

ANDREW L. ZIVITZ, *admitted pro hac vice*  
Email: azivitz@btkmc.com  
CHRISTOPHER L. NELSON, *admitted pro hac vice*  
Email: cnelson@btkmc.com  
MARK S. DANEK, *admitted pro hac vice*  
Email: mdanek@btkmc.com  
MICHELLE M. NEWCOMER, *admitted pro hac vice*  
Email: mnewcomer@btkmc.com  
BARROWAY TOPAZ KESSLER  
MELTZER & CHECK, LLP  
280 King of Prussia Road  
Radnor, Pennsylvania 19087  
Telephone: (610) 667-7706  
Facsimile: (610) 667-7056

*Lead Counsel for Central Laborers' Pension  
Fund and the Class*

GARY M. BERNE, OSB No. 77407  
Email: gberne@stollberne.com  
TIMOTHY S. DEJONG, OSB No. 940662  
Email: tdejong@stollberne.com  
MARK A. FRIEL, OSB No. 002592  
Email: mfriel@stollberne.com  
STOLL STOLL BERNE LOKTING  
& SHLACHTER P.C.  
209 S.W. Oak Street, Fifth Floor  
Portland, Oregon 97204  
Telephone: (503) 227-1600  
Facsimile: (503) 227-6840

*Liaison Counsel for Central Laborers'  
Pension Fund and the Class*

**UNITED STATES DISTRICT COURT  
DISTRICT OF OREGON**

IN RE MERIX CORPORATION  
SECURITIES LITIGATION

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This Document Relates to:  
ALL ACTIONS

Lead Case No. CV 04-826-MO  
(Consolidated Cases)

**STIPULATION AND AGREEMENT  
OF SETTLEMENT**

## **STIPULATION AND AGREEMENT OF SETTLEMENT**

This Stipulation and Agreement of Settlement (the “Stipulation”) is submitted in the above-captioned action, *In re Merix Corporation Securities Litigation*, Lead Case No. CV 04-826-MO (the “Action”), pursuant to Rule 23 of the Federal Rules of Civil Procedure. Subject to the approval of the United States District Court for the District of Oregon (the “Court”), this Stipulation is entered into by the Central Laborers’ Pension Fund (“Central Laborers” or “Lead Plaintiff”), on behalf of itself and the Class (as hereinafter defined), and the following defendants: (i) Merix Corporation (“Merix” or the “Company”);<sup>1</sup> (ii) Mark R. Hollinger, Janie S. Brown, Anaya K. Vardya and Daniel T. Olsen (the “Individual Defendants”); (iii) Kirby A. Dyess, Carlene M. Ellis, Donald D. Jobe, George H. Kerckhove, Dr. William W. Lattin, William C. McCormick and Robert C. Strandberg (the “Director Defendants”); and (iv) UBS Securities LLC, Thomas Weisel Partners LLC, Needham & Company, Inc., Wells Fargo Securities, LLC, Raymond James & Associates, Inc. and William Blair & Company, LLC (the “Underwriter Defendants” and, together with Merix, the Individual Defendants and the Director Defendants, the “Defendants”). Lead Plaintiff and the Defendants shall be referred to herein collectively as the “Parties.” This Stipulation is intended by the Parties to resolve, settle and discharge the Released Claims (as hereinafter defined) fully, finally and forever, upon and subject to the terms and conditions set forth herein.

### WHEREAS:

A. Beginning on June 17, 2004, the following four putative securities class actions were filed in the Court against Merix and certain of the Company’s former executive officers: *Howard Rosen v. Merix Corporation, et al.*, Case No. 3:04-cv-00826-MO; *Primavera*

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<sup>1</sup> As of February 16, 2010, Viasystems and Merix Corporation have merged and will go forward under the name Viasystems Group, Inc.

*Investments v. Merix Corporation, et al.*, Case No. 3:04-cv-00859-MO; *Larry Lovell v. Merix Corporation, et al.*, Case No. 3:04-cv-00860-MO; and *Wai Yee Cheng v. Merix Corporation, et al.*, Case No. 3:04-cv-00931-MO.

B. By Order dated August 17, 2004, the Court consolidated the foregoing actions under the caption *In re Merix Corporation Securities Litigation*, Lead Case No. CV 04-826-MO. By a separate Order dated August 17, 2004, the Court appointed Central Laborers as Lead Plaintiff and approved Central Laborers' selection of counsel, Schiffrin & Barroway, LLP (n/k/a Barroway Topaz Kessler Meltzer & Check, LLP) ("Barroway Topaz"), as lead counsel ("Lead Counsel") and Stoll Stoll Berne Lokting & Shlachter P.C. as liaison counsel ("Liaison Counsel") for the putative Class.

C. On November 15, 2004, Central Laborers filed the Consolidated and Amended Class Action Complaint for Violation of the Federal Securities Laws (the "Amended Complaint"), asserting claims under Sections 11, 12(a)(2) and 15 of the Securities Act of 1933 (the "Securities Act"), 15 U.S.C. §§77k, 77l(a)(2) and 77o, respectively, and Sections 10(b) and 20(a) of the Securities Exchange Act of 1934 (the "Exchange Act"), 15 U.S.C. §§78j(b) and 78t(a), respectively, including Rule 10b-5 promulgated thereunder, 17 C.F.R. § 240.10b-5, against the Defendants. On February 25, 2005, Defendants filed motions to dismiss the Amended Complaint. The Court granted Defendants' motions to dismiss by Order dated September 15, 2005. By the same Order, the Court granted Lead Plaintiff leave to amend.

D. On November 18, 2005, Central Laborers filed the Second Consolidated and Amended Class Action Complaint for Violations of the Federal Securities Laws (the "Second Amended Complaint"), asserting claims only under Sections 11, 12(a)(2) and 15 of the Securities Act and dropping the claims previously asserted under the Exchange Act. The Second Amended

Complaint alleged, among other things, that the prospectus issued in connection with the Company's January 29, 2004 public offering (the "January Prospectus") contained materially false and/or misleading statements regarding Merix's operations and financial condition. The Second Amended Complaint further alleged that, as a result of the misstatements and omissions contained in the January Prospectus, the Company's January 29, 2004 public offering of Merix common stock was completed at artificially inflated prices.

E. Defendants moved to dismiss the Second Amended Complaint on January 26, 2006. By Order dated September 28, 2006, the Court granted Defendants' motions and dismissed the Second Amended Complaint with prejudice.

F. On October 13, 2006, Lead Plaintiff timely filed an appeal of the Court's ruling on Defendants' motions to dismiss to the United States Court of Appeals for the Ninth Circuit (the "Appellate Court"). Lead Plaintiff filed its opening brief with the Appellate Court on February 12, 2007. Following briefing and oral argument on Lead Plaintiff's appeal, the Appellate Court, by Order dated April 22, 2008, reversed the Court's September 28, 2006 ruling, ruled that Lead Plaintiff had adequately stated a claim under the Securities Act, and remanded the Action for further proceedings. Thereafter, Defendants sought panel and *en banc* rehearing of the Appellate Court's decision. By Order dated June 24, 2008, the Appellate Court denied Defendants' petition for rehearing and rehearing *en banc*.

G. On September 22, 2008, Defendants filed a petition for writ of *certiorari* to the United States Supreme Court. The Supreme Court denied Defendants' petition on December 15, 2008. On December 19, 2008, the Appellate Court issued its mandate in this Action.

H. On February 11, 2009, the Court entered a scheduling order bifurcating class certification and fact-based discovery. On March 16, 2009, Defendants answered the Second Amended Complaint.

I. Lead Plaintiff moved for class certification on May 15, 2009. The Court heard argument on Lead Plaintiff's motion during a hearing on October 13, 2009. By Order dated November 5, 2009, the Court granted in part and denied in part Lead Plaintiff's motion, certifying a class composed of all persons and entities who purchased or otherwise acquired the common stock of Merix Corporation from an Underwriter Defendant directly pursuant to Merix's January 29, 2004 offering, who held the stock through the first alleged corrective disclosure on May 13, 2004, and who were damaged thereby (the "Class"). By the same Order, the Court appointed Central Laborers as class representative and Barroway Topaz as class counsel.

J. During the pendency of Lead Plaintiff's motion for class certification, the Parties began discussing a possible resolution of the Action. The Parties' settlement negotiations continued over the course of many months, with the Parties reaching a tentative agreement to settle the Action in March, 2010.

K. Defendants have denied and continue to deny that they have committed any act or omission giving rise to any liability and/or violation of law. Nonetheless, Defendants are entering into this Settlement to eliminate the burden and expense of further litigation and the risk of not prevailing at trial and, therefore, have determined that it is desirable that the Action fully and finally be settled in the manner and upon the terms and conditions set forth in this Stipulation.

L. Lead Counsel has conducted an extensive investigation into the allegations of wrongdoing asserted and the alleged damages suffered by the Class. Lead Counsel's investigation has included, *inter alia*: (i) review and analysis of Defendants' public documents, including Merix's filings with the United States Securities and Exchange Commission ("SEC"); (ii) review and analysis of wire and press releases published by and regarding Merix; (iii) review and analysis of conference calls and announcements made by Defendants; (iv) review and analysis of securities analysts' reports and advisories about the Company; (v) review and analysis of information readily available on the Internet; (vi) review and analysis of documents produced by Defendants and third parties during discovery, including insurance information produced by Merix; (vii) consultation with experts regarding the claims asserted in the Second Amended Complaint; (viii) research of the applicable law with respect to the claims asserted in the Action and the potential defenses thereto; and (ix) review and analysis of informal discovery produced by Merix in connection with settlement.

M. Based upon the investigation, discovery and negotiations set forth above, Lead Counsel has concluded that the terms and conditions of this Stipulation are fair, reasonable and adequate to Lead Plaintiff and the Class and in their best interests, and has, with the approval of Lead Plaintiff, agreed to settle the claims raised in the Action pursuant to the terms and provisions of this Stipulation, after considering: (i) the benefits that the members of the Class will receive from settlement of the Action; (ii) the attendant risks of litigation; (iii) the difficulties, expense and delays inherent in such litigation; and (iv) the desirability of permitting the Settlement to be consummated as provided by the terms of this Stipulation.

N. NOW THEREFORE, without any admission or concession on the part of Lead Plaintiff of any lack of merit of the Action whatsoever, and without any admission or concession

of any liability or wrongdoing or lack of merit in the defenses whatsoever by Defendants, it is hereby STIPULATED AND AGREED, by and between the Parties through their respective counsel, subject to approval of the Court pursuant to Rule 23(e) of the Federal Rules of Civil Procedure, in consideration of the benefits flowing to the Parties hereto from the Settlement herein set forth, that all Released Claims (as defined herein), as against the Released Parties (as defined herein), and all Settled Parties' Claims (as defined herein) shall be compromised, settled, released and dismissed with prejudice, upon and subject to the following terms and conditions:

#### DEFINITIONS

1. As used in this Stipulation, and any exhibits attached hereto and made a part hereof, the following terms shall have the following meanings:

(a) "Action" means the above-styled case, *In re Merix Corporation Securities Litigation*, Lead Case No. CV 04-826-MO, pending in the United States District Court for the District of Oregon.

(b) "Authorized Claimant" means a Class Member who submits a valid Proof of Claim and Release form to the Claims Administrator.

(c) "Claims Administrator" means Strategic Claims Services ("SCS") which shall administer the Settlement subject to approval and appointment by the Court.

(d) "Class" or "Class Members" means, as certified by the Court pursuant to Order dated November 5, 2009, all persons and entities who purchased or otherwise acquired the common stock of Merix Corporation from an Underwriter Defendant directly pursuant to Merix's January 29, 2004 offering, who held the stock through the first alleged corrective disclosure on May 13, 2004, and who were damaged thereby. Excluded from the Class are (i) Defendants; (ii) the officers and directors of Merix at all relevant times, and members of their

immediate families; (iii) any parent, subsidiary, affiliate, partner, officer, executive or director of any Defendant; and (iv) any entity in which any such excluded person has or had a controlling interest and the legal representatives, heirs, successors, and assigns of any such excluded person or entity. Also excluded from the Class are all persons and entities who exclude themselves from the Settlement by timely requesting exclusion in accordance with the requirements set forth in the Notice.

(e) “Class Distribution Order” has the meaning defined in ¶13 hereof.

(f) “Court” means the United States District Court for the District of Oregon.

(g) “Defendants” means Merix Corporation, the Individual Defendants, the Director Defendants and the Underwriter Defendants.

(h) “Defendants’ Counsel” means the law firms of Orrick Herrington & Sutcliffe LLP and White & Case LLP.

(i) “Director Defendants” means Kirby A. Dyess, Carlene M. Ellis, Donald D. Jobe, George H. Kerckhove, Dr. William W. Lattin, William C. McCormick and Robert C. Strandberg.

(j) “Effective Date” means, as set forth in ¶29 herein, the date on which: (i) all conditions to the Settlement have been satisfied; (ii) the Court grants final approval to the Settlement; and (iii) the expiration of the time allowed for appeal, motion or petition for reconsideration or review, or after all such appeals, motions or petitions have been exhausted and the Settlement has been affirmed.

(k) “Escrow Agent” means The Huntington National Bank.

(l) “Final” or “Finality” means, with respect to any Judgment or Alternative Judgment (as defined herein at ¶1(n) and ¶29(d) respectively), the latest to occur of the

following: (a) the date as of which the time to seek review, alteration or appeal of the Court's Order and Final Judgment or Alternative Judgment approving the Settlement has expired without any review, alteration, amendment or appeal having been sought or taken, i.e., thirty (30) days after entry of the Order and Final Judgment or Alternative Judgment; or (b) if a motion or other application for review, alteration or amendment is filed, sought or taken, the date as of which such appeal, petition, motion or other application shall have been finally determined in such a manner as to affirm the Court's original judgment in its entirety and the time, if any, for seeking further review has expired. Any proceeding or order, or any appeal or petition for a writ of certiorari or other form of review pertaining solely to: (i) any application for attorneys' fees, costs or expenses; and/or (ii) the plan of allocation, shall not in any way delay or preclude the judgment from becoming Final.

(m) "Individual Defendants" means Mark R. Hollinger, Janie S. Brown, Anaya K. Vardya and Daniel T. Olsen.

(n) "Judgment" or "Order and Final Judgment" means the final judgment approving the Settlement, to be entered by the Court substantially in the form attached hereto as Exhibit B.

(o) "Lead Counsel" means the law firm of Barroway Topaz Kessler Meltzer & Check, LLP.

(p) "Lead Plaintiff" means Central Laborers' Pension Fund.

(q) "Liaison Counsel" means the law firm of Stoll Stoll Berne Lokting & Shlachter P.C.

(r) "Merix" or the "Company" means Merix Corporation.

(s) "Net Settlement Fund" has the meaning defined in ¶6(a) hereof.

(t) “Notice” means the Notice of Pendency of Class Action and Proposed Settlement, Motion for Attorneys’ Fees and Expenses and Settlement Fairness Hearing, which shall be mailed to members of the Class, substantially in the form attached hereto as Exhibit A(1).

(u) “Parties” means Lead Plaintiff and Defendants.

(v) “Person” means a natural person, individual, corporation, partnership, limited partnership, association, joint venture, joint stock company, estate, custodian, legal representative, trust, unincorporated association, government or any political subdivision or agency thereof, and any business or legal entity and their/its heirs, executors, administrators, predecessors, successors, representatives, or assignees.

(w) “Plaintiffs” means, collectively, Lead Plaintiff and the members of the Class.

(x) “Plaintiffs’ Counsel” means Lead Counsel and Liaison Counsel.

(y) “Plan of Allocation” has the meaning set forth in ¶16 hereof.

(z) “Preliminary Approval Order” means the order preliminarily approving the Settlement and directing notice thereof to the Class, to be entered by the Court substantially in the form attached hereto as Exhibit A.

(aa) “Proof of Claim” means the proof of claim form substantially in the form attached hereto as Exhibit A(2).

(bb) “Released Claims” means any and all claims, debts, demands, rights or causes of action or liabilities whatsoever, whether based on federal, state, common or foreign law or any other law, rule or regulation, whether fixed or contingent, accrued or un-accrued, liquidated or un-liquidated, at law or in equity, matured or un-matured, whether class, and/or

individual in nature, including both known claims and Unknown Claims (as defined herein), that: (i) have been asserted in this Action by Lead Plaintiff and/or the members of the Class or any of them against any of the Released Parties; or (ii) could have been, or could in the future be, asserted in any forum by Lead Plaintiff and/or the members of the Class or any of them against any of the Released Parties which arise out of or are based upon the allegations, transactions, facts, matters or occurrences, representations or omissions involved, set forth, or referred to in the Second Amended Complaint and which relate to the purchase or acquisition of the common stock of Merix Corporation from an Underwriter Defendant directly pursuant to Merix's January 29, 2004 Offering.

(cc) "Released Parties" means Defendants and the current and former officers, directors, partners, members, parents, subsidiaries, controlling persons, affiliates, employees, agents, attorneys, auditors, underwriters, insurers, representatives, heirs, predecessors, successors in interest and assigns of any Defendant.

(dd) "Settled Parties' Claims" means any and all claims, debts, demands, rights or causes of action or liabilities whatsoever, whether based on federal, state, foreign or common law or any other law, rule or regulation, whether fixed or contingent, accrued or un-accrued, liquidated or un-liquidated, at law or in equity, matured or un-matured, whether class and/or individual in nature, including both known claims and Unknown Claims (as defined herein), that have been or could have been asserted in the Action or any forum by the Released Parties or any of them or the successors and assigns of any of them against the Lead Plaintiff, any Class Member or their attorneys, which arise out of or relate in any way to the institution, prosecution, or settlement of the Action (except for claims to enforce the Settlement).

(ee) "Settlement" means the settlement contemplated by this Stipulation.

(ff) "Settlement Amount" means the cash amount of \$2,500,000.00.

(gg) "Settlement Fund" or "Gross Settlement Fund" means the Settlement Amount, plus any interest earned on the Settlement Amount.

(hh) "Summary Notice" means the Summary Notice of Pendency and Proposed Settlement of Class Action and Settlement Fairness Hearing to be published substantially in the form attached hereto as Exhibit A(3).

(ii) "Underwriter Defendants" means UBS Securities LLC, Thomas Weisel Partners LLC, Needham & Company, Inc., Wells Fargo Securities, LLC, Raymond James & Associates, Inc. and William Blair & Company, LLC.

(jj) "Unknown Claims" means any and all Released Claims that Lead Plaintiff and/or any Class Member does not know or suspect to exist in his, her or its favor as of the Effective Date and any Settled Parties' Claims that any Released Party does not know or suspect to exist in his, her or its favor as of the Effective Date, which if known by him, her or it might have affected his, her or its decision(s) with respect to the Settlement. With respect to any and all Released Claims and Settled Parties' Claims, the Parties stipulate and agree that upon the Effective Date, Lead Plaintiff and Defendants shall expressly waive, and each Class Member and Released Party shall be deemed to have waived, and by operation of the Judgment shall expressly have waived, any and all provisions, rights and benefits conferred by any law of any state of the United States, or principle of common law or otherwise, which is similar, comparable, or equivalent to California Civil Code § 1542, which provides:

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 or her settlement with the debtor.

The Parties acknowledge, and Class Members and Released Parties by operation of law shall be deemed to have acknowledged, that the inclusion of “Unknown Claims” in the definition of Released Claims and Settled Parties’ Claims was separately bargained for and was a key element of the Settlement.

### **SCOPE AND EFFECT OF SETTLEMENT**

2. The obligations incurred pursuant to this Stipulation shall be in full and final disposition of the Action and any and all Released Claims as against all Released Parties and any and all Settled Parties’ Claims.

3. Upon the Effective Date of this Settlement, Lead Plaintiff and Class Members on behalf of themselves and each of their heirs, executors, administrators, successors and assigns, and any other person claiming (now or in the future) to have acted through or on behalf of them shall, with respect to each and every Released Claim, release and forever discharge, and shall forever be enjoined from instituting, commencing, or prosecuting any Released Claims against any of the Released Parties, directly, indirectly, or in any other capacity, whether or not such Class Members execute and deliver a Proof of Claim and Release.

4. Upon the Effective Date of this Settlement, each of the Released Parties, on behalf of themselves and each of their heirs, executors, administrators, successors and assigns, and any other person claiming (now or in the future) to have acted through or on behalf of them shall, with respect to each and every Settled Parties’ Claim, release and forever discharge, and shall forever be enjoined from instituting, commencing, or prosecuting any of the Settled Parties’ Claims.

### SETTLEMENT CONSIDERATION

5. In consideration for the release and discharge provided for in ¶3 hereof, Merix, on behalf of all Defendants, shall pay or cause to be paid the sum of two million five hundred thousand dollars (\$2,500,000.00) into an interest-bearing escrow account (the “Settlement Amount”) within the later of (a) thirty (30) calendar days following the Court’s entry of the Preliminary Approval Order; or (b) receipt from Lead Counsel of full and complete wiring instructions for such payment and an executed W-9 for the owner of the escrow account into which such payment is to be made. When due to be paid, the Settlement Amount will be deposited into an interest-bearing escrow account held by the Escrow Agent (the “Escrow Account”).

6. (a) The Settlement Amount, plus interest accrued, shall be referred to as the Settlement Fund. The Settlement Fund, net of any Taxes (as defined below), shall be used to pay: (i) the costs and expenses of notice and administration of the Settlement Fund referred to in ¶10 hereof; (ii) the attorneys’ fees and expense award referred to in ¶11 hereof; and (iii) the remaining administration expenses referred to in ¶13 hereof. The balance of the Settlement Fund after the above payments shall be the “Net Settlement Fund.” At a time following the Effective Date, the Net Settlement Fund shall be distributed to Authorized Claimants as provided in ¶¶14-24 hereof. Any sums required to be held in escrow hereunder shall be held by the Escrow Agent. All funds held by the Escrow Agent shall be deemed to be in the custody of the Court until such time as the funds shall be distributed to Authorized Claimants or paid to the persons or entities paying the same pursuant to this Stipulation and/or further order of the Court. The Escrow Agent shall invest any funds in excess of U.S. \$250,000 in instruments backed by the full faith and credit of the United States Government or fully insured by the United States Government or

an agency thereof and shall collect and reinvest the proceeds of these instruments as they mature in similar instruments at the current market rates. Any funds held in escrow in an amount of less than U.S. \$250,000 may be held in a bank account insured by the Federal Deposit Insurance Corporation (“FDIC”). The Parties hereto agree that the Settlement Fund is intended to be a Qualified Settlement Fund within the meaning of Treasury Regulation §1.468B-1, and that Lead Counsel as administrator of the Settlement Fund within the meaning of Treasury Regulation §1.468B-2(k)(3), shall be responsible for filing tax returns and any other tax reporting for or in respect of the Settlement Fund and paying from the Settlement Fund any Taxes owed with respect to the Settlement Fund. Defendants agree to cooperate reasonably with the Escrow Agent to provide information available to it that is needed for filing tax returns for the Settlement Fund and will give their consent to the Settlement Fund’s filing of any relation back election.

(b) All: (i) taxes on the income of the Settlement Fund; and (ii) expenses and costs incurred in connection with the taxation of the Settlement Fund (including, without limitation, expenses of tax attorneys and accountants) (collectively, the “Taxes”) shall be paid out of the Settlement Fund, shall be considered a cost of administration of the Settlement and shall be timely paid out of the Escrow Account without prior order of the Court. The Released Parties shall have no liability or responsibility for the payment of any Taxes.

7. This is not a “claims made” settlement; following the Effective Date of the Settlement, none of the Settlement Fund shall be returned to Defendants and/or such other persons or entities funding the Settlement.

#### **PRELIMINARY APPROVAL**

8. Promptly upon the execution of this Stipulation, the Parties shall file the Stipulation and ancillary documents with the Court and apply for entry of the Preliminary

Approval Order, substantially in the form attached hereto as Exhibit A, and for the scheduling of a hearing for consideration of, *inter alia*, final approval of the Settlement and Lead Counsel's application for an award of attorneys' fees and expenses (the "Settlement Fairness Hearing"). The Parties shall use their best efforts to obtain preliminary approval of the Settlement as soon as practicable.

#### **ADMINISTRATION**

9. The Claims Administrator, SCS, shall administer the Settlement under Lead Counsel's supervision and subject to the jurisdiction of the Court for all members of the Class. The Defendants and Released Parties shall have no liability, obligation or responsibility for the administration of the Settlement or disbursement of the Net Settlement Fund, except for the obligation of Merix, on behalf of all Defendants, to pay the Settlement Amount, as provided herein, and to provide, without any charge to Lead Plaintiff or the Class, shareholder lists, as Merix or its transfer agents may possess, as appropriate for providing notice to the Class, in a format designated by the Claims Administrator for mailings, as soon as possible but no later than ten (10) business days following the Parties' execution of the Stipulation.

10. Lead Counsel may, prior to the Effective Date, withdraw up to the sum of \$125,000 from the Gross Settlement Fund (the "Notice Expense Cap"), without further approval from the Defendants or the Court, to pay the reasonable costs and expenses associated with identifying members of the Class and effecting mailing of the Notice to the Class, and the administration of the Settlement, including without limitation, the actual costs of publication, printing and mailing the Notice, reimbursements to nominee owners for forwarding notice to their beneficial owners, and the administrative expenses incurred and fees charged by the Claims Administrator in connection with providing notice and processing the submitted claims ("Notice

and Administration Expenses”). Except for the fees and expenses as set forth in paragraph 11 herein, and except for any Taxes due on the net taxable income earned by the Gross Settlement Fund, which taxes shall be paid in accordance with paragraph 6 herein, no other withdrawal or payment from the Gross Settlement Fund shall be permitted prior to the Effective Date without the prior written consent of all parties hereto and the approval of the Court. In the event that the Settlement is not consummated, money paid or incurred for Notice and Administration Expenses up to the Notice Expense Cap shall not be returned or repaid to Merix and/or such other persons and entities funding the Settlement.

#### **ATTORNEYS’ FEES AND EXPENSES**

11. Lead Counsel will apply to the Court for an award of attorneys’ fees and reimbursement of litigation expenses on behalf of Plaintiffs’ Counsel which, subject to Court approval, shall be paid from the Settlement Fund. Such amounts as are awarded by the Court from the Settlement Fund shall be payable immediately after the entry of an order awarding such fees and expenses, notwithstanding the existence of any timely filed objections, appeal, or collateral attack on the Settlement or any part thereof, subject to Lead Counsel’s obligation to pay back any such amounts to the Settlement Fund plus accrued interest at the same rate as is earned by the Settlement Fund, if and when, as a result of any appeal and/or further proceedings on remand, or successful collateral attack, the fee or expense award is reduced or reversed or for whatever reason the Settlement is terminated pursuant to ¶30 hereof. Lead Counsel shall have sole discretion in the allocation of attorneys’ fees among Plaintiffs’ Counsel. In addition, Lead Plaintiff may seek reimbursement for its costs and expenses (including lost wages) incurred in representing the Class which, subject to Court approval, shall also be paid from the Settlement Fund.

12. With respect to the Notice to the Class, the Merix Defendants reserve the right to comment upon or object to language in the Notice stating that Lead Counsel will apply to the Court for attorneys' fees of a certain amount of the Settlement Fund. Once the Court decides the appropriate fee percentage amount to be included in the Notice, Defendants will defer to the Court's discretion and take no position on Lead Counsel's ultimate request for an award of attorneys' fees and expenses and/or reimbursement to Lead Plaintiff for its costs and expenses in connection with representing the Class. The procedure for and the allowance or disallowance of any application for attorneys' fees and expenses are not part of the Settlement and are to be considered by the Court separately from the Court's consideration of the fairness, reasonableness and adequacy of the Settlement.

**CLASS DISTRIBUTION ORDER / ADMINISTRATION EXPENSES**

13. Lead Counsel shall apply to the Court for an order (the "Class Distribution Order") approving the Claims Administrator's administrative determinations concerning the acceptance and rejection of submitted claims, approving any fees and expenses relating to the administration of the Settlement, not previously paid by the Escrow Agent pursuant to ¶10 herein, including the fees and expenses of the Claims Administrator, and, upon the Effective Date (as defined in ¶29 below), directing payment of the Net Settlement Fund to Authorized Claimants.

**DISTRIBUTION TO AUTHORIZED CLAIMANTS**

14. The allocation of the Settlement Fund among the members of the Class shall be subject to a plan of allocation to be proposed by Lead Counsel and approved by the Court. Defendants shall take no position with respect to such proposed plan of allocation or such plan as may be approved by the Court and shall have no responsibility or liability whatsoever with

respect to such plan of allocation. Such plan of allocation is a matter separate and apart from the proposed Settlement between the Parties, and any decision by the Court concerning the plan of allocation shall not affect the validity or finality of the proposed Settlement.

15. No Authorized Claimant shall have any claim against Lead Plaintiff, Lead Counsel, Liaison Counsel, any Defendant, Released Party or Defendants' Counsel based on any distribution made in accordance or as contemplated by this Stipulation.

16. The Claims Administrator shall determine each Authorized Claimant's *pro rata* share of the Net Settlement Fund based upon each Authorized Claimant's Recognized Claim (as defined in the plan of allocation described in the Notice annexed hereto as Exhibit A(1) (the "Plan of Allocation"), or in such other plan of allocation as the Court approves). Subject to the terms of the Plan of Allocation, each Authorized Claimant shall be allocated a *pro rata* share of the Net Settlement Fund based on his, her, or its Recognized Claim compared to the total Recognized Claims of all accepted claimants.

17. Lead Counsel shall be responsible for supervising the administration of the Settlement and disbursement of the Net Settlement Fund by the Claims Administrator. Lead Counsel shall have the right, but not the obligation, to waive what it deems to be formal or technical defects in any Proofs of Claim submitted in the interests of achieving substantial justice.

18. For purposes of determining the extent, if any, to which a Class Member shall be entitled to be treated as an "Authorized Claimant," the following conditions shall apply:

(a) Each Class Member shall be required to submit a Proof of Claim (see Exhibit A(2) hereto), supported by such documents as are designated therein, including proof of the claimant's loss, or such other documents or proof as Lead Counsel, in its discretion, may

deem appropriate;

(b) All Proofs of Claim must be submitted by the date specified in the Notice unless such period is extended by order of the Court. Any Class Member who fails to submit a Proof of Claim by such date shall forever be barred from receiving any payment pursuant to this Stipulation (unless, by order of the Court, a later submitted Proof of Claim by such Class Member is approved), but shall in all other respects be bound by all of the terms of this Stipulation and the Settlement including the terms of the Judgment to be entered in the Action and the releases provided for herein, and shall be barred from bringing any Released Claims against the Released Parties. Provided that it is received before the motion for the Class Distribution Order is filed, a Proof of Claim shall be deemed to have been submitted when posted, if received with a postmark indicated on the envelope and if mailed by first-class mail and addressed in accordance with the instructions thereon. In all other cases, the Proof of Claim shall be deemed to have been submitted when actually received by the Claims Administrator;

(c) Each Proof of Claim shall be submitted to and reviewed by the Claims Administrator, under the supervision of Lead Counsel, who shall determine in accordance with this Stipulation the extent, if any, to which each claim shall be allowed, subject to review by the Court pursuant to subparagraph (e) below;

(d) Proofs of Claim that do not meet the submission requirements may be rejected. Prior to rejection of a Proof of Claim, the Claims Administrator shall communicate with claimants in order to remedy the curable deficiencies in the Proofs of Claim submitted. The Claims Administrator, under supervision of Lead Counsel, shall notify, in a timely fashion and in writing, all claimants whose Proofs of Claim they propose to reject in whole or in part, setting forth the reasons therefor, and shall indicate in such notice that the claimant whose claim is to be

rejected has the right to a review by the Court if the claimant so desires and complies with the requirements of subparagraph (e) below;

(e) If any claimant whose claim has been rejected in whole or in part desires to contest such rejection, the claimant must, within twenty (20) days after the date of mailing of the notice required in subparagraph (d) above, serve upon the Claims Administrator a notice and statement of reasons indicating the claimant's grounds for contesting the rejection along with any supporting documentation, and requesting a review thereof by the Court. If a dispute concerning a claim cannot otherwise be resolved, Lead Counsel shall thereafter present the request for review to the Court; and

(f) The administrative determinations of the Claims Administrator accepting and rejecting claims shall be presented to the Court, on notice to Defendants' Counsel, for approval by the Court in the Class Distribution Order.

19. Each claimant shall be deemed to have submitted to the jurisdiction of the Court with respect to the claimant's claim, and the claim will be subject to investigation and discovery under the Federal Rules of Civil Procedure, provided that such investigation and discovery shall be limited to that claimant's status as a Class Member and the validity and amount of the claimant's claim. No discovery shall be allowed on the merits of the Action or Settlement in connection with processing of the Proofs of Claim.

20. Payment pursuant to this Stipulation shall be deemed final and conclusive against all Class Members. All Class Members whose claims are not approved by the Court shall be barred from participating in distributions from the Net Settlement Fund, but otherwise shall be bound by all of the terms of this Stipulation and the Settlement, including the terms of the

Judgment to be entered in the Action and the releases provided for herein, and shall be barred from bringing any action against the Released Parties concerning the Released Claims.

21. All proceedings with respect to the administration, processing and determination of claims described by ¶18 of this Stipulation and the determination of all controversies relating thereto, including disputed questions of law and fact with respect to the validity of claims, shall be subject to the jurisdiction of the Court.

22. The Net Settlement Fund shall be distributed to Authorized Claimants by the Claims Administrator only after the Effective Date and after: (i) all claims have been processed, and all claimants whose claims have been rejected or disallowed, in whole or in part, have been notified and provided the opportunity to be heard concerning such rejection or disallowance; (ii) all objections with respect to all rejected or disallowed claims have been resolved by the Court, and all appeals therefrom have been resolved or the time therefor has expired (or appropriate amounts have been placed in reserve); and (iii) all costs of administration have been paid.

23. If any funds remain in the Net Settlement Fund by reason of uncashed checks, or otherwise, after the Claims Administrator has made reasonable and diligent efforts to have Authorized Claimants who are entitled to participate in the distribution of the Net Settlement Fund cash their distribution checks, then any balance remaining in the Net Settlement Fund six (6) months after the initial distribution of such funds shall be used: (i) first, to pay any amounts mistakenly omitted from the initial distribution to Authorized Claimants or to pay any late, but otherwise valid and fully documented claims received after the cut-off date used to make the initial distribution, which were not previously authorized by the Court to be paid, provided that such distributions to any late post-distribution claimants meet all of the other criteria for inclusion in the initial distribution, including the \$10.00 minimum check amount set forth in the

Notice; (ii) second, to pay any additional fees and expenses incurred in administering the Settlement; and (iii) finally, to make a second distribution to Authorized Claimants who cashed their checks from the initial distribution and who would receive at least \$10.00 from such second distribution, after payment of the estimated costs or fees to be incurred in administering the Net Settlement Fund and in making this second distribution, if such second distribution is economically feasible.

24. If after six (6) months after such second distribution, if undertaken, or if such second distribution is not undertaken, any funds shall remain in the Net Settlement Fund after the Claims Administrator has made reasonable and diligent efforts to have Authorized Claimants who are entitled to participate in this Settlement cash their checks, any funds remaining in the Net Settlement Fund shall be donated to a 503(c) charity selected by Lead Counsel and approved by the Court.

#### **RIGHT OF EXCLUSION OR OBJECTION**

25. Any Person may seek to be excluded from the Class and the Settlement provided for in this Stipulation by submitting a written request for exclusion in conformity with the requirements stated in the Notice (*see* Exhibit A(1) hereto). Any members of the Class so excluded shall not be bound by the terms of the Stipulation, or be entitled to any of its benefits, and shall not be bound by the Judgment and/or other order of the Court, whether pursuant to this Stipulation or otherwise.

26. Any member of the Class who does not exclude himself, herself or itself from the Class and the Settlement shall have the right to submit written objections concerning the Settlement, the Plan of Allocation, Lead Counsel's application for attorneys' fees and expenses and/or reimbursement of costs and expenses to Lead Plaintiff, which objections shall contain all

of the required information, as set forth in the Notice, including the reason(s) for the objection. All Persons desiring to attend the Settlement Fairness Hearing and be heard as objectors must have timely filed written objections as provided herein, as a condition of appearing and being heard at such hearing. Any Class Member who does not timely file written objections to the Settlement pursuant to this paragraph and the Notice shall not be permitted to object to the Settlement at the Settlement Fairness Hearing, and shall be foreclosed from objecting to, challenging or otherwise seeking review of the Settlement by appeal or otherwise, in this Action or in any other action.

27. To retract or withdraw a request for exclusion, a member of the Class must file a written notice with the Court stating the Class Member's desire to retract or withdraw his, her, or its request for exclusion and that Class Member's desire to be bound by any judgment or Settlement in this Action; provided, however, that the filing of such written notice may be effected by Lead Counsel or Defendants' Counsel, and Lead Counsel or Defendants' Counsel, as appropriate, shall promptly notify opposing counsel of any retraction or withdrawal of a request for exclusion.

#### **SUPPLEMENTAL AGREEMENT**

28. Simultaneously herewith, Lead Counsel and Defendants' Counsel are executing a "Supplemental Agreement." Unless otherwise directed by the Court or unless a dispute arises as to its terms, the Supplemental Agreement will not be filed with the Court. Defendants may, in accordance with the terms set forth in the Supplemental Agreement, elect in writing to terminate the Settlement and this Stipulation if a certain condition (the "Opt-Out Threshold") is met and Lead Counsel and Defendants' Counsel are unable to cure this condition in accordance with the terms of the Supplemental Agreement. If required by the Court, the Supplemental Agreement

and/or any of its terms may be disclosed to the Court for purposes of approval of the Settlement, but such disclosure shall be carried out to the fullest extent possible in accordance with the practices of the Court so as to preserve the confidentiality of the Supplemental Agreement, particularly the Opt-Out Threshold. In the event of a termination of this Settlement pursuant to the Supplemental Agreement, this Stipulation and Settlement shall become null and void and of no further force and effect, with the exception of the provisions of ¶31 which shall continue to apply.

**EFFECTIVE DATE OF SETTLEMENT, WAIVER OR TERMINATION**

29. The “Effective Date” of the Settlement shall be the date when all the following conditions of Settlement shall have occurred:

- (a) payment of the Settlement Amount in conformity with ¶5 herein;
- (b) entry of the Preliminary Approval Order substantially in the form attached hereto as Exhibit A;
- (c) final approval by the Court of the Settlement, following notice to the Class and a hearing, as prescribed by Rule 23 of the Federal Rules of Civil Procedure; and
- (d) entry by the Court of an Order and Final Judgment, substantially in the form attached hereto as Exhibit B, and the expiration of any time for appeal or review of such Order and Final Judgment or, if any appeal is filed, after such Order and Final Judgment is upheld on appeal in all material respects and is no longer subject to review upon appeal or review by writ of certiorari, or, in the event that the Court enters an Order and Final Judgment in a form substantially other than that provided above (“Alternative Judgment”) and none of the Parties hereto elect to terminate this Settlement, the date that such Alternative Judgment becomes final and no longer subject to review.

30. In addition to Defendants' right to terminate the Settlement and this Stipulation in accordance with the Supplemental Agreement, Lead Plaintiff and Defendants each shall have the right to terminate the Settlement and thereby this Stipulation by providing written notice of their election to do so ("Termination Notice") to all Parties hereto within thirty (30) calendar days of any of the following: (a) the Court declining to enter the Preliminary Approval Order in any material respect; (b) the Court refusing to approve this Settlement as set forth in this Stipulation; (c) the Court declining to enter the Order and Final Judgment in any material respect or entering an Alternative Judgment; (d) the date upon which the Order and Final Judgment is modified or reversed in any material respect by any appellate or other court; or (e) the date upon which an Alternative Judgment is modified or reversed in any material respect by any appellate or other court. In addition, Lead Plaintiff shall have the right to terminate the Settlement after thirty (30) calendar days of Merix's failure to deposit timely the Settlement Amount pursuant to instructions provided by Lead Counsel. If a party elects to terminate the Settlement pursuant to this paragraph, termination will become effective within two (2) weeks of service of the Termination Notice. During these two weeks, the Parties shall use their best efforts to resolve any existing conflicts and/or deficiencies and reinstate the Settlement. The non-approval, modification, reversal, or vacatur of any award of attorneys' fees and expenses or the Plan of Allocation shall not be the basis for any party to terminate the Settlement or this Stipulation.

31. Except as otherwise provided herein, in the event that (a) the Effective Date does not occur, (b) this Stipulation is cancelled or terminated pursuant to its terms, or (c) the Stipulation does not become final for any reason, then (i) the Settlement shall be without prejudice, and none of its terms, including the releases granted herein, shall be effective or enforceable; (ii) the Settlement Amount (to the extent it has been funded), together with interest

earned thereon, less any reasonable amounts actually incurred for Notice and Administrative Expenses permitted under paragraph 10 and/or Taxes, shall be returned to the Person(s) paying it into the Settlement Fund within twenty (20) business days of receipt of any written instructions requesting the return of the Settlement Amount; (iii) the Parties shall revert to their litigation positions immediately prior to reaching their tentative agreement to settle the Action on March 17, 2010; and (iv) the fact and terms of the Stipulation and this Settlement shall not be admissible in any trial of the Action.

### **NO ADMISSION OF WRONGDOING**

32. This Stipulation, whether or not consummated, and all negotiations, statements, and proceedings in connection herewith shall not, in any event, be construed or deemed to be evidence of an admission or concession on the part of the Lead Plaintiff, any Defendant, any member of the Class, or any other Person, of any liability or wrongdoing of any nature by them, or any of them, and shall not be offered or received in evidence in any action or proceeding (except an action to enforce this Stipulation and Settlement contemplated hereby), or be used in any way as an admission, concession, or evidence of any liability or wrongdoing of any nature, and shall not be construed as, or deemed to be evidence of, an admission or concession that the Lead Plaintiff, any member of the Class, or any other Person, has or has not suffered any damage.

### **MISCELLANEOUS PROVISIONS**

33. All of the exhibits attached hereto are hereby incorporated by reference as though fully set forth herein.

34. The Parties intend the Settlement to be a final and complete resolution of all disputes asserted or which could be asserted by the Class Members against the Released Parties

with respect to the Released Claims. Accordingly, Lead Plaintiff and Defendants agree not to assert in any forum that the Action was brought by Lead Plaintiff or defended by Defendants in bad faith or without a reasonable basis. The Parties shall assert no claims of any violation of Rule 11 of the Federal Rules of Civil Procedure relating to the prosecution, defense, or settlement of the Action, and the Parties and their respective counsel shall not make any applications for fees, costs or sanctions pursuant to Rule 11, Rule 37, Rule 45, or any other court rule or statute with respect to any claims or defenses in this Action or to any aspect of the institution, prosecution or defense of this Action. The Parties agree that the amount paid and the other terms of the Settlement were negotiated at arm's-length in good faith by the Parties, and reflect a settlement that was reached voluntarily after consultation with experienced legal counsel.

35. If a case is commenced with respect to any Person or entity contributing to the Settlement Fund under Title 11 of the United States Code (Bankruptcy), or a trustee, receiver or conservator is appointed under any similar law, and in the event of the entry of a final order of a court of competent jurisdiction determining the transfer of the Settlement Fund, or any portion thereof, by or on behalf of any Defendant to be a preference, voidable transfer, fraudulent conveyance, or similar transaction and any portion thereof is required to be returned, and such amount is not promptly deposited to the Settlement Fund by or on behalf of the Defendants then, at the election of Lead Counsel, the Parties shall jointly move the Court to vacate and set aside the releases given and Judgment entered in favor of the Released Parties pursuant to this Stipulation, which releases and Judgment shall be null and void, and the Parties shall be restored to their respective litigation positions in the Action immediately prior to reaching their tentative

agreement to settle the Action on March 17, 2010 and any cash proceeds in the Settlement Fund shall be returned as provided in ¶31 above.

36. This Stipulation may not be modified or amended, nor may any of its provisions be waived, except by a writing signed by all Parties hereto or their successors-in-interest.

37. The headings herein are used for the purpose of convenience only and are not meant to have legal effect.

38. The administration and consummation of the Settlement as embodied in this Stipulation shall be under the authority of the Court, and the Court shall retain jurisdiction for the purpose of entering orders providing for awards of attorneys' fees and expenses to Lead Counsel and/or reimbursement of costs and expenses to Lead Plaintiff and enforcing the terms of this Stipulation.

39. The waiver by one party of any breach of this Stipulation by any other party shall not be deemed a waiver of any other prior or subsequent breach of this Stipulation.

40. This Stipulation and its exhibits, and the Supplemental Agreement constitute the entire agreement concerning the Settlement of the Action, and no representations, warranties, or inducements have been made by or on behalf of any party hereto concerning this Stipulation, its exhibits, and the Supplemental Agreement other than those contained and memorialized in such documents.

41. This Stipulation may be executed in one or more counterparts, including by signature transmitted by facsimile or electronic mail. Each counterpart when so executed shall be deemed to be an original, and all such counterparts together shall constitute the same instrument. All counsel and any other Person executing this Stipulation and any of the exhibits hereto, or any related settlement documents, warrant and represent that they have the full

authority to do so and that they have the authority to take appropriate action required or permitted to be taken pursuant to the Stipulation to effectuate its terms.

42. This Stipulation shall be binding upon, and inure to the benefit of, the successors and assigns of the Parties hereto.

43. The construction and interpretation of this Stipulation shall be governed and construed in accordance with the laws of the State of Oregon without regard to conflicts of law principles thereof, to the extent that federal law does not apply.

44. This Stipulation shall not be construed more strictly against one party than another merely by virtue of the fact that it, or any part of it, may have been prepared by counsel for one of the Parties, it being recognized that this Stipulation is the result of arm's-length negotiations between the Parties and all Parties have contributed substantially and materially to the preparation of this Stipulation.

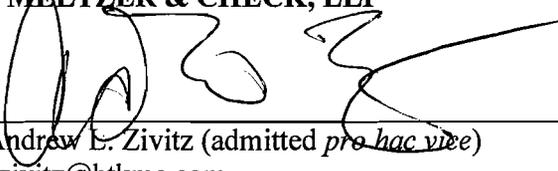
45. The undersigned signatories represent that they have authority from their respective client(s) to execute this Stipulation and any of the exhibits hereto, or any related settlement documents.

46. The Parties agree to cooperate fully with one another in seeking Court approval of the Preliminary Approval Order, the Stipulation and the Settlement, and to agree promptly upon and execute all such other documentation as may reasonably be required to obtain final approval by the Court of the Settlement.

47. The Parties and their counsel agree that they will refrain from disparaging the Settlement or each other with respect to the Action in any press releases or statements to the media, or in any other communications.

Dated: August 24, 2010

**BARROWAY TOPAZ KESSLER  
MELTZER & CHECK, LLP**



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Andrew E. Zivitz (admitted *pro hac vice*)

azivitz@btkmc.com

Christopher L. Nelson (admitted *pro hac vice*)

cnelson@btkmc.com

Mark S. Danek (admitted *pro hac vice*)

mdanek@btkmc.com

Michelle M. Newcomer (admitted *pro hac vice*)

mnewcomer@btkmc.com

280 King of Prussia Road

Radnor, PA 19087

Telephone: (610) 667-7706

Facsimile: (610) 667-7056

*Lead Counsel for Central Laborers' Pension Fund  
and the Class*

**STOLL STOLL BERNE LOKTING  
& SHLACHTER P.C.**

Gary M. Berne, OSB No. 77407

gberne@stollberne.com

Timothy S. DeJong, OSB No. 940662

tdejong@stollberne.com

Mark A. Friel, OSB No. 002592

mfriel@stollberne.com

209 S.W. Oak Street, Fifth Floor

Portland, Oregon 97204

Telephone: (503) 227-1600

Facsimile: (503) 227-6840

*Liaison Counsel for Central Laborers' Pension Fund  
and the Class*

**ORRICK HERRINGTON & SUTCLIFFE LLP**



---

Richard Gallagher (signed with permission)

James E. Burns, Jr. (admitted *pro hac vice*)

jburns@orrick.com

Richard Gallagher (admitted *pro hac vice*)

rgallagher@orrick.com

The Orrick Building

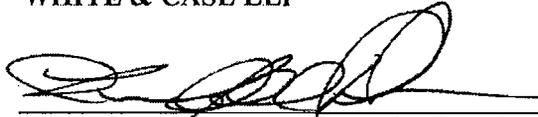
405 Howard Street

San Francisco, CA 94105  
Telephone: (415) 773-5700  
Facsimile: (415) 773-5759

Douglas E. Goe (OSB # 81241)  
dgoe@orrick.com  
1120 NW Couch St., Suite 200  
Portland, OR 97209  
Telephone: (503) 943-4800  
Facsimile: (503) 943-4801

*Attorneys for Defendants Merix Corp., Janie S. Brown, Kirby A. Dyess, Carlene M. Ellis, Donald D. Jobe, George H. Kerckhove, Mark R. Hollinger, Dr. William W. Lattin, William C. McCormick, Daniel T. Olson, Robert C. Strandberg and Anaya K. Vardya*

**WHITE & CASE LLP**



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Fernando L. Aenlle-Rocha (admitted *pro hac vice*)  
faenlle-rocha@whitecase.com  
White & Case LLP  
633 West Fifth Street, Suite 1900  
Los Angeles, California 90071-2007  
Telephone: (213) 620-7723  
Facsimile: (213) 452-2329

Darryl S. Lew (admitted *pro hac vice*)  
dlew@whitecase.com  
701 Thirteenth Street, N.W.  
Washington, D.C. 20005  
Telephone: (202) 626-3600  
Facsimile: (202) 639-9355

*Attorneys for Defendants UBS Securities LLC, Thomas Weisel Partners LLC, Needham & Company, Inc., Wells Fargo Securities, LLC, Raymond James & Associates, Inc. and William Blair & Company, LLC*

**MILLER NASH LLP**  
Bruce L. Campbell, P.C.  
Bruce.Campbell@MillerNash.com  
3400 U.S. Bancorp Tower

111 S.W. Fifth Avenue  
Portland, Oregon 97204-3699  
Telephone: (503) 224-5858  
Facsimile: (503) 205-8519

*Local Counsel for the Underwriter Defendants*