjudicator, which will resolve the dispute. The Claims Adjudicator's resolution of the dispute will be final. The Claims Adjudicator may request that the Claimant submit additional Still-Photographs or Video to aid in the process of resolving the dispute. Trex will pay the Claims Adjudicator's costs associated with any such dispute resolution.

Tier 2 Relief:

If the Claimant satisfies the above requirements, then the Claimant will qualify for and can elect to receive the following relief ("Tier 2 Relief"):

- (a) Trex will reimburse each Claimant for the cleaning product referenced in

the Supplemental Claim Form at a flat rate of \$18, with proof of purchase.

(b) Pursuant to all terms set forth in this sub-paragraph, Trex will provide each Claimant with a non-transferable payment certificate (“Tier 2 Certificate”) entitling the Claimant to a refund equal to 40% of the retail purchase price of Trex Transcend® or Trex Enhance® decking and Trex-brand fasteners (if Claimant demonstrates that Trex-brand fasteners were used in Claimant’s current installation) for any purchases by Claimant of Trex Transcend or Trex Enhance decking and Trex-brand fasteners in the same quantity as Trex Product and Trex-brand fasteners (if any) that are present in the Claimant’s current Trex Structure. The Tier 2 Certificate, which will bear instructions for its use, will expire within one year of the Claimant’s receipt of the certificate, but no later than one year and seven days after it is transmitted to the Claimant by Trex. If the Claimant purchases the Transcend or Enhance decking, and/or Trex-brand fasteners before or on the date that the certificate expires, then Trex will, with proof of purchase and price paid and proof of delivery or pick up, send the Claimant a check for the payment due promptly, *i.e.*, no later than 30 days following the date on which Claims become payable following the cost-cap calculations described in Section E below, subject to the yearly cost-cap described in Section E below. If the Claimant opts for Tier 2 Relief, then the Tier 2 Relief will be the sole relief to which the Claimant is entitled. As set forth below (“Tier 3 Eligibility and Relief”), however, a Claimant entitled to Tier 2 Relief may elect to seek Tier 3 Relief.

c. *Tier 3 Eligibility and Relief.*

Tier 3 Eligibility:

Tier 3 Relief will be available to Claimants who do not opt for Tier 1 or Tier 2 Relief and who have met all the requirements of and are entitled to Tier 2 Relief pursuant to the terms of

this Agreement. Class Members who opt for Tier 3 Relief will check a box on the Claim Form so indicating, and they also will provide the information described above. In lieu of receiving Tier 1 or Tier 2 Relief, Claimants opting for Tier 3 Relief may elect to submit a sample or samples of their Trex Product to Trex for specific gravity testing pursuant to the agreed upon protocol set forth in Exhibit F. The specific gravity testing will be at Trex's cost. Each sample must consist of one of the following (at the Class Member's election): (1) one sample measuring at least 3 inches in length; or (2) three samples each measuring at least 1 inch in length. Regardless of the size or number of samples that the Class Member elects to send, the samples must be taken from the Claimant's current Trex Structure (or from leftover Trex Product purchased at the same time as the Trex Product which comprises Claimant's current Trex Structure). Instructions for submitting samples will be given on the Supplemental Claim Form attached as Exhibit C.

Tier 3 Relief:

If the specific gravity testing reveals that the specific gravity of the samples is at or below .95 (on average), then the Claimant will be entitled to receive the following (collectively, Tier 3 Relief): (1) reimbursement for the cleaning product referenced in the Supplemental Claim Form at a flat rate of \$18, with proof of purchase, and, (2) at Claimant's option, either: (a) a non-transferable payment certificate ("Tier 3 Certificate") and partial labor reimbursement, or (b) a partial cash refund ("Tier 3 Refund"), as set forth below. If, however, the specific gravity testing reveals that the specific gravity of the samples is higher than .95 (on average), then the Claimant, who already has qualified for Tier 2 Relief, will nonetheless qualify for Tier 2 Relief notwithstanding the specific gravity test result. Trex will conduct the specific gravity testing promptly upon receipt of the samples. Trex will videotape each test and maintain the videotape

records for inspection, if requested, by Class Counsel or Class Counsel's expert designee, until 60 days after the Claimant's Claim is paid. In addition, Class Counsel will have the right to challenge any specific gravity test results and to have the sample(s) tested by a testing agency of the Claimant's choosing and at the Claimant's expense (subject to pre-approval by the Claimant). Accordingly, Trex will maintain all samples tested until 60 days after the Claimant's Claim is paid. If the result of any further specific gravity testing shows that the result is at or below .95, then the Parties will submit the results to the Claims Adjudicator, which will resolve the dispute between Trex's specific gravity test result(s) and the Claimant's specific gravity test result(s), and whose resolution will be final. Trex will pay the Claims Adjudicator's costs associated with any such dispute resolution. If the Claimant opts and qualifies for, and receives, the Tier 3 Relief, then the Tier 3 Relief will be the sole relief to which the Claimant is entitled.

Alternative One - Tier 3 Certificate and Labor Reimbursement:

If the Claimant elects to receive the Tier 3 Certificate, Trex will provide such Claimant with a non-transferable payment certificate entitling the Claimant to a refund equal to 50% of the retail purchase price of Trex Transcend or Trex Enhance decking and Trex-brand fasteners (if Claimant demonstrates that Trex-brand fasteners were used in Claimant's current installation) for purchases by Claimant of Trex Transcend or Trex Enhance decking and Trex-brand fasteners in the same quantity as Trex Product and Trex-brand fasteners (if any) that are present in the Claimant's current Trex Structure. The Tier 3 Certificate, which will bear instructions for its use, will expire within one year of the Claimant's receipt of the certificate, but no later than one year and seven days after it is transmitted to the Claimant by Trex. If the Claimant purchases the Transcend or Enhance decking, and/or Trex-brand fasteners, before or on the date that the certificate expires, then Trex will, with proof of purchase and price paid and

proof of delivery or pick up, send the Claimant a check for the payment due promptly, *i.e.*, no later than 30 days following the date on which Claims become payable following the cost-cap calculations described in Section E below, subject to the yearly cost-cap described in Section E below. In addition, Claimants who qualify for and receive the Tier 3 Certificate also will receive at the same time they receive payment per the Tier 3 Certificate a payment for labor reimbursement at the formulaic rate of \$0.23 cents per linear foot of the Trex decking being replaced.

Alternative Two - Tier 3 Refund:

If the Claimant elects to receive the Tier 3 Refund, Trex will provide such Claimant with a refund of 20% of the original purchase price of Claimant's current Trex Product and Trex-brand fasteners (if used). In the event the Claimant is unable to demonstrate the original purchase price of Claimant's current Trex Product and Trex-brand fasteners (if used), then the refund will be based upon the average retail price of such items, as reasonably shown by Trex's records (and subject to verification by Class Counsel), for the quantities used in the Trex Structure at issue. Trex will send the Claimant a check for the payment due promptly, *i.e.*, no later than 30 days following the date on which Claims become payable following the cost-cap calculations described in Section E below, subject to the yearly cost-cap described in Section E below.

3. *Equitable Relief*: In exchange for the Release provided herein, Defendant shall also provide the following equitable relief:

a. *Discontinuance of Non-Shelled Product*. By December 31, 2013, Trex will discontinue the manufacture of its current formulation of Trex Product (other than as required to provide partial replacements under the *Ross* Settlement

Agreement discussed in Section R.4 below), but not including its Traditional Railing product or Seclusions® Fencing product. Trex may continue to sell any Trex Product after December 31, 2013 that was manufactured prior to December 31, 2013, and such Trex Product may continue to be sold by Trex's distributors and retailers after December 31, 2013.

b. *Cleaning Instructions.* For the duration of the time that it continues to manufacture its current formulation of Trex Product, Trex will produce at its expense, and post to its website, a video demonstrating how to clean mold, mildew, fungal, or other dark or gray growth/spotting on Trex Product.

c. *Warranty Information.* For the duration of the time that it continues to manufacture its current formulation of Trex Product, Trex will: (i) send warranty pads for its current formulation of Trex Product to all retailers, dealers and/or distributors of these products, and (ii) instruct retailers to display these warranty pads near the Trex Product itself, where the warranty pads can be seen and accessed readily by consumers through and until the time that each retailer ceases to sell Trex's current formulation of Trex Product.

4. Defendant shall be entitled to inspect any Trex Product that is the basis of a Claim at a reasonable time and at its own expense, upon prior notice to the Claimant and Class Counsel, provided that the inspection must be completed within forty-five (45) days – weather permitting – after providing notice to the Claimant of Defendant's decision to inspect the Trex Product.

5. In the event that any Class Member disagrees with a Claim determination by Trex, that Class Member may appeal the Trex determination to the Claims Adjudicator within thirty-five (35) days of their receipt of the initial determination and Trex shall provide all

materials regarding the Claim, including any Still-Photographs or Video and any Claim Form and Supplemental Claim Form, to the Claims Adjudicator. If Class Counsel has asked Trex to reconsider Trex's initial determination, however, the time for appeal does not run until Trex has made a final decision after reconsideration and notified Class Counsel and the Class Member in writing. If no appeal is timely made, then the initial determination of the Claim shall be final. The Claims Adjudicator's determination of the validity and amount of any Claim shall be binding, final, and non-appealable. In ruling on any appeal, the Claims Adjudicator is bound by the terms of this Agreement and may not provide any relief outside or beyond that allowed by this Agreement.

6. Nothing herein shall require Defendant to make any payments or provide any relief to any Claimant prior to the Effective Date of this Agreement.

**E. CAP ON LIABILITY, ANNUAL LIMITATIONS, AND PRO-RATA CONTINGENCIES**

1. *Trex's Costs*. For purposes of this Settlement (and the cap on liability set forth below), "Trex's Costs" are defined as the costs for Trex to provide the Tier 1 Relief, Tier 2 Relief, and Tier 3 Relief as set forth in Section D. With respect to Tier 1 Relief, Tier 3 Refund, cleaning product reimbursements, and Tier 3 partial labor reimbursements made by Trex under this Settlement, Trex Cost's shall be the amount of the payments. With respect to payments made pursuant to Tier 2 Certificates or Tier 3 Certificates, *i.e.*, partial refunds made on the purchase of new Trex product, Trex's Costs shall be Trex's cost for providing such certificates (and not the retail value of the product purchased or the amount of the payment), as identified in a sealed document that has been filed with the Court and is hereby incorporated into this Settlement Agreement by reference. Further, Trex's Costs for purposes of the Settlement shall not be calculated to include the costs of: notice; claims administration, including settlement

website expenses; specific gravity testing; dispute resolution as to Class Member Claims; incentive awards to the named Plaintiffs; or Plaintiffs' Attorneys' Fees and Costs.

2. *Cap on Liability.* Notwithstanding any other provision in this Agreement, Trex's Costs as defined herein shall be capped at, limited to, and shall not exceed under any circumstances a total of \$8.25 million.

3. *Annual Costs.* The Parties further agree that Trex's Costs will not exceed \$6.75 million for the first 12-month period and \$1.5 million for the second 12-month period, where the initial 12-month period begins with the first payment of cash by Trex for Tier 1 Relief, Tier 2 Relief, or Tier 3 Relief pursuant to the terms described herein. If Trex's Costs for payment of Tier 1 Relief, Tier 2 Relief, and Tier 3 Relief exceed \$6.75 million in the first 12-month period, the excess amount will be rolled over to the second 12-month period for payment in the order in which Claims became payable vis-à-vis other Claims. If Trex's Costs for payment of Tier 1 Relief, Tier 2 Relief, and Tier 3 Relief do not exceed \$6.75 million in the first 12-month period, then the \$1.5 million cap for the second 12-month period will not apply.

4. *Pro-Rata Contingencies.* The parties are committed to treating all qualifying Class Members equitably with respect to the Cap on Liability set forth in Section E.2 above. This will require a determination before any payments can be made to Claimants of whether it is possible that the aggregated Claims will exceed the \$8.25 million cost cap. In order to determine whether Trex's Costs could exceed the \$8.25 million cost cap, within 30 days following the end of the Claims Period, Trex, in its capacity as settlement administrator, and in consultation and cooperation with, and subject to verification by, Class Counsel, will, by reference to the designations of relief specified on the Claim Forms, calculate the maximum possible costs ("MPC"), measured in terms of Trex's Costs, of all Claims received during the Claims Period.

- a. If the MPC of all such Claims is *under* \$8.25 million, then all such Claims will be determined and paid per the terms of this Agreement, without delay.
- b. If, on the other hand, the MPC of all such Claims *exceeds* \$8.25 million, then no payment on any such Claims will be made until all such Claims are determined payable in specific sums per the terms of this Agreement. Determination that Claims are payable will entail receipt by Trex, in its capacity as settlement administrator, of a Claim Form within the Claims Period; the receipt of a Supplemental Claim Form where necessary; the receipt of all supporting documentation called for herein; completion of specific gravity testing as applicable; resolution of any disputes as provided for under the terms of this Agreement; and calculation by Trex, in its capacity as settlement administrator, and in consultation and cooperation with, and subject to verification by, Class Counsel, of the sum(s) due to each Claimant. Once all such Claims have been determined and the aggregate cost to Trex also has been determined, which calculations will be made by Trex, in its capacity as settlement administrator, and in consultation and cooperation with, and subject to verification by, Class Counsel, and within 30 days of the determination of all such Claims, either the Claims will be paid in full if the \$8.25 million cost cap is not reached, or, if the \$8.25 million cost cap is reached, then sums otherwise due on the Claims will be reduced *pro rata* such that the Claims will be payable proportionally out of the \$8.25 million available.

Trex, in its capacity as settlement administrator, and in consultation and cooperation with, and subject to verification by, Class Counsel, will make such calculations. Once Trex, in its capacity as settlement administrator, and in consultation and cooperation with, Class Counsel, has made these necessary *pro rata* calculations and Class Counsel has reviewed them and worked with the settlement administrator to resolve any issues with respect to any of them, then Trex (pursuant to all terms set forth in Section D) will promptly pay all affected Claims in the amounts payable following *pro rata* reductions, in the order that each Claim became payable (subject to the yearly caps described above). Trex shall not make any payments or issue any payment certificates under this Agreement until the terms of this subsection have been applied and, in any event, no earlier than the Effective Date.

5. *Quarterly Reports.* Trex will provide quarterly reports of Trex's Costs to Class Counsel, and those reports will be subject to reasonable verification by Class Counsel.

**F. NOTICE PLAN AND COSTS OF NOTICE**

1. The Parties shall cause the Notice of Proposed Class Action Settlement describing this Agreement and the Fairness Hearing to be provided to the members of the Settlement Class as provided in this Section.

2. Notice will consist of the following, as more fully set forth in the Notice Plan, attached hereto as Exhibit C:

- (i) one-time publication notice in each of *USA Today*, National Edition, black and white, 1/6 page insertion, *Professional Deck Builder* magazine, black and white,

half page, *Sunset Magazine*, black and white, one-third page, *This Old House* magazine, black and white, one-third page, *Journal of Light Construction* magazine, black and white, half page, and *Replacement Contractor* magazine, black and white, half page (or agreed-upon alternatives to any of the foregoing magazines);

(ii) direct U.S. mail notice (where physical address is available) or email notice (where no physical address is available but an email address is available) to all of those Class Members who have complained of mold, mildew, fungal, or other dark or gray growth/spotting, or any color variation or color fading, to Trex or counsel for any Plaintiffs in this matter, to all those Class Members whose identities are otherwise known to Trex, and to all those Class Members who have contacted counsel for Plaintiffs in this matter for any reason pertaining to Trex's decking products and for whom counsel have U.S. mail or e-mail addresses ("Class Notice by Regular Mail or E-Mail") (regular mail notice and email notice shall be sent out within fourteen days of the date on which the Court grants Preliminary Approval);

(iii) notice by mail to all current TrexPro contractors, including a request that the TrexPro contractors forward such notice to any customers for whom the TrexPro contractor built a deck using Trex Product during the Class Period and including an offer that Gilardi & Co. ("Gilardi") will forward the notice to the TrexPro's customers if the TrexPro contractor provides the customers' names and addresses to Trex. Trex will provide ample copies of the notice (postage prepaid) to those TrexPro contractors who request them;

- (iv) notice by mail to GE Capital and to any Class Members that used GE Capital to finance a purchase of Trex Product during the Class Period;
- (v) web notice via Trex's regular website and a settlement website (which will be established at Trex's expense within fourteen days of the date on which the Court grants Preliminary Approval);
- (vi) web notice via sponsored links for searches covering the keywords "Trex" or "composite decking" paired with any of the following keywords: "mold," "mildew," "fungal growth," "fungal spotting," "color variation," or "color fading" on Google, Yahoo, Bing, and AOL at an aggregate cost of \$10,000 (and no more), which sponsored links will be devised by, purchased by, and spread among the sites for maximum reach by Gilardi;
- (vii) web notice via website banner advertisements placed on the following websites: bobvila.com, ideas-for-deck-designs.com, gardenstructure.com, and gardenweb.com at an aggregate cost of \$10,000 (and no more), which advertisements will be composed by, purchased by, and spread among the sites for maximum reach by Gilardi;
- (viii) web notice via Google Display Network text link ads for searches covering the keywords "Trex" or "composite decking" paired with any of the following keywords: "mold," "mildew," "fungal growth," "fungal spotting," "color variation," or "color fading" at an aggregate cost of \$25,000 (and no more), which text link ads will be devised by, purchased by, and spread among the sites for maximum reach by Gilardi;
- (ix) web notice via Facebook text link ads at an aggregate cost of \$5,000 (and no

more), which text link ads will be devised by and purchased by Gilardi;

(x) direct notice to all of Trex's distributors and retailers of this Settlement in writing, such that retailers will be able to direct consumers to the settlement website and to advise them as to how to obtain Claim Forms and Supplemental Claim Forms; and

(xi) a press release regarding the Settlement through either Businesswire or PR Newswire.

3. All costs associated with providing Notice (including but not limited to the costs of printing, reproducing, and publishing notice to the potential Settlement Class members) shall be paid by Defendant. Defendant shall be solely responsible for making all arrangements necessary to effectuate the dissemination of Notice in accordance with the terms of the Preliminary Approval Order. Defendant shall, prior to the Final Settlement Hearing, file an affidavit with the Court confirming that Notice has been provided as set forth herein.

**G. REQUESTS FOR EXCLUSION AND RIGHTS OF INCLUSION**

1. A Settlement Class member may opt-out of the Settlement Class during the Opt-Out Period. To exercise the opt-out right set forth in this Section, the Settlement Class member must complete and return a written request for exclusion. Written requests for exclusion must include the potential Class Member's name, address, and telephone number, and expressly state the desire to be excluded from the Settlement Class. Such request must be sent by first-class mail to Defendant's counsel and postmarked on or before the end of the Opt-Out Period for prompt forwarding to Trex and Class Counsel. Defendant's counsel shall keep copies of all opt-out requests for at least seven years after receipt.

2. Class Members who do not file a timely request for exclusion may file a Notice of

Intent to Object to the Settlement. The written Notice of Intent to Object must be: (a) filed with the Clerk of the Court not later than twenty-one (21) days before the date set for the Final Settlement Hearing; and (b) sent by first-class mail, postmarked not later than twenty-one (21) days before the date set for the Final Settlement Hearing, to Defendant's counsel and Class Counsel. Any Class Member who does not file a Notice of Intent to Object waives the right to do so in the future, and shall be forever barred from making any objection to the Settlement. Any Notice of Intent to Object must contain: (a) a heading which refers to the Action; (b) a statement as to whether the objector intends to appear at the Final Settlement Hearing, either in person or through counsel, and, if through counsel, identify counsel by name, address and phone number; (c) a detailed statement of the specific legal and factual bases for each and every objection; (d) a list of any witnesses and photocopies of exhibits which the objector intends to introduce at the Final Settlement Hearing, if any; and (e) the objector's signature, verifying under penalty of perjury, that they are a member of the Settlement Class and the address of the relevant property.

3. Except for those Settlement Class members who have properly opted-out, all Settlement Class members will be deemed Settlement Class members for all purposes under this Agreement. Any Settlement Class member who elects to opt-out of the Settlement Class pursuant to this Section shall not be entitled to relief under this Agreement.

4. Any Class Member who does not file a timely written request for exclusion shall be bound by this Settlement and by all subsequent proceedings, orders and judgments in the Action.

#### **H. EXCLUSIVE REMEDY; DISMISSAL OF ACTION; JURISDICTION OF COURT**

1. Each and every member of the Settlement Class who has not requested exclusion

pursuant to Section G submits to the jurisdiction of the Court and will be bound by the terms of this Agreement (including, without limitation, any and all releases), conditioned upon the occurrence of the Effective Date of this Agreement, as well as any other Court orders including, without limitation, the Final Order and Judgment barring further litigation against the Released Parties with respect to any of the Released Claims.

2. This Agreement and the Relief provided herein shall be the sole and exclusive remedy for any and all Claims of Settlement Class members against the Released Parties arising from or related to a Covered Condition to their Trex Product. The Claims Adjudicator may provide only the compensatory relief provided for by this Agreement, and may not award punitive or multiple damages with respect to any Claim governed by this Agreement. Upon the entry of the Final Order and Judgment by the Court, each Settlement Class member who has not opted-out of the Settlement Class, shall be barred from initiating, asserting, or prosecuting any Released Claims against the Released Parties, except in accordance with the terms of this Agreement.

3. Settlement Class members agree to the dismissal of any action or proceeding pending against the Released Parties to the extent any such action or proceeding seeks recovery for any Released Claims.

4. Upon the entry of the Final Order and Judgment, this Action and all claims and pending allegations by Plaintiffs will be dismissed with prejudice.

5. The Court shall retain exclusive and continuing jurisdiction over the Action, the Parties, and Settlement Class members, to interpret and enforce the terms, conditions, and obligations of this Agreement.

## **I. RELEASE**

1. Upon entry of the Final Order and Judgment, Plaintiffs and Class Members who have not timely opted-out of the Settlement Class, on behalf of such Persons and any Person claiming by or through such Persons (the “Releasing Party” or “Releasing Parties”), regardless of whether any Settlement Class member executes and delivers a written release, shall be deemed to and does hereby release and forever discharge the Released Parties, of and from any and all Released Claims and related subrogation claims of the Releasing Party’s subrogees or insurance carriers. The Releasing Parties shall be deemed to and do hereby release and forever discharge any other persons or entities from claims for which Defendant could be liable to the Releasing Parties, arising out of or related to a Covered Condition of Trex Product, whether based on the design, specification, manufacture, production, promotion, advertising, sale, representation, distribution, or installation of the Trex Product.

2. With respect to the Settlement Class members’ Released Claims, the Plaintiffs and the Settlement Class members shall be deemed to have, and by operation of the Final Order and Judgment shall have, expressly waived and relinquished, to the fullest extent permitted by law, the provisions, rights and benefits of Section 1542 of the California Civil Code (to the extent it is applicable, or any other similar provisions under federal, state, or local laws to the extent any such provisions are applicable). Section 1542 of the California Civil Code states: “A general release does not extend to claims which the creditor does not know or suspect to exist in his or her favor at the time of executing the release, which if known by him or her must have materially affected his settlement with the debtor.”

3. Plaintiffs and the Class Members acknowledge that they are aware that they may hereafter discover claims presently unknown or unsuspected, or facts or law in addition to or

different from those that they now know or believe to be true with respect to the matters released herein or with respect to the Trex Product. Nevertheless, it is the intention of Plaintiffs and the Class Members in executing this Agreement to fully, finally, and forever settle and release all Released Claims which exist, might have existed, or which hereafter may exist whether or not previously or currently asserted in any action or proceeding, and to expressly waive any common law or statutory rule which would circumscribe the extent of this full Release, including any statute or rule giving the releasing party the right to complain of facts or claims relating to a Covered Condition of Trex Product that are unknown as of the date of any releases.

**J. ENFORCEMENT OF AGREEMENT**

1. In the event of a breach by the Defendant or a Settlement Class member under this Agreement, the Court may exercise all equitable powers over the Defendant or the Settlement Class member to enforce this Agreement and the Final Order and Judgment irrespective of the availability or adequacy of any remedy at law. Such powers include, among others, the power of specific performance, contempt and injunctive relief.

**K. ATTORNEYS' FEES AND COSTS**

1. Attorneys' Fees and Costs for Plaintiffs' counsel (which includes all counsel representing Plaintiffs in this matter, including Class Counsel and all other counsel who signed the First Consolidated Amended Complaint in this matter) will be subject to approval by the Court and will be paid by Defendant in addition to any relief granted to Plaintiffs and Settlement Class members for valid Claims. No portion of the compensation made available to Plaintiffs or Settlement Class members pursuant to this Stipulation shall be reduced in any way to pay fees, costs, interest, or expenses to Plaintiffs' counsel. After negotiating relief to the Settlement Class, Defendant agreed that it would pay, subject to Court approval, a total award to Plaintiffs' counsel

of \$1,475,000 (One Million Four Hundred Seventy Five Thousand) inclusive of all fees, costs, interest, and expenses of any kind.

2. Plaintiffs' counsel will not seek Attorneys' Fees and Costs in excess of this amount and Defendant agrees to pay and will not object to an award of this amount. In the event that Attorneys' Fees and Costs are granted in excess of \$1,475,000 (One Million Four Hundred Seventy Five Thousand), Defendant may terminate this Agreement. In the event this Agreement is terminated pursuant to its own terms, or a Final Order and Judgment approving the Settlement for any reason does not occur, the Settlement Class defined herein shall cease to exist and the Action shall proceed as if no Settlement Class or Agreement had ever existed and Defendant shall not have waived any and all rights it has to oppose class certification, and to defend the allegations of the Complaint.

3. Other than the amounts approved by the Court, and paid exclusively by Defendant pursuant to this Agreement, Plaintiffs' counsel waives, discharges and releases the Released Parties from any and all claims for Attorneys' Fees and Costs, by lien, statute, equity or otherwise, in connection with this Action.

4. The Attorneys' Fees and Costs referred to herein will be paid on the Effective Date of this Agreement.

#### **L. MAXIMUM NUMBER OF OPT-OUTS AND RIGHT TO TERMINATE**

1. If the number of opt-outs from the Settlement that are received from Class Members during the Opt-Out Period exceeds the number agreed to in writing by the Parties ("the opt-out number"), then Trex will have the right, at its option, to walk away from the Settlement or to continue under it with no changes to its terms. The opt-out number shall be submitted to the Court under seal and the number is hereby incorporated into this Agreement by reference.

Class Counsel will have the right and opportunity to examine any opt-out request to determine if the requester is a Class Member, and if the request is a duplicate or otherwise irregular, before it is counted against the opt-out number. Following any such examination(s) by Class Counsel, and in the event that legitimate opt-outs exceed the opt-out number, Trex will advise Class Counsel of its intention to walk away from the Settlement or to continue under it. Trex must advise Class Counsel of its intention to walk away from the Settlement pursuant to the terms of this Agreement promptly, and in any event no later than fourteen (14) days following the end of the Opt-Out Period together with any time necessary for Class Counsel to examine opt-out requests, or it shall be deemed to have decided to continue under the Settlement with no changes to its terms.

2. In the event that this Agreement is terminated pursuant to its own terms, or a Final Order and Judgment approving the Settlement for any reason does not occur, the Settlement Class defined herein shall cease to exist and the Action shall proceed as if no Settlement Class or Agreement had ever existed and Defendant shall not have waived any and all rights it might have to oppose class certification, and to defend the allegations of the Complaint.

**M. CONDITIONS OF SETTLEMENT AND EFFECT OF DISAPPROVAL, CANCELLATION OR TERMINATION OF STIPULATION**

1. Upon entry of the Preliminary Approval Order, all proceedings in the Action shall be stayed until further order of the Court, except such proceedings as may be necessary either to implement the Settlement and Release or to comply with or effectuate the terms of this Stipulation.

2. The “Effective Date” of this Agreement shall be that date upon which all of the following conditions and events have been met or have occurred:

a. All Parties have executed this Agreement;

b. The Court has entered an order preliminarily approving this Agreement (the “Preliminary Approval Order”), without any material alterations;

c. The Court has entered a final order approving this Agreement and releasing the Released Parties from the Released Claims and dismissing with prejudice, and without leave to amend, the Action and all claims asserted therein, except as to those potential Class Members who timely request exclusion (the “Final Order and Judgment”); and

d. Unless the Parties otherwise agree in writing to waive all or any portion of the following provisions: (i) the expiration (without the filing or noticing of an appeal) of the time to appeal from the Final Order and Judgment; (ii) if an appeal is filed, the entry of a final dismissal order of any and all appeals from the Final Order and Judgment; (iii) affirmance on appeal of the Final Order and Judgment without material alteration; (iv) if a ruling or decision is entered by an appellate court with respect to affirmance of the Final Order and Judgment, the time to petition for a writ of certiorari with respect to such ruling or decision has expired; or (v) if a petition for a writ of certiorari with respect to the Final Order and Judgment is filed, the petition has been denied or dismissed or, if granted, has resulted in affirmance of the Final Order and Judgment without material alteration.

3. In the event that any of the conditions or events described above in this Section M are not met or do not occur, this entire Agreement shall become null and void, except that the Parties shall have the option to agree in writing to waive the event or condition and proceed with this Agreement, in which event the Effective Date shall be deemed to have occurred on the date of said written agreement.

## **N. DENIAL OF LIABILITY**

1. Defendant maintains that it has consistently acted in accordance with governing

laws at all times and continues to deny all of the material allegations in the Action. Defendant enters into this Agreement without in any way acknowledging any fault, liability, or wrongdoing of any kind. Neither this Stipulation, nor any of its terms or provisions, nor any of the negotiations or proceedings connected with it, shall be construed as an admission or concession by Defendant of the truth of any of the allegations in the Action, or of any liability, fault, or wrongdoing of any kind on the part of Defendant.

2. Neither this Agreement, nor any of its terms or provisions, nor any of the negotiations or proceedings connected with it, shall be offered as evidence or received in evidence in any pending or future civil, criminal, or administrative action or proceeding, to establish any liability or admission by Defendant, except in any proceedings brought to enforce the Agreement.

#### **O. REPRESENTATIONS AND WARRANTIES**

1. The Defendant represents and warrants that: (i) it has all requisite corporate power and authority to execute, deliver, and perform this Agreement and to consummate the transactions contemplated hereby; (ii) the execution, delivery, and performance of this Agreement have been duly authorized by all necessary corporate action on the part of Defendant; (iii) its signatories to the Agreement have full authority to sign on behalf of and to bind Defendant to the terms of the Agreement; and (iv) this Agreement has been duly and validly executed and delivered by Defendant and constitutes its legal, valid and binding obligation.

2. Class Counsel represents and warrants that they are authorized to execute this Agreement and to bind the Plaintiffs and Class Members on whose behalf they have executed this Agreement to all the terms and conditions of this Agreement.

**P. JUDGMENT**

1. After the Fairness Hearing, and subject to the Court’s approval of the Agreement, a Final Order and Judgment shall be entered:

a. approving the Agreement as fair, reasonable and adequate and as having been entered into in good faith; directing the parties to comply with and implement the terms of the Agreement; and declaring the Agreement binding on all Settlement Class members;

b. confirming that the Notice constitutes the most effective and practicable notice to Settlement Class members under the circumstances;

c. dismissing the Action on the merits and with prejudice, without costs to any party except as provided in this Agreement; and

d. retaining jurisdiction over the matters provided for in the Agreement.

**Q. TERMINATION OF THE AGREEMENT**

1. The performance of this Agreement is expressly contingent upon the Court’s issuance of the Final Order and Judgment. If the Court issues an Order disapproving the Agreement, Defendant may elect to terminate this Agreement within ninety (90) business days of such Order, rendering it as having no force or effect whatsoever, null and void, *ab initio*, and not admissible as evidence for any purpose in any pending or future litigation or other proceeding (in any jurisdiction) involving any of the Parties.

**R. MISCELLANEOUS PROVISIONS**

1. Subsequent Purchasers: If an Eligible Claimant has not filed a Claim or received benefits pursuant to the terms of this Agreement, then a subsequent owner (successor-in-interest) can file a Claim during the remainder of the applicable Claim Period.

2. Limitations of Payments: Anything in this Agreement to the contrary

notwithstanding, under no circumstances shall Defendant be required to compensate more than one Person for a Covered Condition relating to the same Trex Product. In the event of multiple Claims, Defendant will pay -- if compensation is due under this Agreement -- the first Eligible Claimant to file a Claim.

3. Product Warranties: For Class Members who do not replace their decking, railing, or fencing, their Trex warranties will continue to apply with respect to all issues other than Covered Conditions through the duration of those warranties. If Class Members replace their decking, railing, or fencing with other Trex-brand decking, railing, or fencing, then the Trex warranties provided with those new products will apply to their new products.

4. Kanefsky and Ross Settlement Agreements: The Release in this Agreement will not prejudice the rights of members of the settlement classes in *Kanefsky, et al. v. Trex Company, Inc., et al.*, New Jersey Superior Court, Law Division, Essex County, Docket No. ESX-L-7347-00, and *Ross, et al. v. Trex Company, Inc.*, United States District Court for the Northern District of California, Case No. 09-cv-0670, including but not limited to any rights that they may have as a result of the settlements of or court orders in *Kanefsky* and *Ross*.

5. Other

a) Should any provision of this Agreement, or any of the Exhibits hereto, require judicial interpretation, the Parties agree that the Court or other adjudicating body shall not apply a presumption that the terms shall be more strictly construed against the party who prepared this Agreement, it being agreed that all Parties collectively participated in the negotiation and preparation of this Agreement and its Exhibits.

b) This Agreement shall be construed under and governed by the laws of the State of California, applied without regard to its choice of law provisions.

c) This Agreement, including all attached Exhibits hereto, shall constitute the entire Agreement among the Parties with regard to the subject matter of this Agreement and shall supersede any previous agreements and understandings between the Parties. This Agreement may not be changed, modified, or amended except in writing signed by Class Counsel and Defendant's counsel and subject to Court approval. Amendments and modifications may be made without additional notice to Settlement Class members unless such notice is required by the Court. The Parties contemplate that the Exhibits may be modified by subsequent agreement of Class Counsel and Defendant's Counsel prior to dissemination to the Settlement Class members.

d) Subject to the limitations and conditions expressly provided herein, this Agreement shall be binding upon and inure to the benefit of the Settlement Class, the Parties, and their representatives, heirs, successors, and assigns.

e) The headings of the Sections of this Agreement are included for convenience only and shall not be deemed to constitute part of this Agreement or to affect its construction. References to a "Section" includes reference to all paragraphs within the referenced Section.

f) Any notice, instruction, application for Court approval, application for Court order sought in connection with this Agreement, or other document to be given by any Party to any other Party shall be in writing and delivered by facsimile or U.S. Mail, or as otherwise agreed in writing, to:

FOR DEFENDANT:

Trex Company, Inc.  
160 Exeter Drive  
Winchester, VA 22603  
Att'n. Vice President and General Counsel  
Fax No.: 540-542-6887

FOR THE CLASS:

Steve W. Berman  
Robert F. Lopez  
HAGENS BERMAN  
SOBOL SHAPIRO LLP  
1918 Eighth Ave., Suite 3300  
Seattle, WA 98101  
Fax No.: 206-623-0594

g) The Parties hereto and their undersigned counsel agree to undertake their best efforts and mutually cooperate to effectuate this Agreement and the terms of the Agreement set forth herein, including taking all steps and efforts contemplated by this Agreement, and any other steps and efforts which may become necessary by order of the Court or otherwise.

h) Neither Defendant, nor Class Counsel, nor the Class Representatives will encourage any Person to request exclusion from membership in the Settlement Class, encourage any Person to object to the Agreement and/or discourage any Person from participating in the distribution of the proceeds of the Agreement.

i) Subject to Court approval, Defendant agrees to pay each named Plaintiff or Class Representative (i.e., Dean Mahan, Gretchen Silverman, Steven McKenna, Thomas Schauppner, Marjorie Zachwieja, John Forcella, Sheila Shapiro, Sabrina W. Hass, Dr. Lanny W. Hass,<sup>1</sup> Amy Biondi-Huffman, and Brian Hathaway) \$7,500 (Seven Thousand Five Hundred Dollars) as a service award in this matter. This amount shall be in addition to the relief to which the Plaintiffs are entitled under this Agreement.

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<sup>1</sup> Sabrina W. Hass and Dr. Lanny W. Hass, husband and wife, shall share one service award of \$7,500.

j) This Agreement may be pleaded as a full and complete defense to, and may be used as the basis for an injunction against, any action, suit or other proceeding which may be instituted, prosecuted or attempted in breach of this Agreement.

k) This Agreement shall be deemed to have been executed upon the last date of execution by all the undersigned counsel, which may be done in counterparts, each of which shall constitute an original but all of which together shall constitute one and the same instrument.

l) Class Counsel agrees that it will not issue any press release or make any public disclosure (other than public filings with the Court) regarding this Settlement until after the Court grants preliminary approval of the Settlement. However, in the event that Class Counsel receives inquiries from Settlement Class members regarding the terms of the Settlement Agreement before the Court grants preliminary approval of the Settlement, Class Counsel can advise the Settlement Class members of the status and terms of the Settlement. Class Counsel shall not make any statements to the media until after the Court grants preliminary approval of the Settlement.

DATED this \_\_\_\_ day of \_\_\_\_\_, 2013.

FOR THE DEFENDANT:

By: Patrick Perrone  
Patrick J. Perrone  
K&L GATES LLP  
One Newark Center, 10<sup>th</sup> Fl.  
Newark, NJ 07102

FOR THE PLAINTIFF SETTLEMENT CLASS

By: Robert F. Lopez  
Steve W. Berman  
Robert F. Lopez  
HAGENS BERMAN SOBOL SHAPIRO LLP  
1918 Eighth Ave. Suite 3300  
Seattle, WA 98101

*Lead Counsel for the Class and Counsel for Plaintiffs Schauppner, Shapiro, Silverman, and Zachwieja*

FOR SELECT PLAINTIFFS

By: Elizabeth A. Alexander  
Jonathan D. Selbin  
Elizabeth A. Alexander  
LIEFF, CABRASER, HEIMANN  
& BERNSTEIN, LLP  
150 Fourth Avenue, North, Suite 1650  
Nashville, TN 37219-2423

*Counsel for Plaintiffs and Member of Plaintiffs' Executive Committee*

# EXHIBIT A

Trex Company, Inc.  
Trex Class Action Settlement  
ATTN: Trex Mold and Color Fading/Variation Litigation  
P.O. Box 921789  
Norcross, GA 30010-1789  
Toll Free Line: 1-877-495-0068  
Fax: 1-855-301-9935  
E-Mail: [trexclasssettlement@trex.com](mailto:trexclasssettlement@trex.com)

Complete this Claim Form if you are submitting a claim in the Trex Class Action Settlement because your Trex Product is exhibiting either (1) mold, mildew, fungal or other dark or gray growth/spotting covering at least one-third of the surface of your entire Trex Structure, despite cleaning, or (2) significant color variation or color fading (together, the “Covered Conditions”).

Claim Forms must be faxed, e-mailed, or sent by U.S. Mail and postmarked no later than **May 27, 2014**, which is nine (9) months from entry of the Court’s order granting preliminary approval of the Settlement.

[www.trex.com/legal/2013classactionsettlement.aspx](http://www.trex.com/legal/2013classactionsettlement.aspx)

Claimant Name \_\_\_\_\_ Claim Number \_\_\_\_\_

### CLAIM FORM

#### I – GENERAL INSTRUCTIONS

- A. Type or legibly print all information in blue or black ink.
- B. Answer all questions on the Claim Form.
- C. Sign and date the Claim Form under penalty of perjury. Your signature is certification that all information on this form is true and correct under penalty of perjury and that you authorize Trex to enter your property for purposes of processing your Claim. Trex may inspect your deck, railing, or fencing as part of the investigation of this claim after providing reasonable notice to you and Class Counsel of the inspection.
- D. Make a copy of the completed Claim Form and accompanying documents and photograph(s) for your files. Mail, e-mail, or fax the original Claim Form along with the accompanying photograph(s) and documents to Trex. (Photographs may be printed, placed on physical media such as a disk or USB key, or sent as a file or files by e-mail. Video footage may be placed on physical media such as a videotape, disk, or USB key, or sent as a file or files by e-mail.) Documents and other materials submitted will not be returned. Other than the original Claim Form, do not submit originals.
- E. If you need additional room to answer the following questions, attach additional sheets.
- F. Check all boxes for which you are supplying the requested documents.
- G. If you intend to seek Tier 2 Relief or Tier 3 Relief, you must submit a Supplemental Claim Form in addition to submitting this Claim Form. A Supplemental Claim Form is available at [www.trex.com/legal/2013classactionsettlement.aspx](http://www.trex.com/legal/2013classactionsettlement.aspx) or by calling 1-877-495-0068, or if you received Notice of the Settlement by U.S. Mail or e-mail, a Supplemental Claim Form was included. The Supplemental Claim Form must be submitted to Trex and faxed, e-mailed, or sent by U.S. Mail and postmarked no later than May 27, 2014.

#### II – CLAIMANT INFORMATION

1. **Name of Claimants:**

Last \_\_\_\_\_ First \_\_\_\_\_ MI \_\_\_\_\_

Last \_\_\_\_\_ First \_\_\_\_\_ MI \_\_\_\_\_

2. **Claimants’ Address:**

Street Address \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_

3. **Claimants’ Phone Numbers:**

Home ( ) \_\_\_\_\_ Work ( ) \_\_\_\_\_ Mobile ( ) \_\_\_\_\_

Home ( ) \_\_\_\_\_ Work ( ) \_\_\_\_\_ Mobile ( ) \_\_\_\_\_

4. **Proof of Property Ownership:** Who are the legal owners of the property where the Trex Structure is located?

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You must include documentation proving that you own the property in question such as a copy of the local appraisal assessment, mortgage statement, or deed record showing the name of the owner of the property in question. Have you attached proof that you own the property in question?

- Yes  No      If no, please explain why:

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### III – PRELIMINARY QUESTIONS

If you are seeking relief for mold, mildew, fungal or other dark or gray growth/spotting, have you cleaned your Trex Structure at least one time with a deck cleaning product containing detergent and sodium hypochlorite (bleach) or with another cleaning product recommended at the time of the cleaning by Trex?

- Yes  No

If yes, please identify the cleaning product used: \_\_\_\_\_

Are you currently experiencing mold, mildew, fungal or other dark or gray growth/spotting covering at least one-third of the surface of your entire Trex Structure, despite cleaning?

- Yes  No

Are you currently experiencing significant color variation or color fading in your Trex Structure? Please visit [www.trex.com/legal/2013classactionsettlement.aspx](http://www.trex.com/legal/2013classactionsettlement.aspx) to determine if you are experiencing significant color variation or color fading in your Trex Structure.

- Yes  No

### IV – TREX INFORMATION

For purpose of this Settlement, “Trex Product” is defined as Trex non-shelled wood-plastic composite decking, railing, and fencing products purchased between August 1, 2004, and August 27, 2013. You must provide the following proof in order to participate in the Settlement.

1. **Product Information**

Type and Color of Trex Product Purchased: \_\_\_\_\_

2. **Receipt:** With this Claim Form, send a photocopy of your itemized sales receipt for the Trex Product that was purchased. Have you attached a copy of your receipt(s)?

- Yes  No

If you have not attached a copy of your receipt(s), explain why you have not done so and state whether you have a copy of your receipt(s). Please also state the original retail price that you paid for the Trex Product.

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If you have not attached a copy of your receipt(s), but you have other evidence establishing the date on which you purchased your Trex Product, check “yes” to confirm that you are attaching a copy of that other evidence with your Claim Form. Otherwise, check “no.”

- Yes  No

**V – REQUIRED ITEMS**

**THE FOLLOWING ITEMS ARE REQUIRED TO BE FILED WITH THIS CLAIM FORM.**

Please mark the check box if the items are included with this Claim Form.

- Still-photographic or video proof that your Trex Product is exhibiting either (1) mold, mildew, fungal or other dark or gray growth/spotting covering at least one-third of the surface of your entire Trex Structure, despite cleaning, or (2) significant color variation or color fading. If you choose to submit video proof, the video must be at least 15 seconds in length. Photographs may be printed, placed on physical media such as a disk or USB key, or sent as a file or files by e-mail. Video footage may be placed on physical media such as a videotape, disk, or USB key, or sent as a file or files by e-mail.
- Proof that you own the property on which the Trex Product in question is located (e.g., copy of a deed, copy of tax bill for the current year, copy of recent mortgage bill, copy of recent mortgage payment coupon, or copy of recent utility bill).
- Proof of ownership or installation of the Trex Product (e.g., purchase receipt or contractor receipt, if you still have possession of it). Additional forms of proof of installation may include pictures of lot codes on the side of each Trex board, or end tag labels if apparent.

**VI – RELIEF SOUGHT**

Do you seek Tier 1 Relief?

- Yes       No

If yes, you are opting to receive Tier 1 Relief only.

If no, please indicate the relief you intend to pursue:

- Tier 2 Relief       Tier 3 Relief

Please note that you must submit a completed Supplemental Claim Form to Trex faxed, e-mailed, or sent by U.S. Mail and postmarked no later than May 27, 2014, in order to be considered for Tier 2 Relief or Tier 3 Relief.

**VII – PROPERTY INSPECTION**

**Property Inspection:** You are not required to be present at the inspection. By signing this Claim Form you agree that an inspector may enter your property and inspect your Trex Product after providing reasonable notice to you and Class Counsel of the inspection.

Please note: The inspector is not allowed to discuss the results of your claim or any other aspect of the Settlement with you at the time of inspection. The findings will be mailed to you by Trex.

Do you wish to be present for the inspection?     Yes       No

If you check yes, the inspector will contact you to set up an appointment. If you set an appointment with the inspector to be present at the time of the inspection, and you are not present when the inspector arrives, the inspector will proceed with the inspection in your absence.

Please indicate the best time to contact you: \_\_\_ a.m. \_\_\_ p.m.

Please indicate whether there are dogs, locked gates or other obstructions on the property that will prevent or affect access for the inspector.     Dogs       Locked Gates       Other obstructions

If you checked “Other obstructions,” please describe the obstructions that exist on the property:

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**VIII – CERTIFICATION AND INDEMNIFICATION**

The Undersigned hereby swear(s) under penalty of perjury that all of the information attached hereto and provided herein is true and accurate. The Undersigned further acknowledge(s) and agree(s): (i) to notify any subsequent purchaser of the structure or property described herein that this Claim has been made; or (ii) to record this Claim in the appropriate public title records concerning the property or structure. The Undersigned also agree(s) to make all other such disclosures to subsequent purchasers of the property or structure as may be required by local, state or federal law regarding the sale of the structure or property.

The Undersigned also agree(s) that if the foregoing disclosures are not made in the manner required above, the Undersigned will indemnify Trex for the amount of any compensation made to a subsequent purchaser of the structure for the same damage or repair expenses claimed herein.

I hereby authorize Trex and its inspectors to enter my property and inspect my Trex Product as part of its investigation of this Claim following reasonable notice to me and Class Counsel. I also agree to cooperate reasonably with Trex in the investigation of this Claim.

\_\_\_\_\_  
Signature of Claimant

\_\_\_\_\_  
Signature of Claimant

\_\_\_\_\_  
Print name here

\_\_\_\_\_  
Print name here

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

Please fax, e-mail, or mail completed Claim Form and attachments to:

Trex Company, Inc.  
Trex Class Action Settlement  
ATTN: Trex Mold and Color Fading/Variation Litigation  
P.O. Box 921789  
Norcross, GA 30010-1789  
Fax: 1-855-301-9935  
E-Mail: [trexclasssettlement@trex.com](mailto:trexclasssettlement@trex.com)

# EXHIBIT B



## Stipulation of Settlement and Release

### Required Cleaning Instructions

#### Tools and materials needed:

- A Garden hose with access to a water outlet
- Olympic Deck Cleaner (not Olympic Deck Wash). Available at Lowes, Home Depot and other stores. No other cleaner is approved by Trex.
- A 3-5 gallon pump garden sprayer. Available at the above stores.
- Old shoes and clothes for cleaning
- Rubber gloves

#### Cleaning Steps:

1. Clean only on a day when the deck is dry and no precipitation is expected. If the deck is wet, then the cleaner will be diluted and not be effective. DO NOT pre-wet or rinse the deck with water as this also will make the cleaner ineffective.
2. Ambient temperature should be between 50-90F
3. Remove all furniture and loose items from the deck
4. Sweep or blow the deck to remove any loose debris, i.e., leaves, grass, dirt, etc.
5. Cover any plants adjacent to the deck and/or wet the plants prior to and after cleaning. Note: this cleaner will not harm most plants.
6. Use only fresh Olympic Deck Cleaner purchased within 30 days prior to the cleaning. Old, leftover cleaner is not as effective and will diminish the results. Follow the instructions on the back of the container.
7. Fill the pump sprayer with Olympic Deck Cleaner.
8. Pump to increase the pressure for spraying.
9. Working from one end of the deck to the other, begin spraying a small area (approx. 10'x10')
10. The wet cleaner must remain on the deck for 15 minutes without drying. The hotter the weather, the more likely the cleaner will dry.
11. If the cleaner begins to dry, simply spray more on this area.
12. After the cleaner is on the deck, proceed to the next 10' square.
13. A partner may rinse the first cleaned area as long as no water gets outside of the cleaned area. It is ok to wait until the entire deck is cleaned to rinse.
14. Usually, no scrubbing is needed on the deck, although under some plants, dirt can accumulate and light scrubbing may be advantageous to remove the dirt.
15. After the cleaning, thoroughly rinse the entire deck with water. Residual cleaner will show foaming during the rinsing. Continue rinsing until no foaming is apparent.
16. The Olympic Deck Cleaner does contain bleach and will lighten the appearance of the deck.
17. Note: If the deck has rarely or never been cleaned or is in an especially mold-prone environment, then multiple (2 or more) cleanings may be needed to remove residual mold.

# EXHIBIT C

Trex Company, Inc.  
Trex Class Action Settlement  
ATTN: Trex Mold and Color Fading/Variation Litigation  
P.O. Box 921789  
Norcross, GA 30010-1789  
Toll Free Line: 1-877-495-0068  
Fax: 1-855-301-9935  
E-Mail: [trexclasssettlement@trex.com](mailto:trexclasssettlement@trex.com)

Complete this Supplemental Claim Form if you are submitting a claim in the Trex Class Action Settlement because your Trex Product is exhibiting mold, mildew, fungal or other dark or gray growth/spotting covering at least one-third of the surface of your entire Trex Structure, despite cleaning (together, the “Covered Conditions”) and you are seeking Tier 2 Relief or Tier 3 Relief.

Supplemental Claim Forms must be faxed, e-mailed, or sent by U.S. Mail and postmarked no later than **May 27, 2014**, which is nine (9) months from entry of the Court’s order granting preliminary approval of the Settlement.

[www.trex.com/legal/2013classactionsettlement.aspx](http://www.trex.com/legal/2013classactionsettlement.aspx)

Claimant Name \_\_\_\_\_

Claim Number \_\_\_\_\_

### SUPPLEMENTAL CLAIM FORM

#### I – GENERAL INSTRUCTIONS

- A. Type or legibly print all information in blue or black ink.
- B. Answer all questions on the Supplemental Claim Form.
- C. Sign and date the Supplemental Claim Form under penalty of perjury. Your signature is certification that all information on this form is true and correct under penalty of perjury and that you authorize Trex to enter your property for purposes of processing your Claim. Trex may inspect your deck, railing, or fencing as part of the investigation of this claim after providing reasonable notice to you and Class Counsel of the inspection.
- D. Make a copy of the completed Supplemental Claim Form and accompanying documents and photograph(s)/video(s) for your files. Mail, fax, or e-mail the original Supplemental Claim Form along with the accompanying photograph(s)/video(s) and documents to Trex. (Photographs may be printed, placed on physical media such as a disk or USB key, or sent as a file or files by e-mail. Video footage may be placed on physical media such as a videotape, disk or USB key, or sent as a file or files by e-mail.) Documents and other materials submitted will not be returned. Other than the original Supplemental Claim Form, do not submit originals.
- E. If you need additional room to answer the following questions, attach additional sheets.
- F. Check all boxes for which you are supplying the requested documents.
- G. The Supplemental Claim Form must be faxed, e-mailed, or sent by U.S. Mail and postmarked no later than May 27, 2014. Prior to submitting this Supplemental Claim Form to Trex, you must clean your Trex Structure a second time with a product recommended in Trex’s Mold Bulletin dated September 19, 2011, and pursuant to the Required Cleaning Instructions, both of which are attached hereto and available at [www.trex.com/legal/2013classactionsettlement.aspx](http://www.trex.com/legal/2013classactionsettlement.aspx) or by request via 1-877-495-0068 (the “Second Required Cleaning”). The Supplemental Claim Form and, as applicable, the items specified in Sections V and VI of this Supplemental Claim Form, must be faxed, e-mailed, or sent by U.S. Mail and postmarked within three (3) months after you complete the Second Required Cleaning and no later than May 27, 2014 (unless you qualify for the drought exception discussed in Section V below).
- H. For purpose of this Settlement, “Trex Product” is defined as Trex non-shelled wood-plastic composite decking, railing, and fencing products purchased between August 1, 2004, and August 27, 2013.

**II – CLAIMANT INFORMATION**

**1. Name of Claimants:**

Last \_\_\_\_\_ First \_\_\_\_\_ MI \_\_\_\_\_

Last \_\_\_\_\_ First \_\_\_\_\_ MI \_\_\_\_\_

**2. Claimants’ Address:**

Street Address \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_

**3. Claimants’ Phone Numbers:**

Home ( ) \_\_\_\_\_ Work ( ) \_\_\_\_\_ Mobile ( ) \_\_\_\_\_

Home ( ) \_\_\_\_\_ Work ( ) \_\_\_\_\_ Mobile ( ) \_\_\_\_\_

**III – PRELIMINARY QUESTIONS**

Please indicate the relief that you seek:

- Tier 2 Relief       Tier 3 Relief – Payment Certificate       Tier 3 Relief – Refund

Did you previously submit a Claim Form to Trex for the Covered Conditions?

- Yes       No

Are you currently experiencing mold, mildew, fungal or other dark or gray growth/spotting covering at least one-third of the surface of your entire Trex Structure, despite the Second Required Cleaning?

- Yes       No

**Trex-Brand Fasteners:** Does your Trex Structure contain Trex-brand fasteners?

- Yes       No

If yes, please attach proof of purchase of the Trex-brand fasteners and estimate the number of Trex-brand fasteners contained in your Trex Structure:

**Deck Size:** Please provide the square footage of your deck.

Square footage, including stairs, etc.: \_\_\_\_\_

**IV – CLEANING INFORMATION**

1. Have you cleaned your Trex Structure a second time with a product recommended in Trex’s Mold Bulletin dated September 19, 2011, and pursuant to the Required Cleaning Instructions available at [www.trex.com/legal/2013classactionsettlement.aspx](http://www.trex.com/legal/2013classactionsettlement.aspx) or by request via 1-877-495-0068 (the “Second Required Cleaning”)?

- Yes       No

If yes, please identify the cleaning product used: \_\_\_\_\_

If yes, please also identify the date of the Second Required Cleaning: \_\_\_\_\_

2. Did the mold, mildew, fungal, or other dark or gray growth/spotting return within three months of the Second Required Cleaning?

- Yes       No

3. If you answered “yes,” to question 2 above, does mold, mildew, fungal, or other dark or gray growth/spotting continue to cover at least one-third or more of the surface of the Trex Structure?

- Yes       No

4. If you answered “no,” to question 2 above, do you contend that drought conditions existed in the area where your Trex Structure is located during the nine-month Claims Period such that weather conditions conducive to mold growth did not exist? If so, please attach weather reports for the nine-month Claim Period showing that weather conditions conducive to mold growth did not exist.

- Yes       No

**V – REQUIRED ITEMS FOR TIER 2 RELIEF AND TIER 3 RELIEF**

**THE FOLLOWING ITEMS ARE REQUIRED TO BE SUBMITTED WITH THIS SUPPLEMENTAL CLAIM FORM.**

Please mark the check box if the items are included with this Supplemental Claim Form.

- Proof of purchase of the deck cleaning product recommended in Trex’s Mold Bulletin dated September 19, 2011.
- If applicable, proof of purchase of Trex-brand fasteners.
- Still-photographic proof or video proof that you completed the Second Required Cleaning, as defined above, as follows:
  - If you opt to use still-photographic proof, take and send to Trex (via e-mail or regular mail), six photographs, one showing the container of the cleaning product placed on your Trex Structure, one showing your Trex Structure immediately before the cleaning, three showing someone cleaning your Trex Structure with the recommended cleaning product, and one showing your Trex Structure immediately after the cleaning.
  - If you opt to use video proof, submit to Trex at least 60 seconds of video, which must include footage of the container of the cleaning product placed on your Trex Structure, as well as footage of the Trex Structure immediately before cleaning, footage of someone cleaning the Trex Structure with the recommended cleaning product, and footage of the Trex Structure immediately after the cleaning.
- Still-photographic or video proof that the Second Required Cleaning did not resolve the mold, mildew, fungal, or other dark or gray growth/spotting problem and that the mold, mildew, fungal, or other dark or gray growth/spotting continues to cover at least one-third or more of the surface of the Trex Structure, as follows:
  - You must submit three (3) post-cleaning still-photographs or sixty (60) seconds of post-cleaning video showing that the mold, mildew, fungal, or other dark or gray growth/spotting continues to cover at least one-third or more of the surface of the Trex Structure. The post-cleaning still-photographs or video must be submitted within three (3) months of the date of the Second Required Cleaning.
  - If you contend that drought conditions existed during the nine-month Claim Period in the area where your Trex Structure is located such that weather conditions conducive to mold growth did not exist, then submit weather reports showing that such weather conditions existed in the area where your Trex Structure is located. If Trex agrees that such weather conditions existed, then you will have an additional three (3) months (until August 27, 2014) to submit three (3) post-cleaning still-photographs or sixty (60) seconds of post-cleaning video showing that the mold, mildew, fungal, or other dark or gray growth/spotting continues to cover at least one-third or more of the surface of the Trex Structure. If Trex disagrees, then a dispute will exist which Trex, at its expense, will submit to the neutral Claims Adjudicator for resolution. Trex will notify you of the existence of any such dispute and of the Claims Adjudicator’s decision, which shall be final.

All still photographs referenced above may be printed, placed on physical media such as a disk or USB key and faxed or sent by regular U.S. Mail, or sent as a file or files by e-mail. All video footage referenced above may be placed on physical media such as a videotape, disk or USB key and sent by regular U.S. Mail, or sent as a file or files by e-mail.

**VI – REQUIRED ITEMS FOR TIER 3 RELIEF ONLY**

- If you are seeking Tier 3 Relief, you must send sample(s) consisting of one of the following (at your election): (a) three (3) samples of your current Trex Structure, each measuring at least one (1) inch in length; or (b) one (1) sample from your current Trex Structure measuring at least three (3) inches in length. The sample(s) must be taken from your current Trex Structure or from leftover Trex Product purchased at the same time as the Trex Product that comprises your current Trex Structure.

**VII – CERTIFICATION AND INDEMNIFICATION**

The Undersigned hereby swear(s) under penalty of perjury that, if the Undersigned is entitled to and does receive and redeem either a Tier 2 non-transferable payment certificate or a Tier 3 non-transferable payment certificate, the Undersigned will replace his or her current Trex Structure with the new Trex product for which the non-transferable payment certificate was issued.

The Undersigned acknowledges and understands that Trex will not issue payment to the Undersigned pursuant to any non-transferable payment certificate until the Undersigned provides proof of purchase and proof that the Undersigned picked up or received delivery of the new Trex Product for which the non-transferable payment certificate was issued. Proof can be made by means of a notation on the purchase receipt by the vendor of pick-up or delivery.

The Undersigned hereby swear(s) under penalty of perjury that all of the information attached hereto and provided herein is true and accurate. The Undersigned further acknowledge(s) and agree(s): (i) to notify any subsequent purchaser of the structure or property described herein that this Claim has been made; or (ii) to record this Claim in the appropriate public title records concerning the property or structure. The Undersigned also agree(s) to make all other such disclosures to subsequent purchasers of the property or structure as may be required by local, state or federal law regarding the sale of the structure or property.

The Undersigned also agree(s) that if the foregoing disclosures are not made in the manner required above, the Undersigned will indemnify Trex for the amount of any compensation made to a subsequent purchaser of the structure for the same damage or repair expenses claimed herein.

I hereby authorize Trex and its inspectors to enter my property and inspect my Trex Product as part of its investigation of this Claim following reasonable notice to me and Class Counsel. I also agree to cooperate reasonably with Trex in the investigation of this Claim.

\_\_\_\_\_  
Signature of Claimant

\_\_\_\_\_  
Signature of Claimant

\_\_\_\_\_  
Print name here

\_\_\_\_\_  
Print name here

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

Please fax, e-mail, or mail completed Supplemental Claim Form and attachments to:

Trex Company, Inc.  
Trex Class Action Settlement  
ATTN: Trex Mold and Color Fading/Variation Litigation  
P.O. Box 921789  
Norcross, GA 30010-1789  
Fax: 1-855-301-9935  
E-Mail: [trexclasssettlement@trex.com](mailto:trexclasssettlement@trex.com)

# EXHIBIT D

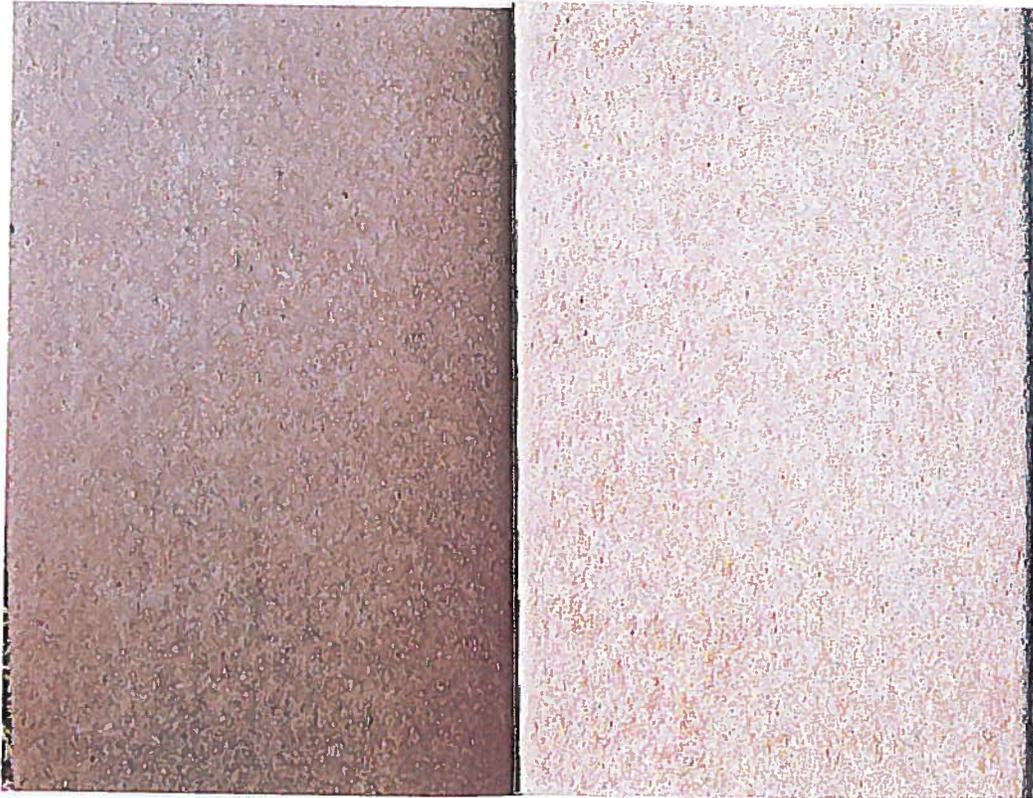
### Color Variation or Color Fading Claims

Upon proper proof of a claim of color variation or color fading, as set forth below, any qualifying Class Member will be entitled to a one-time cash payment as set forth in the Settlement Agreement (“Tier 1 Relief”).

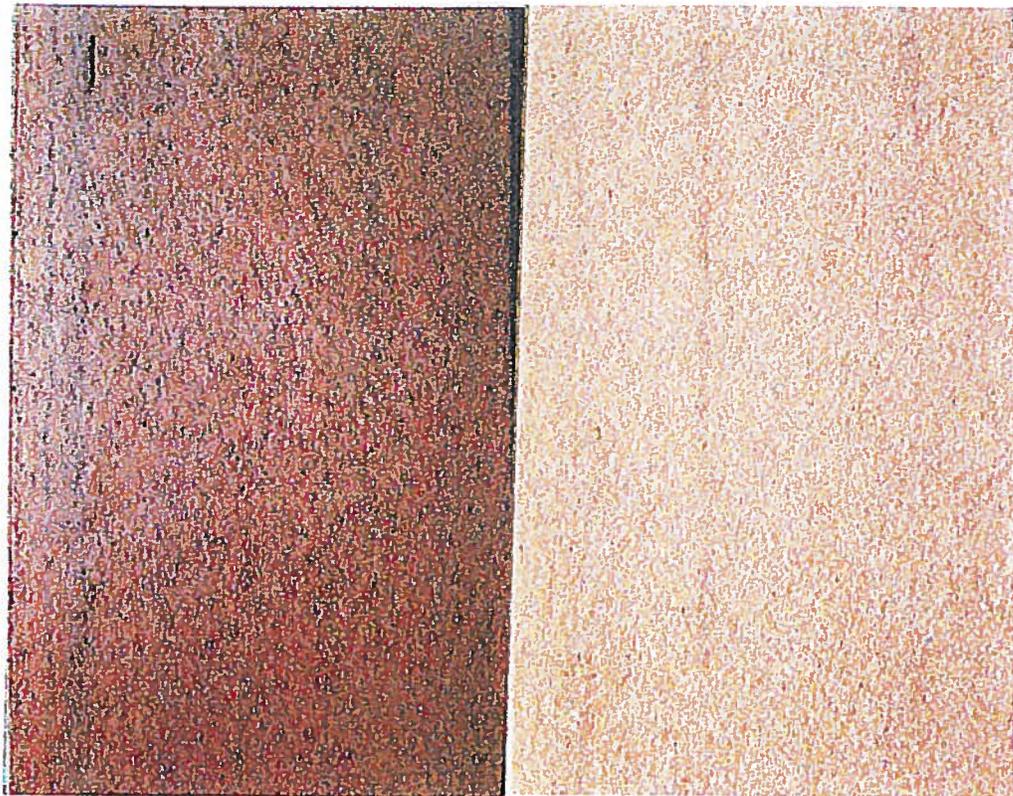
To be eligible for Tier 1 Relief, Class Members, by May 27, 2014, which is nine (9) months from entry of the Court’s order granting preliminary approval of the Settlement, must submit to Trex a Claim Form. For a claim of color variation or color fading, the Claim Form requires Class Members to: (1) certify under penalty of perjury that they own a Trex Structure (consisting of Trex Product); (2) submit proof of ownership of the property on which the Trex Structure is installed (e.g., a copy of a deed, mortgage bill, or utility bill); (3) submit proof of purchase of the Trex Product during the Class Period (e.g., purchase receipt or contractor receipt); and (4) submit still-photographic or video proof that the Trex Structure is exhibiting significant color variation or color fading as described below. Still-photographic proof requires photographs taken during the day with a film camera or a digital camera. Video proof requires video taken during the day with a video camera, including but not limited to a cellular phone or tablet video camera.

For purposes of this Settlement, Trex Product is exhibiting significant color variation or color fading if the degree of color variation or color fading on the Class Member’s current Trex decking is equal to or greater than the degree of color variation or color fading shown in the photographs below. If a Class Member’s current Trex decking is exhibiting color variation or color fading that is equal to or greater than the color variation or color fading shown in the photographs below, then, upon proper proof of a claim as described above, the Class Member will be entitled to Tier 1 Relief.

## Color Fading



## Color Fading



Color Variation



## Color Variation



# EXHIBIT E



245 CAPITOL LANE  
WINCHESTER, VIRGINIA 22602  
TEL 540.542.6300  
FAX 540.678-3002

September 19<sup>th</sup>, 2011

### **Mold Technical Bulletin**

Mold is a lower form of plant life that can settle and grow on any surface, including Trex<sup>®</sup> decking. Mildew is a form of mold that grows on damp surfaces.

Mold spores are similar to seeds, but cannot be seen until colonies form. Air currents, insects, animals and water transport the spores easily. Due to mold's adaptability and large number of species, it is very hard to control and impossible to totally eliminate. Mold will not affect the structural performance of Trex decking.

In order to form visible colonies, mold needs food, moisture, and temperatures between 40 and 90° F. Trex decking is not a food source for mold, but can collect food in the form of dirt and debris such as the overflow from flowerpots and gutters. Trex decking can also supply moisture if the gaps between deck boards are too small or clogged. Refer to Trex decking Usage Guidelines for gapping instructions.

### **How to remove Mold from Trex<sup>®</sup> Composite & PVC Decking**

All exterior building materials require cleaning. Trex is no exception. Periodic cleaning of Trex decking will remove dirt and pollen that can feed mold. If mold colonies appear, clean the deck with a commercial deck wash containing a detergent and sodium hypochlorite, commonly known as bleach. This chemical will remove the mold, but please be aware it will also lighten the wood on the surface. In some cases it will require several treatments with the deck wash to completely remove all mold colonies. Even if the spots are no longer visible, there may still be mold spores on the surface that could re-grow, so periodic cleaning is important.

The following brands of deck cleaners have been found to be effective in removing mold from Trex decking:

- Olympic<sup>®</sup> Premium Deck Cleaner\*
- Expert Chemical<sup>™\*\*</sup> Composite Deck Cleaner & Enhancer (expertchemicalinc.com)

Always apply these products to a dry deck. Applying to a wet deck will significantly reduce the effectiveness of the cleaner. NEVER mix any other cleaners (ammonia, phosphoric acid, etc.) with bleach.

- For a non-chlorine based alternative UltraMean<sup>®\*\*\*\*</sup> can be used, but will require scrubbing with a soft brush immediately after application.

Mold spreads easily and may return in some environments despite proper cleaning and preventative measures. Mold does not damage Trex and will cause no structural harm if allowed to propagate.

### **How to remove Mold from Trex Transcend<sup>™</sup> Decking**

If debris such as pollen and dirt is allowed to remain on the deck surface, mold can feed on the biofilm. Using a hose and warm soapy water with a soft bristle brush is recommended to remove the food source and mold.

\* Olympic<sup>®</sup> is a registered trademark of PPG Architectural Finishes, Inc.

\*\* Expert Chemical<sup>™</sup> is a trademark of Expert Chemical Inc.

\*\*\*\* UltraMean<sup>®</sup> is a registered trademark of Rhino Hide<sup>®</sup>

# EXHIBIT F



## Specific Gravity Protocol

### Samples:

- The Class Member will submit sample(s) consisting of the following (at the Class Member's election): (a) one sample measuring at least 3" in length at the cross-section; or (b) three samples each measuring at least 1" in length at the cross-section.
- Specimens will be cut from each sample submitted as provided below.
- The specific gravity of each homeowner deck will be the average of the specific gravities calculated from nine specimens to be cut from the sample(s) submitted by the Class Member, with the proviso that depending on the length and condition of the samples submitted, it may not be possible to cut nine specimens each at least 3/16" thick. In the event that nine specimens each at least 3/16" thick cannot be cut from the sample(s) submitted, at least six such specimens will be cut, and the specific gravity will be the average of the specific gravities calculated from the six-to-nine specimens cut from the sample(s) submitted.

### Testing Protocol:

#### **Equipment Used:**

- Aqua Mirage MD-300S Densimeter (Figure 1)
- 200 proof, 95.5% Absolute Ethanol (Figure 2)
- Chop Saw, Forceps, Thermometer, Paper Towels, Fine Point Silver Sharpie (It is important to use a silver colored Sharpie since the color is light and will not be extracted into the ethanol.)
- PPE – Safety Glasses



Figure 1: Alpha-Mirage MD-300S Densimeter

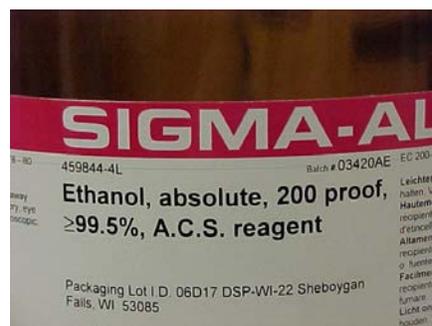


Figure 2: Absolute Ethanol, 200 proof, 99.5% pure must be used

## Testing Procedure:

### Instrument Setup

When first using the densimeter, the instrument must first be setup to use ethanol as the liquid. Turn the densimeter off if it is not already in the off setting. Press and hold the RE-ZERO button with one finger, and then press the ON/OFF with another finger as shown in Figure 3. When the letters “DF” are displayed, stop pressing the buttons. Then,



Figure 3: Initiating dF mode



Figure 4: diSP 0 display mode



Figure 5: Lqd 0- factory setting



Figure 6: Lqd 1- correct setting

press the B button once, and diSP 0 (Figure 4) should be displayed, and the 0 will begin flashing. Press the A button to toggle through the list of setpoints. Stop when Lqd 0 is displayed (Figure 5). The factory setting for Lqd is 0, which is the setting used when specific gravity measurements are taken in water. Since ethanol will be used as the liquid, change this value to 1, which is the setting for ethanol. To do this, hit the RE-ZERO button, which will toggle between a setting of 0 and 1. When Lqd 1 is observed in the display (Figure 6), hit the B button and “END” will appear. Finally, hit “ENTER” to return to operational mode. The display should read 0.00.

## Testing

### *Step 1: Preparation of the MD-300S Densimeter for Testing*

Place the densimeter on a level surface as indicated by the center position of air bubble on level indicator in the back of the unit as shown in Figure 7. This is critical to ensure that accurate weight measurements are obtained.

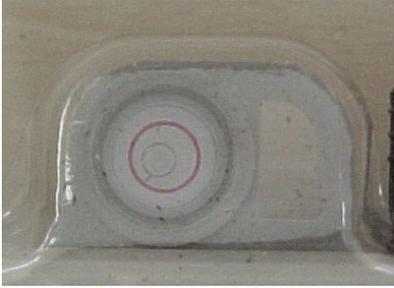


Figure 7: Correct position of air bubble within red circle of level indicator

Slide out the hard plastic frame piece in front using the handle, and slide hard plastic frame piece on top toward back of unit until it reaches the built-in stops. Lift the top lid of the sensor (Figure 8) until it sits in an upright position (Figure 9).



Figure 8: Densimeter sensor



Figure 9: Filling densimeter bath with ethanol to black indicator lines

Fill bath with absolute ethanol to black lines on rear of bath as shown in Figure 9. It is important to note the ethanol level in the bath before each series of specific gravity measurements are taken. Fill bath to the indicator lines when ethanol level is observed to be low. When filling an empty bath, allow 1 hour for the ethanol to equilibrate to room temperature before performing specific gravity measurements unless it is stored at the room temperature already.

Replace the hard plastic front panel and slide hard plastic top forward. The temperature of the ethanol and associated specific gravity influences the specific gravity measurements of materials. Therefore, the temperature of the ethanol must always be measured and the associated specific gravity determined prior to conducting a series of specific gravity measurements. This will ensure accurate assessments of

specific gravity of the Trex boards. To do this, the temperature of the ethanol is first measured to the nearest 0.5°C as shown in Figure 10. Keep the thermometer in the ethanol at least 1 minute to allow the temperature to equilibrate to its final temperature. Record the temperature. Using the table provided (Table 1) on the “Density of Ethanol at Temperature T (in °C), note the corresponding density (round to nearest 0.001) at the recorded temperature of the ethanol.



Figure 10: Temperature measurement of the ethanol

Density of Ethanol at Temperature T (in °C)

T/°C	0.0	0.1	0.2	0.3	0.4	0.5	0.6	0.7	0.8	0.9
10.	0.79784	0.79775	0.79767	0.79758	0.79750	0.79741	0.79733	0.79725	0.79716	0.79708
11.	0.79699	0.79691	0.79682	0.79674	0.79665	0.79657	0.79648	0.79640	0.79631	0.79623
12.	0.79614	0.79606	0.79598	0.79589	0.79581	0.79572	0.79564	0.79555	0.79547	0.79538
13.	0.79530	0.79521	0.79513	0.79504	0.79496	0.79487	0.79479	0.79470	0.79462	0.79453
14.	0.79445	0.79436	0.79428	0.79419	0.79411	0.79402	0.79394	0.79385	0.79377	0.79368
15.	0.79360	0.79352	0.79343	0.79335	0.79326	0.79318	0.79309	0.79301	0.79292	0.79284
16.	0.79275	0.79267	0.79258	0.79250	0.79241	0.79232	0.79224	0.79215	0.79207	0.79198
17.	0.79190	0.79181	0.79173	0.79164	0.79156	0.79147	0.79139	0.79130	0.79122	0.79113
18.	0.79105	0.79096	0.79088	0.79079	0.79071	0.79062	0.79054	0.79045	0.79037	0.79028
19.	0.79020	0.79011	0.79002	0.78994	0.78985	0.78977	0.78968	0.78960	0.78951	0.78943
20.	0.78934	0.78926	0.78917	0.78909	0.78900	0.78892	0.78883	0.78874	0.78866	0.78857
21.	0.78849	0.78840	0.78832	0.78823	0.78815	0.78806	0.78797	0.78789	0.78780	0.78772
22.	0.78763	0.78755	0.78746	0.78738	0.78729	0.78720	0.78712	0.78703	0.78695	0.78686
23.	0.78678	0.78669	0.78660	0.78652	0.78643	0.78635	0.78626	0.78618	0.78609	0.78600
24.	0.78592	0.78583	0.78575	0.78566	0.78558	0.78549	0.78540	0.78532	0.78523	0.78515
25.	0.78506	0.78497	0.78489	0.78480	0.78472	0.78463	0.78454	0.78446	0.78437	0.78429
26.	0.78420	0.78411	0.78403	0.78394	0.78386	0.78377	0.78368	0.78360	0.78351	0.78343
27.	0.78334	0.78325	0.78317	0.78308	0.78299	0.78291	0.78282	0.78274	0.78265	0.78256
28.	0.78248	0.78239	0.78230	0.78222	0.78213	0.78205	0.78196	0.78187	0.78179	0.78170
29.	0.78161	0.78153	0.78144	0.78136	0.78127	0.78118	0.78110	0.78101	0.78092	0.78084
30.	0.78075	0.78066	0.78058	0.78049	0.78040	0.78032	0.78023	0.78014	0.78006	0.77997

Table 1: Density of ethanol at a wide range of temperatures.

Input this value into the densimeter by first pressing and holding the RE-ZERO button with one finger, then with another finger, press the ENTER button as shown in Figure 11. The current density



Figure 11: Switch to “ethanol density input” mode



Figure 12: Densimeter in operational mode

for ethanol will appear, and the last decimal place will be flashing. The number in the last decimal place will most likely be the only number that will be changed routinely, but if needed, the decimal place can be changed by pressing the A button. If the A button is pressed, the number of the next decimal place to the left will begin flashing. To increase the flashing number by 1, press the ENTER button, and to decrease the value by 1, press the RE-ZERO button. Once the correct density has been entered, press the B button to return to operational mode (Figure 12).

#### *Step 2: Cutting Specimens for S.G. Testing*

First, using a chop saw, cut a cross-sectional piece of the following dimensions: Approx. Thickness- 3/16”, Approx. Length- 4.5”, and Width- 5/4” or 2” profiles (Figure 13). The specimen is then labeled properly with a Fine Point Silver Sharpie as shown in Figure 13, with name of homeowner and sample number (1-9).



Figure 13: S.G. specimen cut from 5/4” or 2” profile.



Figure 14: Securing wood board stop using C-clamps



Figure 15: Specimen against board stop for first cut

Figures 14 and 15 illustrate the proper method to cut a sample of repeatable thickness. The wood board stop must be secured tightly to the saw frame at the proper distance from the saw blade using C-clamps (Figure 14). A line can be drawn on the saw shelf to define the correct position for the end of the wood board stop.

### Step 3: Performing Specific Gravity Test

First, ensure that the densimeter is in operational mode as is shown in Figure 12. The specific gravity test specimen is then weighed in air by placing it on top of the sensor, centering it as indicated in Figure 16. Wait until the weight of the specimen has equilibrated, which is indicated by a circle next to the word “Stable” as is shown in Figure 17. “Stable” as is shown in Figure 17. Record the weight only when a stable weight has been indicated. Hit the ENTER button to save the weight in the densimeter. This process is indicated by a series of dashed lines that will disappear from right to left on the display.



Figure 16: Measuring initial weight



Figure 17: Circle indicates “Stable” weighing condition

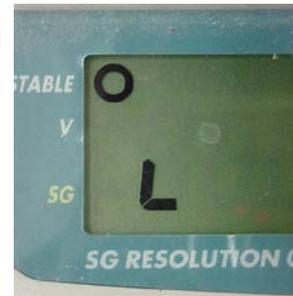


Figure 18: “L” shows weight is measured in ethanol

Remove the sample from the top of the sensor with your hand. When the sample is removed, an L is indicated next to “SG” (Figure 18). This indicates that the densimeter is ready to measure the weight of the test specimen in ethanol.



Figure 19: Using forceps to place specimen  
Gently on sensor weighing basket

Using forceps (Figure 19), gently place the test specimen onto the center of the weighing basket of the sensor (Figure 20). When the specimen is let go by the forceps, it may not be centered on the sensor weighing basket. The specimen can be centered by gently nudging it with the tips of the forceps. Hit the enter button to save the weight in the

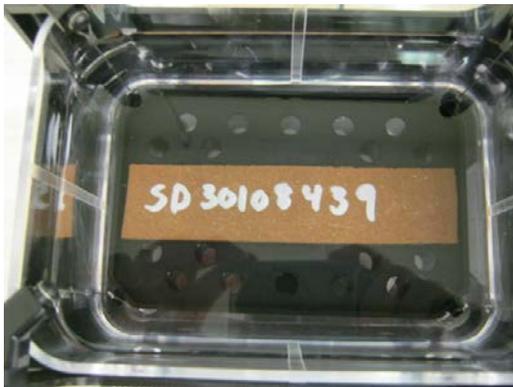


Figure 20: Specimen centered correctly  
on sensor weighing basket

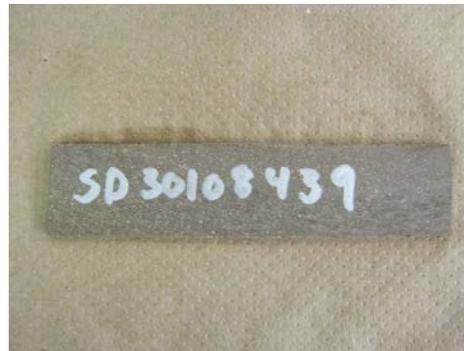


Figure 21: Specimen drying on paper  
towel after

densimeter, which will be indicated once again by a series of dashed lines that will disappear from right to left on the display. The specific gravity of the material will be displayed. Record this value. Remove the test specimen from the weighing basket by gently picking it up using forceps, and then place the specimen on a paper towel to air dry.

Hit the ENTER button to reset the densimeter, and then hit RE-ZERO to tare the scale in preparation for the next density measurement.

#### *Step 4: Completion of Specific Gravity Measurements*

After all of the specific gravity measurements in a series have been taken, the sensor must be removed from the ethanol. The sensor was constructed from ABS resin that swells in ethanol if left submerged for a sufficient amount of time. Place the sensor in a safe place to dry until the next series of specific gravity measurements are taken.

# EXHIBIT G

## NOTICE PLAN

1. The Notice Plan will include, as described more fully below: (a) notice by regular mail or e-mail; (b) national publication notice; and (c) web notice.

2. Class Notice by Regular Mail or E-Mail: Within 14 days of entry of the Court's Preliminary Approval Order of the Settlement Agreement, Trex shall mail by first-class mail, postage prepaid (where physical address is available), or e-mail (where no physical address is available but an e-mail address is available) a copy of the Long-Form Class Notice (attached hereto as Exhibit A) to all of those Class Members who have complained of mold, mildew, fungal, or other dark or gray growth/spotting, or any color variation or color fading, to Trex or counsel for any Plaintiffs in this matter, to all those Class Members whose identities are otherwise known to Trex, and to all those Class Members who have contacted counsel for Plaintiffs in this matter for any reason pertaining to Trex's decking products and for whom counsel have U.S. mail or e-mail addresses (the "Class Notice by Regular Mail or E-Mail"). Before mailing out the Long-Form Class Notice by Regular Mail, Trex will run the addresses through the national change-of-address database in an effort to identify the most current address. The Class Notice by Regular Mail or E-Mail will also include a copy of the Claim Form and the Supplemental Claim Form (attached, respectively, as Exhibits A and C to the Stipulation of Settlement and Release). Trex shall re-mail an additional Class Notice by Regular Mail or E-Mail to potential Class Members whose original class notice regular mailings were returned to Trex prior to the Settlement Final Approval Date as undelivered with a forwarding address. Trex shall not be required to re-mail any notices returned without a forwarding address or that are returned after the Settlement Final Approval Date. Trex also shall not be required to re-send any e-mail notices for which Trex receives notice that the e-mails were undeliverable unless Class

Counsel or the Class Member provides Trex with a different e-mail address prior to the Settlement Final Approval Date.

3. Notice to TrexPro Contractors and GE Capital: Trex will provide written notice of the Settlement by mail to all current TrexPro contractors, which notice will include a request that the TrexPro contractors forward such notice to any customers for whom the TrexPro contractor built a deck using Trex Product during the Class Period. Trex will provide ample copies of the notice (postage prepaid) to those TrexPro contractors who request them. Trex will also forward notice of the Settlement to the TrexPro's customers if the TrexPro contractor provides the customers' names and addresses to Trex. Trex will also provide written notice of the Settlement by mail to GE Capital. Gilardi & Co., LLP ("Gilardi") will mail notice to those Class Members who used GE Capital to finance their purchase of their Trex Product during the Class period.

4. Publication Notice: As soon as practicable after entry of the Court's Preliminary Approval Order of the Settlement Agreement, Trex will publish notice of the proposed Settlement, the Fairness Hearing, and Class Members' objection and appeal rights in *USA Today*, National Edition, black and white, 1/6 page insertion, *Professional Deck Builder* magazine, black and white, half page, *Sunset Magazine*, black and white, one-third page, *This Old House* magazine, black and white, one-third page, *Journal of Light Construction* magazine, black and white, half page, and *Replacement Contractor* magazine, black and white, half page (or agreed-upon alternatives to any of the foregoing magazines) (the "Publication Notice"). The Publication Notice will be in a form substantially similar to Exhibit D attached hereto (the "Short-Form Class Notice").

5. Web Notice: Within 14 days of entry of the Court's Preliminary Approval Order of the Settlement Agreement, Trex will publish a copy of the Long-Form Class Notice, the

Short-Form Class Notice, the Request for Claim Form, and the Request for Supplemental Claim Form (attached hereto as Exhibits A through D), the Claim Form, and the Supplemental Claim Form (attached, respectively, as Exhibits A and C to the Stipulation of Settlement and Release), via Trex's regular website and a settlement website (which will be established at Trex's expense). Also within 14 days of entry of the Court's Preliminary Approval Order of the Settlement Agreement, Trex will provide notice via (a) sponsored links for searches covering the keywords "Trex" or "composite decking" paired with any of the following keywords: "mold," "mildew," "fungal growth," "fungal spotting," "color variation," or "color fading" on Google, Yahoo, Bing, and AOL at an aggregate cost of \$10,000 (and no more), which sponsored links will be devised by, purchased by, and spread among the sites for maximum reach by Gilardi ; and (b) website banner advertisements placed on the following websites: bobvila.com, ideas-for-deck-designs.com, gardenstructure.com, and gardenweb.com at an aggregate cost of \$10,000 (and no more), which advertisements will be composed by, purchased by, and spread among the sites for maximum reach by Gilardi; (c) Google Display Network text link ads for searches covering the keywords "Trex" or "composite decking" paired with any of the following keywords: "mold," "fungal growth," "fungal spotting," "color variation," or "color fading" at an aggregate cost of \$25,000 (and no more), which text link ads will be devised by, purchased by, and spread among the sites for maximum reach by Gilardi; and (d) Facebook text link ads at an aggregate cost of \$5,000 (and no more), which text link ads will be devised by and purchased by Gilardi.

6. In addition, as soon as practicable after entry of the Court's Preliminary Approval Order of the Settlement Agreement, Trex will formally advise all of its distributors and retailers of the Settlement in writing, such that retailers will be able to direct consumers to the settlement

website and to advise them as to how to obtain Claim Forms and Supplemental Claim Forms.

7. Gilardi will also issue a press release regarding the Settlement through either Businesswire or PR Newswire.

8. Spanish-language versions of the Long-Form Class Notice, the Short-Form Class Notice, the Request for Claim Form, the Request for Supplemental Claim Form, the Claim Form, and the Supplemental Claim Form will be available. The Long-Form Class Notice and Short-Form Class Notice will direct Class Members to the websites where the aforementioned Spanish-language documents can be obtained.

NOTICE PLAN

EXHIBIT A

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**NOTICE OF CLASS ACTION,  
PROPOSED SETTLEMENT AND FAIRNESS HEARING**

**IF YOU OWN OR OWNED TREX® BRAND NON-SHELLED WOOD-PLASTIC COMPOSITE  
DECKING, RAILING, OR FENCING PRODUCTS  
PURCHASED BETWEEN AUGUST 1, 2004, AND AUGUST 27, 2013,  
YOU MAY BE ELIGIBLE FOR BENEFITS FROM A  
CLASS ACTION SETTLEMENT. PLEASE CONTINUE  
READING FOR FURTHER DETAILS.**

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**IMPORTANT -- PLEASE READ THIS NOTICE CAREFULLY.  
IT RELATES TO THE PENDENCY OF THE PROPOSED  
SETTLEMENT OF THIS CLASS ACTION LITIGATION.  
IF YOU ARE A CLASS MEMBER, IT CONTAINS  
IMPORTANT INFORMATION AS TO YOUR RIGHTS.**

**IMPORTANTE -- POR FAVOR LEA ESTE AVISO CON CUIDADO.  
ESTA RELACIONADO CON LA TRANSACCION O ACUERDO PROPUESTO  
PENDIENTE DE ESTE LITIGIO  
COLECTIVO DE CLASE. SI USTED ES MIEMBRO DE ESTE LITIGIO COLECTIVO,  
CONTIENE INFORMACION IMPORTANTE RESPECTO A SUS DERECHOS.**

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**TO: CURRENT AND FORMER OWNERS OF TREX NON-SHELLED WOOD-PLASTIC COMPOSITE DECKING,  
RAILING, AND FENCING MATERIAL PURCHASED BETWEEN AUGUST 1, 2004, AND AUGUST 27, 2013**

The purpose of this Notice ("Notice") is to inform you of the proposed settlement ("Settlement") of this class action litigation (the "Action") against Trex Company, Inc. ("Trex") pending in the U.S. District Court for the Northern District of California at San Francisco (the "Court"). The Action is known as *Mahan v. Trex Company, Inc.*, No. 09-CV-00670. This Notice provides only a summary of the terms of the Settlement Agreement. A copy of the complete Settlement Agreement may be obtained as set forth at the end of this Notice.

The Action concerns allegations by the Plaintiffs that certain Trex non-shelled wood-plastic composite decking, railing, and fencing products ("Trex Product") purchased between August 1, 2004, and August 27, 2013 (the "Class Period"), are defective and susceptible to mold, mildew, fungal, or other dark or gray growth or spotting, or color variation or color fading (the "Covered Condition(s)"), and that Trex has misrepresented the susceptibility of Trex Product to such Covered Conditions. Trex denies these allegations. The Plaintiffs and Trex have agreed to settle the Action to avoid the expense and risk of trial. Plaintiffs believe the Settlement is fair, reasonable, and adequate.

**I. INFORMATION REGARDING CLASS NOTICE AND FINAL APPROVAL HEARING**

YOU ARE HEREBY NOTIFIED that a Fairness Hearing will be held on December 13, 2013, before the Honorable Jeffrey S. White at the U.S. Courthouse, San Francisco Courthouse, Courtroom 11, 19th Floor, 450 Golden Gate Avenue, San Francisco, California 94102, to determine: (1) whether the Action should be finally certified as a class action for settlement purposes; (2) whether the Settlement should be approved as fair, reasonable, and adequate; (3) whether the Action should be dismissed; (4) whether Class Members should be bound by the release contained in the Settlement Agreement; (5) whether Class Members should be barred from filing, commencing, prosecuting, maintaining, intervening in, participating in, or receiving any benefits from, any lawsuit or other proceeding in any jurisdiction based on or relating to the claims and causes of action covered by the release in this Action; (6) whether the application of Plaintiffs for an incentive award should be approved; and (7) whether the application of Plaintiffs' counsel for an award of attorneys' fees, costs, and expenses should be approved.

**II. YOUR OPTIONS**

You must decide whether you want to be part of the Settlement. If you are a member of the Class, you are automatically included in the Settlement and can apply for certain settlement relief described in this Notice. You may also object to the Settlement or exclude yourself from the Settlement Class. More detailed information about these options is contained in Section VII below.

If you do not want to be included in the Settlement, you must request exclusion from the Settlement Class within forty-five (45) days from the last date that Notice is sent by Trex or first published by the notice provider as set forth in the Notice Plan, which is described in the Settlement Agreement (as certified by Trex and the notice provider) (the "Opt-Out Period"). (Please check

www.trex.com/legal/2013classactionsettlement.aspx for updates on the deadline.) Otherwise, you will be bound by all terms of the proposed Settlement if the Court approves it. If you do not exclude yourself from the Settlement Class, the proposed Settlement (if approved) may affect your right to start or continue any other lawsuit or proceeding involving your Trex Product. Additionally, you will be releasing the claims as set forth in this Notice. More detailed information is contained in Sections V and VII below.

### **III. DESCRIPTION OF THE CLASS**

If you own or owned Trex non-shelled wood-plastic composite decking, railing, or fencing material that was purchased between August 1, 2004, and August 27, 2013, you are a member of the Settlement Class. The full Settlement Class definition is as follows:

All Persons in the United States or its territories who own or owned a Trex Structure built with Trex Product purchased during the Class Period. Included within the Settlement Class are the legal representatives, heirs, successors in interest, transferees, and assignees of all such foregoing holders and/or owners, immediate and remote. Excluded from the Settlement Class are: Defendant and its subsidiaries and affiliates; all Persons who, in accordance with the terms of this Agreement, properly execute and timely file during the Opt-Out Period a request for exclusion from the Settlement Class; all governmental entities; and the judge(s) to whom this case is assigned and any immediate family members thereof.

For purposes of the Settlement, “Trex Structure” is defined as a deck, railing, fencing, or other structure built with “Trex Product.” “Trex Product” is defined as Trex non-shelled wood-plastic composite decking, railing, or fencing material sold under the trademarks “Accents<sup>®</sup>”, “Accents Fire Defense<sup>®</sup>”, “Origins<sup>®</sup>”, “Brasilia<sup>®</sup>”, “Contours<sup>®</sup>”, “Profiles<sup>®</sup>”, “Traditional Railing”, “Designer Series Railing<sup>®</sup>”, “Seclusions<sup>®</sup>”, or “Surroundings<sup>®</sup>”.

The Settlement does not affect the rights of members of the settlement in *Kanefsky v. Trex Company, Inc.*, New Jersey Superior Court, Law Division, Essex County, Docket No. ESX-L-7347-00, and *Ross v. Trex Company, Inc.*, United States District Court for the Northern District of California, Case No. 09-cv-0670. Information relating to the *Kanefsky* class action settlement is available at <http://www.trex.com/legal/classaction.asp>, and information relating to the *Ross* class action settlement is available at <http://www.trex.com/legal/classactionsettlement.aspx>.

### **IV. SUMMARY OF SETTLEMENT RELIEF**

#### **A. Eligibility for Relief and Claim Resolution Process.**

After the Court issues an order granting preliminary approval of the Settlement, members of the Class will be eligible to submit a Claim Form and a Supplemental Claim Form. The procedure for making a Claim is as follows:

a. Tier 1: To be eligible for Tier 1 Relief (as described below), Class Members, by May 27, 2014, which is nine (9) months from entry of the Court’s order granting preliminary approval of the Settlement (the “Claims Period”), must submit to Trex by fax, e-mail, or U.S. mail a Claim Form. The Claim Form requires Class Members to: (1) certify under penalty of perjury that they own a Trex Structure (consisting of Trex Product); (2) submit proof of ownership of the property on which the Trex Structure is installed (e.g., a copy of a deed, mortgage bill, or utility bill); (3) submit proof of purchase of the Trex Product during the Class Period (e.g., purchase receipt or contractor receipt); (4) for a claim of mold, mildew, fungal, or other dark or gray growth or spotting, certify under penalty of perjury that they have cleaned their Trex Structure at least one time with a deck cleaning product containing detergent and sodium hypochlorite (bleach), or with another cleaning product recommended at the time of that cleaning by Trex; and (5) submit by e-mail or U.S. mail still-photographic or video proof that the Trex Structure is exhibiting: (i) mold, mildew, fungal, or other dark or gray growth/spotting covering at least one-third of the surface of the Trex Structure, despite cleaning; or (ii) significant color variation or color fading as defined in the Settlement Agreement. Still-photographic proof requires photographs taken during the day with a film camera or a digital camera. Video proof requires video taken during the day with a video camera, including but not limited to a cellular phone or tablet video camera.

b. Tier 2: To be eligible for Tier 2 Relief (as described below), Class Members, within the Claims Period, must submit to Trex by fax, e-mail, or U.S. mail a Claim Form. The Claim Form requires Class Members to: (1) certify under penalty of perjury that they own a Trex Structure; (2) submit proof of ownership of the property on which the Trex Structure is installed (e.g., a copy of a deed, mortgage bill, or utility bill); (3) submit proof of purchase of the Trex Product during the Class Period (e.g., purchase receipt or contractor receipt); (4) certify under penalty of perjury that they have cleaned their Trex Structure at least one time with a deck cleaning product containing detergent and sodium hypochlorite (bleach), or with another cleaning product recommended at the time of that cleaning by Trex; and (5) submit by e-mail or U.S. mail still-photographic or video proof that the Trex Structure is exhibiting mold, mildew, fungal, or other dark or gray growth/spotting covering at least one-third of the surface of the Trex Structure, despite cleaning. Still-photographic proof requires photographs taken during the day with a film camera or a digital camera. Video proof requires video taken during the day with a video camera, including but not limited to a cellular phone or tablet video camera.

In addition, a Class Member seeking Tier 2 Relief must submit to Trex by fax, e-mail, or U.S. mail within the Claims Period a Supplemental Claim Form providing evidence that (a) the Class Member has cleaned his or her Trex Structure a second time (the “Second Required Cleaning”) with a product recommended in Trex’s Mold Bulletin dated September 19, 2011, and pursuant to the Required Cleaning Instructions available at [www.trex.com/legal/2013classactionsettlement.aspx](http://www.trex.com/legal/2013classactionsettlement.aspx) or by request via 1-877-495-0068, and (b) that the Second Required Cleaning did not resolve the mold, mildew, fungal, or other dark or gray growth/spotting problem and that the mold, mildew, fungal, or other dark or gray growth/spotting continues to cover at least one-third or more of the surface of the Trex Structure. The Supplemental Claim Form requires Class Members to:

(i) Certify under penalty of perjury that they have performed the Second Required Cleaning;

(ii) Submit still-photographic proof or video proof of the Second Required Cleaning to verify that the Second Required Cleaning was completed. Still-photographic proof requires photographs taken during the day with a film camera or a digital camera. Video proof requires video taken during the day with a video camera, including but not limited to a cellular phone or tablet video camera. If the Class Member opts to use still-photographic proof, the Class Member will be required to take and transmit to Trex, via e-mail or regular mail, six photographs, one of which will be a photograph of the container of the cleaning product placed on the Class Member's Trex Structure, one of which will show the Class Member's Trex Structure immediately before the cleaning, three of which will show someone cleaning the Class Member's Trex Structure with the recommended cleaning product, and one of which will show the Class Member's Trex Structure immediately after the cleaning. If the Class Member chooses video instead, the Class Member must submit to Trex via e-mail or regular mail at least 60 seconds of video, which must include footage of the container of the cleaning product placed on the Class Member's Trex Structure, as well as footage of the Trex Structure immediately before cleaning, footage of someone cleaning the Trex Structure with the recommended cleaning product, and footage of the Trex Structure immediately after the cleaning. The Class Member should use a date stamp for the photographs or video, if available, and regardless of whether a date stamp is available, the Class Member should keep a record of the date of cleaning.

(iii) Submit by e-mail or regular mail still-photographic proof or video proof verifying that the Second Required Cleaning did not resolve the mold, mildew, fungal, or other dark or gray growth/spotting problem and that the mold, mildew, fungal, or other dark or gray growth/spotting continues to cover at least one-third or more of the surface of the Trex Structure. Still-photographic proof requires photographs taken during the day with a film camera or a digital camera. Video proof requires video taken during the day with a video camera, including but not limited to a cellular phone or tablet video camera. In order to prove that the mold, mildew, fungal, or other dark or gray growth/spotting continues to cover at least one-third or more of the surface of the Trex Structure following the Second Required Cleaning, the Class Member must take three additional still-photographs or at least 60 seconds of additional video showing that the mold, mildew, fungal, or other dark or gray growth/spotting continues to cover at least one-third or more of the surface of the Trex Structure. Post-cleaning still-photographs or video showing that the mold, mildew, fungal, or other dark or gray growth/spotting continues to cover at least one-third or more of the surface of the Trex Structure must be sent to Trex within three (3) months of the date of cleaning (and within the Claims Period). If a Class Member shows through relevant weather reports that drought conditions existed in the area where the Class Member's Trex Structure is located such that weather conducive to mold growth did not occur during the nine-month Claim Period, then the Claim Period for that individual Class Member will extend for an additional three (3) months. Proof of when these still-photographs or video were taken will be by date stamp if available, or by certification of the date on which they were taken if a date stamp is not available. If Trex disputes that the still-photographs or video show(s) that mold, mildew, fungal, or other dark or gray growth/spotting continues to cover at least one-third or more of the surface of the Trex Structure, then the Parties will submit the still-photographs or video to Epiq Systems, Inc. ("Epiq"), which will resolve the dispute. Epiq's resolution of the dispute will be final. Epiq may request that the Class Member submit additional still-photographs or video to aid in the process of resolving the dispute. Trex will pay Epiq's costs associated with any such dispute resolution.

(iv) Certify under penalty of perjury that, if the Class Member is eligible for Tier 2 Relief or Tier 3 Relief and opts to receive a non-transferable payment certificate, then the Class Member will use the new Trex product on the Trex Structure that was the subject of the Claim Form and the Supplemental Claim Form. The Class Member will acknowledge that Trex will not issue payment to the Class Member pursuant to the non-transferable payment certificate until the Class Member provides proof of purchase and proof that the Class Member picked up or received delivery of the new Trex product for which the non-transferable payment certificate was issued.

c. Tier 3: Tier 3 Relief (as described below), is available to Class Members who do not opt for Tier 1 or Tier 2 Relief and who have met all the requirements of (including but not limited to the submission of all documents and information required to qualify for Tier 2 Relief) and are entitled to Tier 2 Relief. In lieu of receiving Tier 1 or Tier 2 Relief, such Class Members may elect to submit a sample(s) of their Trex Product for specific gravity testing pursuant to the agreed upon protocol set forth in the Settlement Agreement. The specific gravity testing, which will measure the density of the sample(s) of the Trex Product, will be at Trex's cost. The sample(s) must consist of one of the following (at the Class Member's election): (1) three samples each measuring at least 1 inch in length; or (2) one sample measuring at least 3 inches in length. Each sample must be taken from the Class Member's current Trex Structure (or from leftover Trex Product purchased at the same time as the Trex Product which comprises the Class Member's current Trex Structure). If the specific gravity testing reveals that the specific gravity of the samples is at or below .95 (on average), then the Class Member will be entitled to the Tier 3 Relief described below. If, however, the specific gravity testing reveals that the specific gravity of the samples is higher than .95 (on average), then the Class Member, who has already qualified for Tier 2 Relief, will nonetheless qualify for Tier 2 Relief. Trex will conduct the specific gravity testing promptly upon receipt of the sample(s). Trex will videotape each test and maintain the videotape records for inspection, if requested, by Class Counsel or Class Counsel's expert designee, until 60 days after the Class Member's claim is paid. In addition, Class Counsel will have the right to challenge any specific gravity test results and to have the sample(s) tested at the Class Member's expense (subject to pre-approval by the Class Member). Accordingly, Trex will maintain all sample(s) tested until 60 days after the Class Member's claim is paid. If the result of any further specific gravity testing shows that the result is at or below .95, then the Parties will submit the results to Epiq, which will resolve the dispute between Trex's specific gravity test result(s) and the Class Member's specific gravity test result(s) and whose resolution will be final. Trex will pay Epiq's costs associated with any such dispute resolution.

d. The determination of whether a particular Claim Form or Supplemental Claim Form is valid and complete shall be made by Trex in accordance with the terms of the Settlement Agreement. Upon request from Class Counsel, Trex shall provide all information in support of such a determination to Class Counsel and will reconsider such determination upon request from Class Counsel, who may provide supplemental information to Trex to consider.

e. Trex shall be entitled to inspect any Trex Product that is the basis of a Claim at a reasonable time and at its own expense, upon prior notice to the Class Member and Class Counsel, provided that the inspection must be completed within forty-five (45) days – weather permitting – after providing notice to the Class Member and Class Counsel of Trex’s decision to inspect the Trex Product.

f. In the event that any Class Member disagrees with the claim determination by Trex, that Class Member may appeal the Trex determination to Epiq within thirty-five (35) days of their receipt of the initial determination and Trex shall provide all materials regarding the Claim, including any still-photographs or video and any Claim Form and Supplemental Claim Form, to Epiq. If Class Counsel has asked Trex to reconsider Trex’s initial determination, however, the time for appeal does not run until Trex has made a final decision after reconsideration and notified Class Counsel and the Class Member in writing. If no appeal is timely made, then the initial determination of the Claim shall be final. Epiq’s determination of the validity and amount of any Claim shall be binding, final, and non-appealable. In ruling on any appeal, Epiq is bound by the terms of the Settlement Agreement and may not provide any relief outside or beyond that allowed by the Settlement Agreement.

## **B. General Relief.**

The following options of compensatory relief will be available to all eligible Class Members:

a. Tier 1: Upon proper proof of claim (as set forth above), any qualifying Class Member will be entitled to a one-time cash payment of \$150, subject to *pro rata* reductions if the Tier 1 set-aside described in this paragraph is oversubscribed, but in no event less than \$20 unless *pro rata* reductions are required pursuant to Section D below (“Tier 1 Relief”). At least \$1.4 million will be set aside to pay Tier 1 Claimants. The \$1.4 million amount was arrived at by taking the number of Class Members receiving Class Notice by Regular Mail or E-Mail based on Defendant’s records (approximately 70,000) and multiplying that number by \$20. The \$1.4 million number is provided for illustration purposes; the final number will be determined after Defendant determines the total number of Class Members to whom Class Notice by Regular Mail or E-Mail will be sent. Once all Tier 1 Claimants have received the Tier 1 Relief, then any amount of the Tier 1 set-aside remaining will be available for Tier 2 Relief and Tier 3 Relief. If the Class Member opts for the Tier 1 Relief, then the Tier 1 Relief will be the sole relief to which the Class Member is entitled.

b. Tier 2: Upon proper proof of claim (as set forth above), Tier 2 Relief is available to qualifying Class Members who do not opt for Tier 1 Relief. Tier 2 Relief consists of the following: (1) reimbursement of the cost of purchasing cleaning product (as described above) at a flat rate of \$18 with proof of purchase; and (2) a non-transferable payment certificate (“Tier 2 Certificate”) entitling the qualifying Class Member to a cash reimbursement equal to 40% of the retail purchase price paid by the Class Member for Trex Transcend® or Trex Enhance® decking and Trex-brand fasteners (if the Class Member demonstrates that Trex-brand fasteners were used in the Class Member’s current Trex Structure) in the same quantity as Trex Product and Trex-brand fasteners, if any, that are currently present in the Class Member’s current Trex Structure. The Tier 2 Certificate will be provided to qualifying Class Members after the Class Member submits a Supplemental Claim Form establishing that the Class Member qualifies to receive the Tier 2 Certificate. The non-transferable Tier 2 Certificate and entitlement to the payment will expire within one year of the Class Member’s receipt of the certificate, but no later than one year and seven days after it is transmitted to the Class Member by Trex. Prior to the expiration of the non-transferable Tier 2 Certificate, the Class Member must provide Trex with proof of purchase and proof of pick-up or delivery of the Trex Transcend® or Trex Enhance® decking and Trex-brand fasteners, if applicable. Within thirty (30) days after the date payment is due pursuant to Section IV.D.d. hereof, Trex will send the Class Member a check for the payment due. If the Class Member opts for the Tier 2 Relief, then the Tier 2 Relief will be the sole relief to which the Class Member is entitled.

c. Tier 3: Upon proper proof of claim (as set forth above), Tier 3 Relief is available to any qualifying Class Member who does not opt for Tier 1 or Tier 2 Relief and who has met all the requirements of and is entitled to Tier 2 Relief (as set forth above). In lieu of receiving Tier 1 or Tier 2 Relief, a qualifying Class Member will be entitled to receive the following: (1) reimbursement of the cost of purchasing cleaning product (as described above) at a flat rate of \$18 with proof of purchase; and (2) at the Class Member’s option, either (a) a non-transferable payment certificate and partial labor reimbursement (“Tier 3 Certificate”), or (b) a partial cash refund (“Tier 3 Refund”). If the Class Member opts for the Tier 3 Relief, then the Tier 3 Relief will be the sole relief to which the Class Member is entitled.

(i) Tier 3 Certificate: If a qualifying Class Member elects to receive a Tier 3 Certificate, Trex will provide the Class Member with a non-transferable payment certificate entitling the Class Member to a cash reimbursement equal to 50% of the retail purchase price paid by the Class Member for Trex Transcend® or Trex Enhance® decking and Trex-brand fasteners (if the Class Member demonstrates that Trex-brand fasteners were used in the Class Member’s current Trex Structure) in the same quantity as Trex Product and Trex-brand fasteners, if any, that are currently present in the Class Member’s current Trex Structure. The Tier 3 Certificate will be provided to qualifying Class Members after the Class Member submits a Supplemental Claim Form establishing that the Class Member qualifies to receive the Tier 3 Certificate. The non-transferable Tier 3 Certificate and entitlement to the payment will expire within one year of the Class Member’s receipt of the Tier 3 Certificate, but no later than one year and seven days after it is transmitted to the Class Member by Trex. Prior to the expiration of the non-transferable Tier 3 Certificate, the Class Member must provide Trex with proof of purchase and proof of pick-up or delivery of the Trex Transcend® or

Trex Enhance<sup>®</sup> decking and Trex-brand fasteners, if applicable. Within thirty (30) days after the date payment is due pursuant to Section IV.D.d. hereof, Trex will send the Class Member a check for the payment due. Class Members who qualify for and receive a Tier 3 Certificate also will receive (at the same time) a payment for labor reimbursement at the formulaic rate of \$0.23 cents per linear foot of replacement decking.

(ii) Tier 3 Refund: If a qualifying Class Member elects to receive a Tier 3 Refund, Trex will provide the Class Member with a refund of 20% of the original purchase price of the Class Member's current Trex Product and Trex-brand fasteners (if used). In the event the Class Member is unable to demonstrate the original purchase price of the Class Member's current Trex Product and Trex-brand fasteners (if used), then the refund will be based upon the average retail price of such items, as reasonably shown by Trex's records (and subject to verification by Class Counsel), for the quantities used in the Trex Structure at issue. Trex will send the Class Member a check for the Tier 3 Refund within thirty (30) days of the date payment is due pursuant to Section IV.D.d. hereof.

**C. Equitable Relief.**

Trex will also provide the following equitable relief:

a. Discontinuance of Non-Shelled Product: By December 31, 2013, Trex will discontinue the manufacture of its current formulation of the non-shelled Trex Product, but not including its Traditional Railing product or Seclusions<sup>®</sup> Fencing product. Trex may continue to sell any Trex Product after December 31, 2013, that was manufactured prior to December 31, 2013, and such Trex Product may continue to be sold by Trex's distributors and retailers after December 31, 2013.

b. Cleaning Instructions: For the duration of the time that it continues to manufacture its current formulation of the non-shelled Trex Product, Trex will produce at its expense, and post to its website, a video demonstrating how to clean mold, mildew, fungal, or other dark or gray growth/spotting on Trex Product.

c. Warranty Information: For the duration of the time that it continues to manufacture its current formulation of the non-shelled Trex Product, Trex will: (i) send warranty pads for its current formulation of non-shelled Trex Product to all retailers, dealers and/or distributors of these products, and (ii) instruct retailers to display these warranty pads near the Trex Product itself, where the warranty pads can be seen and accessed readily by consumers through and until the time that each retailer ceases to sell Trex's current formulation of the non-shelled Trex Product.

**D. Cap On Liability, Annual Limitations, and Pro-Rata Contingencies**

a. Trex's Costs. For purposes of the Settlement (and the cap on liability set forth below), "Trex's Costs" are defined as the costs for Trex to provide the Tier 1 Relief, Tier 2 Relief, and Tier 3 Relief as set forth above. With respect to Tier 1 Relief, Tier 3 Refund, cleaning product reimbursements, and Tier 3 partial labor reimbursements, Trex Cost's shall be the amount of the payments. With respect to Tier 2 Certificates and Tier 3 Certificates, Trex's Costs shall be Trex's cost for providing such certificates (and not the retail value of the product purchased or the amount of the payment), as identified in the sealed document filed within the Court and incorporated into the Settlement Agreement by reference. Trex's Costs for purposes of the Settlement shall not include the costs of: notice; claims administration, including settlement website expenses; specific gravity testing; dispute resolution as to Class Member claims; incentive awards to the named Plaintiffs; or Plaintiffs' attorneys' fees, costs, and expenses.

b. Cap on Liability. Notwithstanding any other provision of the Settlement Agreement, Trex's Costs shall be capped at, limited to, and shall not exceed under any circumstances a total of \$8.25 million.

c. Annual Costs. Trex's Costs will not exceed \$6.75 million for the first 12-month period and \$1.5 million for the second 12-month period, where the initial 12-month period begins with the first payment of cash by Trex for Tier 1 Relief, Tier 2 Relief, or Tier 3 Relief. If Trex's Costs for payment of Tier 1 Relief, Tier 2 Relief, and Tier 3 Relief exceed \$6.75 million in the first 12-month period, the excess amount will be rolled over to the second 12-month period for payment in the order in which claims became payable vis-à-vis other claims. If Trex's Costs for payment of Tier 1 Relief, Tier 2 Relief, and Tier 3 Relief do not exceed \$6.75 million in the first 12-month period, then the \$1.5 million cap for the second 12-month period will not apply.

d. Pro-Rata Contingencies. In order to determine whether Trex's Costs could exceed the \$8.25 million cost cap described above, within 30 days following the end of the Claims Period, Trex, in its capacity as Settlement Administrator, and in consultation and cooperation with, and subject to verification by, Class Counsel, will, by reference to the designations of relief specified on the Claim Forms, calculate the maximum possible costs ("MPC"), measured in terms of Trex's Costs, of all Claims received during the Claims Period. If the MPC of all such Claims is under \$8.25 million, then all such Claims will be determined and paid as required by the Settlement Agreement without delay. If, on the other hand, the MPC of all such Claims exceeds \$8.25 million, then no payment on any Claims will be made until all such Claims are determined payable in specific sums per the terms of the Parties' Settlement. Determination that Claims are payable will require receipt by Trex, in its capacity as Settlement Administrator, of a Claim Form within the Claims Period; the receipt of a Supplemental Claim Form, if applicable, during the Claims Period; the receipt of all required supporting documentation; completion of specific gravity testing as applicable; resolution of any disputes as provided for under the terms of the Parties' Settlement; and calculation by Trex, in its capacity as Settlement Administrator, and in consultation and cooperation with, and subject to verification by, Class Counsel, of the sum(s) due to each Class Member. Once all such Claims have been determined and the aggregate cost to Trex also has been determined, which calculations shall be made by Trex, in its capacity as Settlement Administrator, and in consultation and cooperation with, and subject to verification by, Class Counsel, then within 30 days of the determination of all such Claims, either the Claims will be paid in full if the \$8.25 million cost cap is not exceeded, or, if the \$8.25 million cost cap is exceeded, then sums otherwise due on the Claims will be reduced *pro rata* such that the Claims will be payable proportionally out of the \$8.25 million available. Trex, in its capacity as

Settlement Administrator, and in consultation and cooperation with, and subject to verification by, Class Counsel, will make any such *pro rata* calculations. Once Trex, in its capacity as Settlement Administrator, has made these necessary *pro rata* calculations and Class Counsel has reviewed them and worked with Trex to resolve any issues with respect to any of them, then Trex will promptly pay all affected Claims in the amounts payable following *pro rata* reductions, in the order that each Claim became payable (subject to the yearly caps described above). Trex shall not make any payments or issue any payment certificates under the Agreement until the terms of this subparagraph have been applied and the occurrence of the Effective Date of the Settlement Agreement.

e. Trex will provide quarterly reports of Trex's Costs to Class Counsel, and those reports will be subject to reasonable verification by Class Counsel.

## **V. RELEASE**

If the Settlement becomes final (as set forth in the Settlement Agreement), Class Members will be releasing Trex and all of its past or present officers, stockholders, directors, agents, employees, attorneys, affiliates, subsidiaries or divisions, and any parent companies, predecessors, successors, assigns, or legal representatives of the foregoing entities or persons, and any vendor, distributor, dealer, contractor, person or entity who sells, distributes and/or installs Trex Product (collectively, the "Released Parties") for claims relating to their Trex decking, railing, and fencing material (as set forth in the Settlement Agreement). The Released Claims (as defined in the Settlement Agreement) do not include the following: any claim for bodily injury, including claims for pain and suffering, emotional distress, mental anguish or similar damages associated with such bodily injury. The Settlement Agreement describes the Released Claims with specific descriptions, in necessary legal terminology, so read it carefully. The Settlement Agreement is available at [www.trex.com/legal/2013classactionsettlement.aspx](http://www.trex.com/legal/2013classactionsettlement.aspx). You can talk to one of the lawyers listed below for free or you can, of course, talk to your own lawyer if you have questions about the Released Claims (as defined in the Settlement Agreement) or what they mean. Terms of the Release are also included at the end of this Notice in Section XI, for your convenience.

## **VI. ATTORNEYS' FEES, REPRESENTATIVE FEES, AND EXPENSES**

At the Fairness Hearing, Class Counsel will ask the Court for an award of attorneys' fees, costs, and expenses of \$1,475,000 to be paid by Trex. Additionally, Plaintiffs will ask the Court for an award to compensate the named Plaintiffs (*i.e.*, Dean Mahan, Gretchen Silverman, Steven McKenna, Thomas Schauppner, Marjorie Zachwieja, John Forcella, Sheila Shapiro, Sabrina W. Hass, Dr. Lanny W. Hass, Amy Biondi-Huffman, and Brian Hathaway) in the amount of \$7,500 each for their service as class representatives (Sabrina W. Hass and Dr. Lanny W. Hass will share one service award). You will *not* be required to pay any portion of the attorneys' or representatives' fees, costs, and expenses. Payment of attorneys' fees and expenses to Class Counsel, and payment of representative fees to the named Plaintiffs (*i.e.*, Dean Mahan, Gretchen Silverman, Steven McKenna, Thomas Schauppner, Marjorie Zachwieja, John Forcella, Sheila Shapiro, Sabrina W. Hass, Dr. Lanny W. Hass, Amy Biondi-Huffman, and Brian Hathaway), will *not* reduce any funds or benefits being made available to you.

## **VII. RIGHTS OF CLASS MEMBERS, INSTRUCTIONS FOR EXCLUDING YOURSELF FROM THE CLASS, RIGHT TO OBJECT TO CLASS SETTLEMENT, AND RIGHT TO APPEAR AT THE FAIRNESS HEARING**

### **A. Participating in the Class Action Settlement**

If you are a Class Member, you do not have to take any action. You are automatically considered a member of the Settlement Class. As a member of the Settlement Class, you will be bound by any judgment in this Action, whether favorable or unfavorable, even if you have other pending lawsuits or claims against any of the Released Parties.

As a Class Member, if you wish to submit a claim, you can complete the enclosed Claim Form and Supplemental Claim Form. You can also obtain a Claim Form and a Supplemental Claim Form at [www.trex.com/legal/2013classactionsettlement.aspx](http://www.trex.com/legal/2013classactionsettlement.aspx) or by calling 1-877-495-0068. To obtain relief under the Claim Resolution Process, a Class Member must (a) complete and sign a Claim Form and, if applicable, a Supplemental Claim Form, under penalty of perjury and (b) provide the requested information to support the Claim. The Claim Form, the Supplemental Claim Form, and any supporting documentation, and, as applicable, any supporting items or material, must be sent by U.S. Mail, postmarked no later than May 27, 2014, or by fax to 1-855-301-9935 or e-mail to [trexclasssettlement@trex.com](mailto:trexclasssettlement@trex.com) no later than May 27, 2014, which is nine (9) months after the entry of the Court's order granting preliminary approval of the Settlement. The deadline for submitting your Claim Form and Supplemental Claim Form is the same however you obtain them.

As a Class Member, you will be represented by the named Plaintiffs and Plaintiffs' Class Counsel unless you enter an appearance through counsel of your own choice. You are not required to obtain your own counsel, but if you choose to do so, it will be at your expense and your counsel must file an appearance on your behalf with the U.S. District Clerk, United States Courthouse, 450 Golden Gate Avenue, San Francisco, California 94102, identifying this Action and its case number, and mail copies of such appearance to Plaintiffs' Class Counsel and Counsel for Trex listed in Sections VIII and IX below. The written notice of intent to object must be: (a) filed with the Clerk of the Court not later than twenty-one (21) days before the date set for the Final Settlement Hearing; and (b) sent by first-class mail, postmarked not later than twenty-one (21) days before the date set for the Final Settlement Hearing, to Plaintiffs' Class Counsel and Counsel for Trex.

### **B. Objecting to the Class Action Settlement**

As a Class Member, you may object to the terms and conditions of the Settlement Agreement only by filing written objections with the U.S. District Clerk, United States Courthouse, 450 Golden Gate Avenue, San Francisco, California 94102, identifying this Action and its case number, and serving those written objections on Class Counsel and Counsel for the Defendant. The written notice of intent to object must be: (a) filed with the Clerk of the Court not later than twenty-one (21) days before the date set for the Final Settlement Hearing; and (b) sent by first-class mail, postmarked not later than twenty-one (21) days before the date set

for the Final Settlement Hearing, to Class Counsel and Counsel for the Defendant. Any Notice of Intent to Object must contain: (a) a heading which refers to the Action; (b) a statement as to whether the objector intends to appear at the Final Settlement Hearing, either in person or through counsel, and, if through counsel, identify counsel by name, address and phone number; (c) a detailed statement of the specific legal and factual bases for each and every objection; (d) a list of any witnesses and photocopies of exhibits which the objector intends to introduce at the Final Settlement Hearing, if any; and (e) the objector's signature, verifying, under penalty of perjury, that they are a member of the Settlement Class and the address of the relevant property. If you fail to comply with these requirements, you are forever barred from objecting to the Settlement Agreement.

You may appear at the Fairness Hearing, either in person or through an attorney, hired at your expense to present your objections to the fairness, reasonableness, or adequacy of the Settlement Agreement. Your written notice of intent to object must include a statement as to whether the objector intends to appear at the Final Settlement Hearing, either in person or through counsel, and, if through counsel, identify counsel by name, address and phone number.

### **C. Requesting Exclusion from the Class Action Settlement**

If you do not want to participate in the Settlement, you must exclude yourself by filing a written request for exclusion. If you exclude yourself, you will receive none of the Settlement benefits, but will be free to pursue on your own behalf whatever legal rights you may have. Written requests for exclusion must include the potential Class Member's name, address, and telephone number, and expressly state the desire to be excluded from the Settlement Class in *Mahan v. Trex Company, Inc.*, No. 09-CV-00670. Such request must be sent by first-class mail to Defendant's counsel identifying this Action and its case number and must be postmarked within forty-five (45) days from the last date that Notice is sent by Trex or first published by the notice provider as set forth in the Notice Plan, which is described in the Settlement Agreement (as certified by Trex and the notice provider) (please check [www.trex.com/legal/2013classactionsettlement.aspx](http://www.trex.com/legal/2013classactionsettlement.aspx) for updates on the deadline).

### **VIII. CLASS COUNSEL**

Steve W. Berman  
Robert F. Lopez  
Hagens Berman Sobol Shapiro LLP  
1918 Eighth Ave.  
Suite 3300  
Seattle, WA 98101

### **IX. COUNSEL FOR DEFENDANT**

Patrick Perrone  
K&L Gates LLP  
One Newark Center, 10th Floor  
Newark, NJ 07102

### **X. PRELIMINARY AND PERMANENT INJUNCTIONS**

The Court has preliminarily enjoined all Class Members from starting, continuing or participating in, or receiving any benefits or other relief from, any other lawsuit, arbitration, administrative, regulatory or other proceeding based on or relating to the claims, facts or circumstances in this case. If you do not ask to be excluded from the Settlement Class, you will be bound by this preliminary injunction. Upon final approval of the Settlement, Plaintiffs and Defendant will ask the Court to enter a permanent injunction enjoining all Class Members from engaging in the activities described above. All Class Members will be bound by the permanent injunction.

### **XI. RELEASE LANGUAGE**

- A. Upon entry of the Final Order and Judgment, Plaintiffs and Class Members who have not timely opted-out of the Settlement Class, on behalf of such Persons and any Person claiming by or through such Persons (the "Releasing Party" or "Releasing Parties"), regardless of whether any Settlement Class member executes and delivers a written release, shall be deemed to and do hereby release and forever discharge the Released Parties, of and from any and all Released Claims and related subrogation claims of the Releasing Party's subrogees or insurance carriers. The Releasing Parties shall be deemed to and do hereby release and forever discharge any other persons or entities from claims for which Defendant could be liable to the Releasing Parties, arising out of or related to a Covered Condition of Trex Product, whether based on the design, specification, manufacture, production, promotion, advertising, sale, representation, distribution, or installation of the Trex Product.
- B. With respect to the Settlement Class members' Released Claims, the Plaintiffs and the Settlement Class members shall be deemed to have, and by operation of the Final Order and Judgment shall have, expressly waived and relinquished, to the fullest extent permitted by law, the provisions, rights and benefits of Section 1542 of the California Civil Code (to the extent it is applicable, or any other similar provisions under federal, state, or local laws to the extent any such provisions are applicable). Section 1542 of the California Civil Code states: "A general release does not extend to claims which the creditor does not know or suspect to exist in his or her favor at the time of executing the release, which if known by him or her must have materially affected his settlement with the debtor."
- C. Plaintiffs and the Class Members acknowledge that they are aware that they may hereafter discover claims presently unknown or unsuspected, or facts or law in addition to or different from those that they now know or believe to be true with respect to the matters released herein or with respect to the Trex Product. Nevertheless, it is the intention

of Plaintiffs and the Class Members in executing this Agreement to fully, finally, and forever settle and release all Released Claims which exist, might have existed, or which hereafter may exist whether or not previously or currently asserted in any action or proceeding, and to expressly waive any common law or statutory rule which would circumscribe the extent of this full Release, including any statute or rule giving the releasing party the right to complain of facts or claims relating to a Covered Condition of Trex Product that are unknown as of the date of any releases.

- D. For purposes of the Settlement Agreement and this Notice, “Released Claims” means and includes, in addition to all claims set forth in the Complaint by Plaintiffs, any and all causes of action, claims, liabilities, rights, matters, suits, proceedings, damages, equitable, legal and administrative relief, interest, attorneys’ fees, expenses and costs, disbursements, losses, penalties, punitive damages, exemplary damages, damages based on a multiplication of compensatory damages, damages based on emotional distress and mental anguish, demands, obligations, rights, liens, entitlements, indemnities, and contributions of any kind or nature whatsoever related to a Covered Condition of Trex Product, whether known, unknown or presently unknowable, suspected or unsuspected, latent or patent, accrued or unaccrued, asserted or unasserted, fixed or contingent, liquidated or unliquidated, matured or unmatured, and whether based on federal or state statute, regulation, ordinance, contract, common law, or any other source that has been, could have been, may be, or could be directly or indirectly alleged, asserted, described, set forth, or referred to now, in the past, or in the future by Plaintiffs or the Settlement Class relating to a Covered Condition of Trex Product against the Released Parties either in this Action, or in any other court action or proceeding, or before any administrative or regulatory body, tribunal or arbitration panel, on the basis of, connected with, arising out of, or in any way related to, in whole or in part, Defendant’s design, specification, manufacture, production, promotion, advertising, sale, representation, distribution, or installation of Trex Product as it relates to a Covered Condition. The Released Claims include, without limitation, all causes of action related to a Covered Condition of Trex Product and related to the above without regard to whether such cause of action is or could be brought pursuant to common law, or any federal or state statute, regulation, or ordinance, including but not limited to federal or state statutes or regulations concerning unfair competition; unfair or deceptive methods of competition; unfair, deceptive, fraudulent, unconscionable, false or misleading conduct, acts, advertising or trade practices; consumer protection (including violations of the Song-Beverly Consumer Warranty Act and the Magnuson-Moss Warranty Act); or under the common law of any state as a claim for breach of contract, breach of express and implied warranties, reformation of warranty, breach of fiduciary duty, fraud, intentional misconduct, unjust enrichment, misrepresentation (negligent or otherwise), tort, negligence, breach of constructive trust, breach of the implied covenant of good faith and fair dealing, or any other common law or statutory basis. In addition, the Class Members shall be deemed to, and do hereby release and forever discharge, any other persons or entities from claims related to a Covered Condition of Trex Product for which the Defendant could be liable to any Class Members arising out of or related to the design, specification, manufacture, production, promotion, advertising, sale, representation, distribution, or installation of the Trex Product as it relates to a Covered Condition. The term “Released Claims” does not include the following: any claim for bodily injury, including claims for pain and suffering, emotional distress, mental anguish or similar damages associated with such bodily injury.

**E. EXAMINATION OF PAPERS AND QUESTIONS**

For a more detailed statement of the matters involved in this Action, please refer to the pleadings and other papers in this Action, which may be inspected or obtained from the U.S. District Clerk’s Office, United States Courthouse, 450 Golden Gate Avenue, San Francisco, California 94102, during business hours of each weekday.

**If you have any questions about the Settlement, you may call 1-877-495-0068, e-mail [trexclasssettlement@trex.com](mailto:trexclasssettlement@trex.com), or visit Trex’s Website at [www.trex.com](http://www.trex.com). A complete copy of the Settlement Agreement can be obtained by visiting [www.trex.com/legal/2013classactionsettlement.aspx](http://www.trex.com/legal/2013classactionsettlement.aspx).**

**PLEASE DO NOT CALL THE COURT OR THE CLERK OF THE COURT WITH QUESTIONS REGARDING THE TERMS OF THE SETTLEMENT**

NOTICE PLAN

EXHIBIT B

**REQUEST FOR CLAIM FORM**

**Claim Forms are available online at [www.trex.com/legal/2013classactionsettlement.aspx](http://www.trex.com/legal/2013classactionsettlement.aspx). However, if you prefer to be mailed a copy of the Claim Form, please complete the following form and e-mail or mail it to Trex at the address listed below, or call 1-877-495-0068 to request one.**

**TREX COMPANY, INC.  
ATTN: Trex Mold and Color Fading/Variation Litigation  
P.O. Box 921789  
Norcross, GA 30010-1789  
E-Mail: [trexclasssettlement@trex.com](mailto:trexclasssettlement@trex.com)**

I hereby request a Claim Form so that I can submit a claim in the Claim Resolution Process in the Trex Mold and Color Fading/Variation Class Action Settlement.

PLEASE PROVIDE THE FOLLOWING INFORMATION:

**Your Name, Address and Phone Number:**

Last Name: \_\_\_\_\_ First Name: \_\_\_\_\_ MI: \_\_\_\_\_

Street Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Home ( ) \_\_\_\_\_ Work ( ) \_\_\_\_\_ Ext. \_\_\_\_\_ Other ( ) \_\_\_\_\_

**Mailing Instructions and Deadlines:**

To be mailed a copy of the Claim Form, you *must* submit a completed Request for Claim Form to:

**TREX COMPANY, INC.  
ATTN: Trex Mold and Color Fading/Variation Litigation  
P.O. Box 921789  
Norcross, GA 30010-1789  
E-Mail: [trexclasssettlement@trex.com](mailto:trexclasssettlement@trex.com)**

Within 10 days of receipt of a Request for a Claim Form, Trex will send you a Claim Form as well as a Supplemental Claim Form.

Once you receive your Claim Form, you must return the Claim Form to Trex and have it **faxed, e-mailed, or sent by U.S. Mail and postmarked no later than May 27, 2014**. If applicable, you must also return the Supplemental Claim Form to Trex and have it **faxed, e-mailed, or sent by U.S. Mail and postmarked no later than May 27, 2014**.

You may also download a copy of the Claim Form at [www.trex.com/legal/2013classactionsettlement.aspx](http://www.trex.com/legal/2013classactionsettlement.aspx), or call 1-877-495-0068 to request one.

***QUESTIONS? PLEASE CALL 1-877-495-0068***

\_\_\_\_\_  
Signature of Claimant

NOTICE PLAN

EXHIBIT C

**REQUEST FOR SUPPLEMENTAL CLAIM FORM**

Supplemental Claim Forms are available online at [www.trex.com/legal/2013classactionsettlement.aspx](http://www.trex.com/legal/2013classactionsettlement.aspx). However, if you prefer to be mailed a copy of the Supplemental Claim Form, please complete the following form and e-mail or mail it to Trex at the address listed below or call 1-877-495-1789 to request one.

**TREX COMPANY, INC.**  
**ATTN: Trex Mold and Color Fading/Variation Litigation**  
**P.O. Box 921789**  
**Norcross, GA 30010-1789**  
**E-Mail: [trexclasssettlement@trex.com](mailto:trexclasssettlement@trex.com)**

I hereby request a Supplemental Claim Form so that I can submit a claim in the Claim Resolution Process in the Trex Mold and Color Fading/Variation Class Action Settlement.

PLEASE PROVIDE THE FOLLOWING INFORMATION:

**Your Name, Address and Phone Number:**

Last Name: \_\_\_\_\_ First Name: \_\_\_\_\_ MI: \_\_\_\_\_

Street Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Home ( ) \_\_\_\_\_ Work ( ) \_\_\_\_\_ Ext. \_\_\_\_\_ Other ( ) \_\_\_\_\_

**Mailing Instructions and Deadlines:**

To be mailed a copy of the Supplemental Claim Form, you *must* submit a completed Request for Supplemental Claim Form to:

**TREX COMPANY, INC.**  
**ATTN: Trex Mold and Color Fading/Variation Litigation**  
**P.O. Box 921789**  
**Norcross, GA 30010-1789**  
**E-Mail: [trexclasssettlement@trex.com](mailto:trexclasssettlement@trex.com)**

Within 10 days of receipt of a Request for Supplemental Claim Form, Trex will send you a Supplemental Claim Form.

Once you receive your Supplemental Claim Form, you must return the Supplemental Claim Form to Trex and have it **faxed, e-mailed, or sent by U.S. Mail and postmarked no later than May 27, 2014.**

You may also download a copy of the Supplemental Claim Form at [www.trex.com/legal/2013classactionsettlement.aspx](http://www.trex.com/legal/2013classactionsettlement.aspx) or call 1-877-495-0068 to request one.

***QUESTIONS? PLEASE CALL 1-877-495-0068***

\_\_\_\_\_  
Signature of Claimant

NOTICE PLAN

EXHIBIT D

## LEGAL NOTICE

**If you own or owned a Trex<sup>®</sup> brand non-shelled wood-plastic composite decking, railing, or fencing product purchased between August 1, 2004, and August 27, 2013 you may be eligible for benefits from a class action settlement.**

Para una notificación en Español, visite  
[www.trex.com/legal/2013classactionsettlement.aspx](http://www.trex.com/legal/2013classactionsettlement.aspx)  
o llame 1-877-495-0068.

A nationwide settlement has been reached in a class action lawsuit in which the plaintiffs allege that certain Trex composite decking, railing, and fencing material is susceptible to mold, mildew, fungal, or other dark or gray growth or spotting, or color variation or color fading (the “Covered Conditions”).

### **Who Is Included?**

If you own or owned a Trex non-shelled wood-plastic composite decking, railing, or fencing product that was purchased between August 1, 2004, and August 27, 2013, you may be included in the Settlement. You may send in a Claim Form and, if applicable, a Supplemental Claim Form, to request certain benefits, or you can exclude yourself from the Settlement. The U.S. District Court for the Northern District of California authorized this notice and will have a hearing to decide whether to approve the Settlement. Get a detailed notice at [www.trex.com/legal/2013classactionsettlement.aspx](http://www.trex.com/legal/2013classactionsettlement.aspx) or by calling 1-877-495-0068.

### **How Do You Ask For Benefits?**

You may receive benefits only if you fill out a Claim Form and, if applicable, a Supplemental Claim Form, and your Trex decking, railing, or fencing is affected by one of the Covered Conditions. The Claim Form and Supplemental Claim Form are available online at [www.trex.com/legal/2013classactionsettlement.aspx](http://www.trex.com/legal/2013classactionsettlement.aspx), or you can call 1-877-495-0068 to request them. The Claim Form and the Supplemental Claim Form must be faxed, e-mailed, or sent by U.S. Mail and postmarked by May 27, 2014, which is nine (9) months from entry of the Court’s order granting preliminary approval of the Settlement.

### **What Does the Settlement Provide?**

If you meet the settlement and eligibility criteria, Trex will provide you with one of three options of relief: Tier 1 Relief, Tier 2 Relief,

or Tier 3 Relief. Tier 1 Relief consists of a one-time cash payment of \$150, subject to *pro rata* reductions if the Tier 1 set-aside described herein is oversubscribed, but in no event less than \$20 unless *pro rata* reductions are required due to the cost-cap discussed below (“Tier 1 Relief”). At least \$1.4 million will be set aside to pay Tier 1 Claimants. The \$1.4 million amount was arrived at by taking the number of Class Members receiving Class Notice by Regular Mail and E-Mail based on Defendant’s records (approximately 70,000) and multiplying that number by \$20. The \$1.4 million number is provided for illustration purposes; the final amount of the Tier 1 set-aside will be determined after Defendant, in consultation with Class Counsel, determines the total number of Class Members to whom Class Notice by Regular Mail and E-Mail will be sent. Once all qualified Tier 1 Claimants have received Tier 1 Relief, then any amount of the Tier 1 set-aside remaining will be available for Tier 2 Relief and Tier 3 Relief. Tier 2 Relief consists of: (a) reimbursement of the cost of purchasing cleaning product at a flat rate of \$18; and (b) a non-transferable payment certificate entitling you to a cash reimbursement equal to 40% of the retail purchase price paid by you to purchase certain new Trex decking and Trex-brand fasteners (if you used these in your current Trex Structure) to replace your existing Trex decking and Trex-brand fasteners, if applicable. Tier 3 Relief consists of: (a) reimbursement of the cost of purchasing cleaning product at a flat rate of \$18; and (b) either (i) a non-transferable payment certificate entitling you to a cash reimbursement equal to 50% of the retail purchase price paid by you to purchase certain new Trex decking and Trex-brand fasteners (if you used these in your current Trex Structure) to replace your existing Trex decking and Trex-brand fasteners, if applicable, and a payment for labor reimbursement at the formulaic rate of \$0.23 cents per linear foot of replacement decking, or (ii) a refund of 20% of the original purchase price of your current Trex Product. The Settlement is subject to an \$8.25 million cost-cap and a potential *pro rata* reductions if the total sum of valid claims exceeds \$8.25 million. More information is available in the detailed notice and at [www.trex.com/legal/2013classactionsettlement.aspx](http://www.trex.com/legal/2013classactionsettlement.aspx).

### **What Are Your Other Rights?**

If you fall within the class definition, you may remain in the class by doing nothing and be bound by the release and judgment in the lawsuit. If you do not want to be bound by the Settlement, you must exclude yourself prior to 45 days from the last date that Notice is sent by Trex or first published as set forth in the Notice Plan, which is described in the Settlement Agreement (the “Opt-Out Period”). Please check

[www.trex.com/legal/2013classactionsettlement.aspx](http://www.trex.com/legal/2013classactionsettlement.aspx) for updates on the deadline. The detailed notice explains how to exclude yourself.

Any Opt-Out request must be sent by first-class mail to Defendant's counsel postmarked on or before the end of the Opt-Out Period. You must mail a letter requesting exclusion to Counsel for Defendant. For the address of Counsel for Defendant, go to the website at [www.trex.com/legal/2013classactionsettlement.aspx](http://www.trex.com/legal/2013classactionsettlement.aspx) or call 1-877-495-0068.

If you do not exclude yourself from the Settlement, you may object to it by filing an objection with the U.S. District Clerk, U.S. Courthouse, 450 Golden Gate Avenue, San Francisco, California 94102, and sending it to Defendant's Counsel and Class Counsel, postmarked not later than 21 days before the date set for the Final Settlement Hearing.

The Court will hold a hearing in this case, *Mahan v. Trex Company, Inc.*, No. 09-cv-00670-JW, on December 13, 2013, to consider whether to approve the Settlement and Class Counsel's request for fees, costs, and expenses of \$1,475,000 (including interest). Class Counsel will also ask for a payment of \$7,500 to each Class Representative. You or your lawyer may attend the hearing.

For more information, go to the website at [www.trex.com/legal/2013classactionsettlement.aspx](http://www.trex.com/legal/2013classactionsettlement.aspx), call 1-877-495-0068, or e-mail [trexclasssettlement@trex.com](mailto:trexclasssettlement@trex.com).