

## SETTLEMENT AGREEMENT

THIS SETTLEMENT AGREEMENT (hereinafter "Agreement") is entered into by and between THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA ("SBBC") and NATIONAL ROOFING OF SOUTH FLORIDA, INC., a Florida corporation ("NATIONAL ROOFING") (hereinafter collectively referred to as the "Parties" unless otherwise referenced herein):

### WITNESSETH:

**WHEREAS**, the Parties to this Agreement have existing between them certain differences and disputes arising out of the alleged non-payment by the SBBC to NATIONAL ROOFING for the construction of various roofing projects at **Twin Lakes Warehouse/Book Department** (Project No. P.000855), **McFatter Technical Center** (Project No. 000857), **Atlantic Technical Center** (Project No. 001383), **Riverglades ES** (Project No. 001442) and **North Central Area Office** (Project No. 001147) (the "Projects"); and

**WHEREAS**, on December 16, 2015, NATIONAL ROOFING filed a complaint against SBBC alleging non-payment for work performed by it on the Projects; and

**WHEREAS**, in its complaint, NATIONAL ROOFING alleges that it is entitled to payment for services allegedly provided on the Projects; and

**WHEREAS**, the Parties wish to resolve all their differences and all claims asserted in the above referenced matters; and

**WHEREAS**, with the Parties desire to resolve any and all known claims on the Projects; and

**WHEREAS**, this Agreement, subject to the provisions below, resolves all claims referenced herein, and all underlying claims and disputes between the Parties, and their respective employees, agents, subcontractors, consultants, officers, directors, servants, executors, heirs, administrators,

successors and assigns, up to and including those claims, causes of action and action that arose or could have arisen due to any and all events associated with the claims and those other matters referenced in this Agreement and any and all other matters related to the Projects, in any way; and

**WHEREAS**, the Parties desire to amicably resolve all claims between the Parties, but do not admit to any liability nor to the claims and defenses of the other Parties hereto; and

**WHEREAS**, the Parties to this Agreement hereby enter into this Agreement, under which SBBC agrees to pay certain settlement sums to NATIONAL ROOFING in full and complete settlement of the claims as well as all potential or possible causes of action and claims of NATIONAL ROOFING relating to the Projects; and

**WHEREAS**, the Parties to this Agreement do not admit any wrongdoing or liability, but have determined to settle and compromise these claims to avoid the financial expense and burden and uncertainties associated with protracted and complex litigation; and

**WHEREAS**, the Parties desire to reduce this, their agreement of settlement, to writing so that it may be binding upon the Parties, their successors and assigns; and

**WHEREAS**, except for the Twin Lakes and North Central Area Office projects, construction work has been completed on the Projects; and

**WHEREAS**, construction work never commenced on the Twin Lakes Project; and

**WHEREAS**, except for minor punch list work, the additional work required to be performed on the North Central Area Office project falls outside of NATIONAL ROOFING's contractual obligations; and

**WHEREAS**, the additional work required to be performed on the North Central Area Office project cannot be assigned to NATIONAL ROOFING to be performed via additive change order because NATIONAL ROOFING is no longer in business; and

**WHEREAS**, with regard to resolution of all claims outlined in this Agreement, the Parties agree to bear their own costs, including expert and attorney's fees.

**NOW, THEREFORE**, in consideration of the foregoing representation of the mutual covenants, promises and considerations hereinafter set forth with the intent to be legally bound, it is agreed by and between the Parties as follows:

1. **Incorporation of Recitals:** The Parties agree that the foregoing recitals are true and correct and that such recitals are incorporated herein by reference.

2. **Matters Settled:** This Agreement settles all claims on the Projects, any and all claims and causes of action of any nature whatsoever that the Parties had, has or will have in the future relating to the above referenced Projects. This Agreement does not settle, and specifically excludes the settlement of or release of NATIONAL ROOFING from any liability, duty or responsibility of NATIONAL ROOFING relating to latent defects or damages associated therewith, and which are associated with the Projects.

3. **Payment of Settlement Sums:** In full and complete settlement of all claims, SBBC agrees to pay NATIONAL ROOFING, its Engineer of Record and its material supplier the total amount of ONE HUNDRED TWENTY-SEVEN THOUSAND ONE HUNDRED SEVENTY-SIX DOLLARS AND 76/100 (**\$127,176.76**) ("**Settlement Sum**"). This Settlement Sum shall consist of the following, three (3) separate payments:

- a. One check made payable to **SOPREMA, INC.**, the roofing manufacturer, c/o Mr. Todd Jackson, General Counsel, 310 Quadral Drive, Wadsworth, OH 44281, in the amount of SIX THOUSAND ONE HUNDRED TWENTY-FIVE DOLLARS AND 00/100 (**\$6,125.00**);
- b. One check made payable to **IA ENGINEERING AND DESIGN, INC.**, c/o Mr. Irving Abcug, 8427 Siciliano Street, Boynton Beach, Florida 33472 (the Engineer of Record for the Atlantic Technical Center and North Central Area Office projects), in the amount of EIGHT HUNDRED AND 00/100 (**\$800.00**); and

- c. Once check made payable to **VEZINA LAWRENCE AND PISCITELLI P.A TRUST ACCOUNT**, 300 SW First Avenue, Suite 150, Fort Lauderdale, Florida 33301 (Counsel for National Roofing), for the balance of the Settlement Sum in the amount of ONE HUNDRED TWENTY-ONE THREE-HUNDRED SEVENTY-SIX AND 76/100 (**\$120,251.76**).

4. **Approval of Agreement and Payment Terms:** Approval of this Agreement by SBBC at a duly called Board Meeting, shall serve as a condition precedent to payment.

- a. SBBC shall transmit the \$6,125.00 check described in paragraph 3.a above within fifteen (15) days of the School Board's approval of this Agreement.
- b. SBBC shall transmit the \$800.00 check described in paragraph 3.b above within fifteen (15) days of the School Board's approval of this Agreement.
- c. SBBC shall transmit the \$120,251.76 payment described in paragraph 3.c above within five (5) days of emailed confirmation from the General Counsel to Soprema, Inc., Mr. Todd Jackson, that the Platinum NDL Roof Warranty with 140 m.p.h. Wind Rider for the Atlantic Technical Center project, which is to be held in trust by counsel to the School Board, is valid and enforceable.

To the extent that any conditions precedent as described above are not satisfied, all documents (including the Releases executed by the Parties) shall be returned to the Parties, and this Agreement shall be declared null and void.

5. **Releases:** Parties shall provide the other executed Releases in the forms attached hereto as Exhibit "A" and Exhibit "B."

6. **Dismissal of Claims with Prejudice:** Within five (5) business days of NATIONAL ROOFING's receipt of the Settlement Sum described in paragraph 3.b, NATIONAL ROOFING will file a Notice of Dismissal with Prejudice and Order of Dismissal of all claims that were raised or could have been raised, with each party agreeing to bear their own attorneys' fees and cost, and with the Court reserving jurisdiction to enforce the terms of this Agreement. The Notice of Dismissal with Prejudice and Order of Dismissal shall in no way release SBBC from its payment obligations pursuant to paragraph 3.b above.

7. **Assignment of Claims:** NATIONAL ROOFING and SBBC hereby warrant and represent to each other that as an inducement to enter into this Agreement, that neither party has, nor shall not assign or transfer any of its rights, titles or interest to any claim, cause of action or action that it has or may have in the future relating to any of the aforementioned matters to any person or entity relative to the Projects.

8. **Attorney's Fees and Costs:**

a. The Parties shall each bear their own attorney's fees and costs incurred in relation to the matters resolved by this Agreement.

b. The prevailing party in any action to enforce any terms of this Agreement shall be entitled to recover reasonable attorney's fees and costs.

9. **Choice of Law and Venue:**

a. This Agreement shall be interpreted in accordance with the substantive laws of the State of Florida.

b. Venue for any dispute arising out of this Agreement shall lie solely and exclusively in a court of competent jurisdiction in the 17<sup>th</sup> Judicial Circuit in and for Broward County, Florida, and the Parties waive the right to venue elsewhere.

10. **Waiver of Jury Trial:** THE PARTIES TO THIS AGREEMENT EXPRESSLY WAIVE THEIR RIGHT TO A JURY TRIAL FOR ANY DISPUTE ARISING OUT OF THIS AGREEMENT.

11. **Authority:** The signatories to this Agreement represent that they have the authority to enter into this Agreement and have the authority to execute the Releases attached hereto as Exhibits "A" and "B".

12. **Entire Agreement:**

a. This Agreement sets forth the entire Agreement between the Parties hereto and supersedes any and all prior agreements, understandings, or representations between the Parties hereto pertaining to the subject matter hereof.

b. The Parties acknowledge that this Agreement is the result of their joint efforts with each party having the benefit of legal counsel, and shall be construed as having been drafted by all Parties hereto.

c. The Parties acknowledge and agree that each is foregoing certain rights and assuming certain duties and obligations which, but for this Agreement, would not have been released or assumed. Accordingly, the Parties agree that this Agreement is fully and adequately supported by consideration, is fair and reasonable, and that the Parties have had the opportunity to consult with and have in fact discussed this matter with counsel of their choice.

d. The Parties have read this Agreement and the Exhibits attached hereto, and have freely and voluntarily entered into this Agreement.

13. **Modification and Waiver:**

a. This Agreement may not be modified except by a writing signed by all Parties hereto.

b. The failure of any of the Parties executing this Agreement to require the performance of any term or obligation of this Agreement or the waiver by any of the Parties executing this Agreement of any breach of this Agreement shall not prevent any subsequent enforcement of such term or obligation and shall not be deemed a waiver of any subsequent breach.

14. **Counterparts:** This Agreement may be executed in counterparts with each copy being deemed an original.

15. **Notices:** Notices, to the extent they are referenced in this Agreement, shall be to the following persons on behalf of the Parties by certified mail, return receipt requested:

As to SBBC: THOMAS C. COONEY, ESQ.  
Office of the General Counsel  
600 S.E. 3<sup>rd</sup> AVE, FL 11  
Fort Lauderdale, Florida 33301

As to NATIONAL ROOFING: JODI N. COHEN, ESQ.  
Vezina, Lawrence & Piscitelli P.A.  
300 SW First Avenue, Suite 150  
Fort Lauderdale, Florida 33301

16. **Effective Date:**

a. This Agreement shall be binding upon and shall inure to the benefit of the Parties, as well as their successors and assigns.

b. This Agreement shall be effective upon execution of this Agreement by all Parties hereto.

17. **Time is of the Essence:** Time is of the essence for the performance and completion of all duties required by this Agreement.

18. **Headings:** All headings contained in this Agreement are designed and used for reference purposes only. The language used in the headings is not controlling and is not considered a substantive part of this Agreement.

IN WITNESS WHEREOF, the Parties hereto have made and executed this Agreement on the Effective Date.

**SBBC**

(Corporate Seal)

THE SCHOOL BOARD OF  
BROWARD COUNTY, FLORIDA

ATTEST:

\_\_\_\_\_  
Chair

\_\_\_\_\_  
Robert W. Runcie, Superintendent of  
Schools

Approved as to form and legal content

  
\_\_\_\_\_  
Office of the General Counsel



NATIONAL ROOFING

NATIONAL ROOFING OF SOUTH  
FLORIDA, INC.

By: *Louis T. Crispino*  
LOUIS T. CRISPINO President

ATTEST:

*Maurice H. Elza Jr.*  
Name: Maurice H. ELZA Jr.

State of Florida        )  
  ) SS:  
County of Broward    )

**BEFORE ME**, the undersigned authority, personally appeared Louis Crispino, President of NATIONAL ROOFING OF SOUTH FLORIDA, INC. to me known to be the person described in and who executed the foregoing instrument and acknowledged before me that he executed the same freely and voluntarily for the purposes expressed.

**IN WITNESS WHEREOF**, I have hereunto affixed my hand and official seal in the County and State last aforesaid this 27<sup>th</sup> day of October, 2017.

(Seal)



*Michael Friedman*  
Notary Public, State of Florida  
Name: *Michael Friedman*  
My Commission Expires: 2/17/19

**EXHIBIT "A"**  
**RELEASE**

**KNOW ALL MEN BY THESE PRESENTS:**

That NATIONAL ROOFING OF SOUTH FLORIDA, INC. its officers, agents, servants, successors, heirs, administrators, executors, successors, and assigns ("NATIONAL ROOFING"), for and in consideration of the mutual covenants and promises as set forth in the Agreement, hereby remises, releases, acquits, satisfies and forever discharges THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA, and any of its employees, agents, officers, directors, servants, executors, heirs, administrators, successors, assigns, design professionals, architects, engineers, attorneys and consultants, subcontractors, materialmen and suppliers (hereinafter collectively referred to as "SBBC"), from the matters referenced in the Agreement, as well as from any and all manner of action and actions, claims, liabilities, losses, cause and causes of action, suits, debts, dues, sums of money, accounts, reckonings, bonds, bills, specialties, covenants, contracts, controversies, agreements, promises, variances, trespasses, damages, judgments, executions, warranties (including express, implied, contractual and statutory), claims and demands whatsoever, in law or in equity, which NATIONAL ROOFING can, shall, or may have in the future or did have against SBBC emanating or relating in any way, directly or indirectly, from professional services performed by NATIONAL ROOFING on the Projects referenced in the Agreement, as well as all services provided pursuant to the agreement between the Parties, including but not limited to the matters alleged in the matters styled NATIONAL ROOFING OF SOUTH FLORIDA, INC. v. SCHOOL BOARD OF BROWARD COUNTY, FLORIDA, Broward County Case Number CACE 16-009474 (18), from the beginning of time through the day that the Agreement has been approved by SBBC. In the event that any portion or provision of this Release is finally adjudged to be invalid or unenforceable for any reason, such portion or provision shall be deemed excised and such rescission shall have no effect upon the remaining portions and provisions of this Release.

It is further stated that the undersigned has read the foregoing Release and knows the content and signs it as a free act.

NATIONAL ROOFING OF SOUTH  
FLORIDA, INC.

By: *Louis T. Crispino*  
LOUIS T. CRISPINO, President

ATTEST:

*Maurice H. Elza Jr*

Name: Maurice H. ELza Jr.

State of Florida )

) SS:

County of Broward )

**BEFORE ME**, the undersigned authority, personally appeared Lou Crispino, President of NATIONAL ROOFING OF SOUTH FLORIDA, INC., to me known to be the person described in and who executed the foregoing instrument and acknowledged before me that he executed the same freely and voluntarily for the purposes expressed.

**IN WITNESS WHEREOF**, I have hereunto affixed my hand and official seal in the County and State last aforesaid this 27<sup>th</sup> day of October, 2017.

Notary Public, State of Florida

Name: *Michael Friedman*

(Seal)

*Michael Friedman*

My Commission Expires: 2/17/19



**EXHIBIT “B”  
RELEASE**

**KNOW ALL MEN BY THESE PRESENTS:**

That THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA, its officers, agents, servants, successors, heirs, administrators, executors, successors, and assigns (hereinafter referred to as “**SBBC**”), for and in consideration of the mutual covenants and promises as set forth in the Agreement, hereby remises, releases, acquits, satisfies and forever discharges NATIONAL ROOFING OF SOUTH FLORIDA, INC., its officers, agents, servants, successors, heirs, administrators, executors, successors, and assigns (“**NATIONAL ROOFING**”), from the matters referenced in the Agreement, as well as from any and all manner of action and actions, claims, liabilities, losses, cause and causes of action, suits, debts, dues, sums of money, accounts, reckonings, bonds, bills, specialties, covenants, contracts, controversies, agreements, promises, variances, trespasses, damages, judgments, executions, warranties (including express, implied, contractual and statutory), claims and demands whatsoever, in law or in equity, which SBBC can, shall, or may have in the future or did have against NATIONAL ROOFING emanating or relating in any way, directly or indirectly, from professional services performed by NATIONAL ROOFING on the Projects referenced in Agreement, from the beginning of time through the day that the Agreement has been approved by SBBC. This Agreement does not settle, and specifically excludes the settlement of or release of NATIONAL ROOFING from any liability, duty or responsibility of NATIONAL ROOFING relating to latent defects or damages associated therewith, and which are associated with the Projects. In the event that any portion or provision of this Release is finally adjudged to be invalid or unenforceable for any reason, such portion or provision shall be deemed excised and such rescission shall have no effect upon the remaining portions and provisions of this Release.

It is further stated that the undersigned has read the foregoing Release and knows the content and signs it as a free act.

(Corporate Seal)

THE SCHOOL BOARD OF BROWARD  
COUNTY, FLORIDA

ATTEST:

\_\_\_\_\_  
Chair

\_\_\_\_\_  
Robert W. Runcie, Superintendent of  
Schools

Approved as to form and legal content

  
\_\_\_\_\_  
Office of the General Counsel