

UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA – WESTERN DIVISION

CITY OF LONG BEACH, a municipal corporation; COUNTY OF LOS ANGELES, a political subdivision; CITY OF CHULA VISTA, a municipal corporation; CITY OF SAN DIEGO, a municipal corporation; CITY OF SAN JOSE, a municipal corporation; CITY OF OAKLAND, a municipal corporation; CITY OF BERKELEY, a municipal corporation; CITY OF SPOKANE, a municipal corporation; CITY OF TACOMA, a municipal corporation; CITY OF PORTLAND, a municipal corporation; PORT OF PORTLAND, a port district of the State of Oregon; BALTIMORE COUNTY, a political subdivision; MAYOR AND CITY COUNCIL OF BALTIMORE; all individually and on behalf of all others similarly situated,
Plaintiffs,
v.
MONSANTO COMPANY; SOLUTIA INC., and PHARMACIA LLC, and DOES 1 through 100,
Defendants.

) CASE NO.: 2:16-cv-03493-
) FMO-AS

) Honorable Fernando M. Olguin

) **CLASS ACTION**
) **SETTLEMENT**
) **AGREEMENT**

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EXHIBITS

- Exhibit A- List of Initial Settlement Class Members
- Exhibit B- List of U.S. EPA 303(d) water bodies impaired by PCBs
- Exhibit C- List of U.S.G.S. HUC 12 Watersheds that contain and/or immediately adjoin a 303(d) water body impaired by PCBs
- Exhibit D- TMDL Fund Entities List with Allocation
- Exhibit E- Qualifying Sediment Site Entities
- Exhibit F- Sediment Sites Application
- Exhibit G- Special Needs Fund, Part A Application
- Exhibit H- Special Needs Fund, Part B Application
- Exhibit I- Direct Notice
- Exhibit J- CAFA Notice

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This Settlement Agreement (“Settlement Agreement”), including its attached Exhibits, is entered into as of this 24th day of June, 2020, by and among Plaintiffs City of Long Beach; Mayor and City Council of Baltimore; Baltimore County; City of Berkeley; City of Chula Vista; County of Los Angeles; City of Oakland; City of Portland; Port of Portland; City of San Diego; City of San Jose; City of Spokane; and City of Tacoma (collectively, on behalf of themselves and on behalf of the Settlement Class Members) and Defendant (collectively, “the Parties”) to settle and compromise the Action and to discharge the Released Parties as set forth herein.

I. RECITALS

WHEREAS, the former Monsanto Company manufactured a class of industrial chemicals called polychlorinated biphenyls (“PCBs”) between the 1930s and 1977.

WHEREAS, Plaintiffs’ Counsel filed the following actions against Defendant in federal district courts related to Monsanto’s manufacture, sale, testing, disposal, release, marketing, promotion or management of PCBs: *City of Long Beach v. Monsanto Co.*, Case No. 2:16-CV-03493-FMO-AS (C.D. Cal.); *City of Berkeley v. Monsanto Co.*, Case No. 5:16-cv00071-EJD (N.D. Cal.); *City of San Diego v. Monsanto Co.*, Case No. 3:15-CV-00578-WQH-AGS (S.D. Cal.); *City of Oakland v. Monsanto Co.*, Case No. 5:15-cv-5152-EJD (N.D. Ca.); *City of San Jose v. Monsanto Co.*, Case No. 5:15-cv-03178-EJD (N.D. Cal.); *Mayor and City Council of Baltimore v. Monsanto Co.*, Case No. 1:19-cv-00483-RDB); *City of Chula Vista v. Monsanto Co.*, Case No. 3:18-CV-01942-BEN-JMA (S.D. Cal.); *County of Los Angeles; L.A. County Flood Control District v. Monsanto Co.*, Case No. 2:19-CV-0464-GW-AFM (C.D. Cal.); *Port of Portland v. Monsanto Co.*, Case No. 3:17-cv-00015-PK (D. Ore.); *City of Portland v. Monsanto Co.*, Case No. 3:16-cv-01418-MO (D. Ore.); *City of Spokane v. Monsanto Co.*, Case No. 2:15-CV-00201-SMJ (E.D. Wa.) (collectively referred to as “the Underlying Actions”).

WHEREAS, Plaintiffs asserted various claims against Defendant for alleged PCB-related environmental impairments, including impairments to water bodies. Plaintiffs alleged that PCBs are present at sites and public properties, including in stormwater, stormwater and wastewater systems, water bodies, sediment, natural resources, fish and wildlife. Plaintiffs sought compensatory damages and injunctive and equitable relief.

WHEREAS, Defendant filed motions to dismiss in each case, resulting in the dismissal of some but not all claims.

WHEREAS, the Parties have been engaged in extensive and voluminous fact and expert discovery over several years. For example, the Parties took 51 depositions in the *City and County of San Diego Unified Port District* cases, and Defendant filed three motions for summary judgment. The Court heard oral arguments on these motions on December 6, 2019. The Court granted summary judgment with respect to the City of San Diego’s claims as well as the County of San Diego Unified Port District’s purpresture claims. Defendant filed four motions for summary judgment in the City of Spokane case, which are still pending.

WHEREAS, Plaintiffs’ Counsel conducted extensive investigations into the facts and circumstances related to this litigation, including consulting with experts, interviewing potential

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witnesses, and researching and studying legal principles applicable to the issues of liability, damages, jurisdiction and procedure.

WHEREAS, informal settlement discussions led to a confidential mediation process. The Parties, through their counsel, attended and participated in a confidential mediation process conducted by retired Magistrate Judge Jay C. Gandhi (“the Mediator”), who is an experienced, independent mediator, and further engaged in additional extensive communications with the Mediator and each other.

WHEREAS, prior to and during the mediation sessions, the Parties exchanged information and documents which allowed each side to further evaluate their claims and defenses.

WHEREAS, Plaintiffs’ experts, along with their Counsel, have developed an Allocation Process that would allow Settlement Funds to be paid to Settlement Class Members based on several objective criteria.

WHEREAS, Plaintiffs intend to file a proposed amended complaint in *City of Long Beach* in conjunction with this Settlement Agreement that seeks certification of a nationwide settlement class to encompass “As of June 24, 2020 only, but not later, all NPDES Phase I and II city, town, village, borough, township, and independent port district Municipal Separate Storm Sewer System (“MS4”) permittees with jurisdictional boundaries within a HUC 12 Watershed that contains and/or is immediately adjoining a 303(d) water body impaired by PCBs and all NPDES Phase I and II county MS4 permittees with urbanized, unincorporated boundaries within a HUC 12 Watershed that contains and/or is immediately adjoining a 303(d) water body impaired by PCBs.”

WHEREAS, Plaintiffs believe that the claims asserted in the Action have merit; however, taking into account the extensive burdens and expense of litigation, including the risks and uncertainties associated with protracted trials and appeals, as well as the fair, cost-effective and assured method of resolving the claims of the Settlement Class, Plaintiffs and their Counsel have concluded that the Settlement Agreement provides substantial benefits to the Settlement Class, and is fair, reasonable, adequate, and in the best interests of Plaintiffs and the Settlement Class.

WHEREAS, Defendant denies Plaintiffs’ allegations and believe that the Action is without merit; however, Defendant has also taken into account the uncertainty, risk, delay, and costs inherent in litigation and agreed to enter into the Settlement Agreement to avoid any further litigation expenses and inconvenience and to remove the distraction of burdensome and protracted litigation.

WHEREAS, it is the intention and desire of the Parties to compromise, resolve, dismiss and release all allegations, disputes, and claims for damages or equitable relief, regardless of the legal theory or type or nature of damages claimed, relating to city, town, county, borough, village, township, and special port district permittees’ claims regarding PCBs that are the subject of this Settlement on the terms set forth in the Settlement Agreement that have been or could have been brought by Plaintiffs themselves, and on behalf of Settlement Class Members, against Defendant.

WHEREAS, the Parties agree that the Settlement is fair, reasonable, and adequate, and is an appropriate nationwide resolution accomplished through the benefits, releases, and orders set forth in or attached to this Settlement Agreement.

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WHEREAS, the Parties desire not only to end further burdensome and protracted litigation but also to create the payment and release of claims as set forth herein.

NOW, THEREFORE, without an admission or concession on the part of Plaintiffs on the lack of merit of the Action or an admission or concession of liability or wrongdoing or the lack of merit of any defense by Defendant, it is stipulated and agreed by Defendant and Plaintiffs, acting for themselves and on behalf of the Settlement Class, that, on the following terms and conditions, the Action shall be settled and dismissed with prejudice as among Plaintiffs, the Settlement Class, and Defendant upon Final Approval of the Court after the hearing(s) provided for in the Settlement; and the Settlement Class Members shall release all Released Claims against Defendant and all Released Parties.

II. DEFINITIONS

1. As used in this Settlement Agreement, the following terms shall have the defined meanings set forth below.
2. “303(d) water body impaired by PCBs” means and refers to a water body listed on the United States Environmental Protection Agency (“EPA”) Clean Water Act Section 303(d) list of waters impaired or threatened by polychlorinated biphenyls.
3. “Action” means the case originally captioned *City of Long Beach v. Monsanto Co.*, Case No. 2:16-CV-03493-FMO-AS, originally filed in the United States District Court for the Central District of California on May 19, 2016.
4. “Allocation” or “Allocation Process” means the process of fairly dividing the total Settlement Amount to determine the “Allocated Amount” payable to each Settlement Class Member from the Settlement Funds.
5. “Allocation Algorithm” means and refers to the algorithm used to calculate the TMDL Allocation, as described in Paragraph 78(b) and corresponding footnote 1.
6. “Allocated Amount” means the portion of the total Settlement Fund payable to each Settlement Class Member.
7. “Attorneys’ Fees and Expenses” means the amounts approved by the Court for payment to Class Counsel, which shall include attorneys’ fees, costs, litigation expenses, and fees and expenses of the Special Master and consulting experts assigned to assist the Special Master in developing the Allocation. Attorneys’ Fees and Expenses does not include Claims Administration Expenses. The costs and expenses for implementing the Allocation by the Special Master will be split equally between the Parties; however, Defendant’s share of costs and expenses shall not exceed \$100,000. Any additional costs and expenses for implementing the Allocation shall be paid from Class Counsel’s Attorneys’ Fees and Expenses. No costs and expenses for implementing the Allocation shall be paid from the Settlement Fund.
8. “Category 4b” means and refers to the TMDL alternative process described in the EPA’s Integrated Reporting Guidance for Sections 303(d), 305(b), and 314 of the Clean Water Act (USEPA 2005a, 2006).

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9. “Claims Process” means the process by which Settlement Class Members may request and receive settlement benefits.

10. “Claims Administration Expenses” means all reasonable costs and expenses incurred in (1) the notice process, which includes all costs incurred in connection with preparing, printing, publishing, and mailing the Direct Notice; and (2) the administration process, which includes all costs and expenses incurred to hire a Class Action Settlement Administrator and costs of processing claims and administering the Settlement Agreement. These costs shall be paid by Defendant. Claims Administration Expenses does not include the costs and expenses of the Special Master and any consulting experts assigned to assist the Special Master in developing the Allocation Process.

11. “Class Action Settlement Administrator” means Steven Weisbrot of Angeion Group, LLC.

12. “Co-Class Counsel” means John Gomez of Gomez Trial Attorneys, 655 W. Broadway, Suite 1700, San Diego, CA 92101; Richard Gordon and Martin Wolf of Gordon, Wolf & Carney, 100 W. Pennsylvania Ave, Suite 100, Towson, MD 21204; and John R. Wertz, 2345 Willow St, San Diego, CA 92106.

13. “Court” means the United States District Court for the Central District of California.

14. “Defendant” means Monsanto Company, Solutia Inc., and Pharmacia LLC (the former Monsanto Company), including each and all past, present, or future, direct or indirect, predecessors, successors (including but not limited to successors by merger or acquisition), parents (including intermediate parents and ultimate parents), subsidiaries, affiliated or related companies, divisions, partnerships, and joint ventures; and any past, present, or future officer, director, member, shareholder, employee, partner, trustee, representative, agent, servant, insurer, attorney, predecessor, successor, or assignee of any of the above.

15. “Defendant’s Counsel” means the following, either individually or collectively:

Mark D. Anstoetter
Brent Dwerlkotte
SHOOK, HARDY & BACON LLP
2555 Grand Blvd.
Kansas City, MO 64108
Phone: (816) 474-6550

16. “Direct Notice” means the form of notice described in Section V.

17. “Effective Date” means the latest date on which: (a) if no appeal has been taken from the Final Approval Order, the date on which the time to appeal therefrom has expired; or (b) if any appeal has been taken from the Final Order, the date on which all appeals therefrom, including petitions for rehearing or reargument, petitions for rehearing en banc and petitions for certiorari or any other form of review, have been finally disposed of and/or have expired in a manner that

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affirms the Final Order; or (c) on any other agreed date if Plaintiffs' Counsel and Defendant's Counsel agree in writing.

18. "Final Approval Order" means the order to be entered by the Court pursuant to the Settlement Agreement that finally approves the Settlement.

19. "EPA" means and refers to the United States Environmental Protection Agency.

20. "HUC 12 Watershed" means and refers to a United States Geological Survey ("USGS") 12-Digit Hydrologic Unit Code Watershed.

21. "Imperviousness" means and refers to the percentage of an area that is considered impervious per the USGS Geodatabase.

22. "Independent port district" means and refers to a port district that is a separate or independent public legal entity, and does not mean, refer to, or include port districts that are agencies or departments of another public entity.

23. "Initial Settlement Class Members" means and refers to those 2,528 cities, towns, villages, townships, boroughs, counties and independent port districts identified in Exhibit A in accordance with the Settlement Class definition, effective as of June 24, 2020 only, but not later.

24. "Lead Class Counsel" means Scott Summy, John Fiske, and Carla Burke Pickrel of Baron & Budd, P.C.

25. "Litigating Entities" mean and refers to the following list of Initial Settlement Class Members: City of Chula Vista, City of San Diego, Unified Port District of San Diego, City of Long Beach, County of Los Angeles, City of San Jose, City of Berkeley, City of Oakland, City of Portland, Port of Portland, City of Seattle, City of Tacoma, City of Spokane, City of Baltimore, and Baltimore County.

26. "Mediator" means retired magistrate Judge Jay C. Gandhi.

27. "Named Class Plaintiffs" mean City of Long Beach; Mayor and City Council of Baltimore; Baltimore County; City of Berkeley; City of Chula Vista; County of Los Angeles; City of Oakland; City of Portland; Port of Portland; City of San Diego; City of San Jose; City of Spokane; and City of Tacoma.

28. "Notice" means the Court-approved form of notice of this Settlement Agreement to the Settlement Class, as described in Section V below, and substantially in the forms attached hereto as Exhibit I (Direct Notice). "Notice Plan" means the plan for disseminating Notice to the Settlement Class, which shall include direct notice in the manner and form set forth below in Section V.

29. "Noticed Parties" means and refers to those Settlement Class Members that have received notification of potential responsibility or liability, including those noticed Potentially Responsible Parties ("PRPs"), as used and defined within the context of a respective regulatory action,

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including but not limited to the U.S. EPA Superfund Site Program, U.S. EPA Sediment Site Program, or Clean Water Act TMDL Program.

30. “NPDES” means and refers to the United States Environmental Protection Agency National Pollutant Discharge Elimination System, including its permit program, created by the Clean Water Act of 1972, as amended.

31. “Opt-Out Entity” means and refers to those Initial Settlement Class Members that have timely and properly requested to be excluded from the Settlement Class pursuant to the terms of this Agreement.

32. “Parties” means Plaintiffs and Defendant.

33. “PCB” or “PCBs” means and refers to polychlorinated biphenyls.

34. “Person” means an individual, corporation, partnership, limited partnership, association, joint stock company, estate, legal representative, trust, unincorporated association, business, legal entity, government or any political subdivision or agency thereof.

35. “Phase I” means and refers to the NPDES Stormwater program’s 1990 Phase I regulation of cities, towns, boroughs, villages, townships, counties, and independent port districts. There are 273 Phase I Initial Class Members.

36. “Phase II” means and refers to the NPDES Stormwater program’s 1999 Phase II regulation of cities, towns, boroughs, villages, townships, counties, and independent port districts. There are 2,255 Phase II Initial Class Members.

37. “Plaintiffs’ Counsel” means the following, either individually or collectively, in whole or in part:

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Carla Burke Pickrel
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John P. Fiske
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San Diego, CA 92106.

Richard Gordon
Martin Wolf
Gordon, Wolf & Carney
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Towson, MD 21204

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38. “Preliminary Approval Order” means the order to be entered by the Court pursuant to the Settlement Agreement.

39. “Qualifying Sediment Sites” means and refers to the nine (9) sites listed in Paragraph 79(b). Qualifying Sediments Sites are effective as of June 24, 2020 only, but not later.

40. “Qualifying Sediment Site Entities” means and refer to the twelve (12) Initial Settlement Class Members listed in Paragraph 79(c). Qualifying Sediment Site Entities are effective as of June 24, 2020 only, but not later.

41. “Released Claims” means all claims, demands, rights, damages, obligations, suits, debts, liens, contracts, agreements, and causes of action of every nature and description whatsoever, ascertained or unascertained, suspected or unsuspected, existing now or arising in the future, whether known or unknown, both at law and in equity which were or could have been alleged related to the manufacture, sale, testing, disposal, release, marketing, or management of PCBs, including but not limited to any claims based upon or related in any way to the subjects of the Action, the Underlying Actions, or this Settlement Agreement or any component parts thereof, and regardless of the legal theory or type or nature of damages claimed; provided, however, that nothing in this Settlement Agreement will preclude or affect any action brought by governmental entities seeking response costs, penalties, or other remedies, under the Comprehensive Response, Compensation and Liability Act (“CERCLA”) or similar state Superfund statutes and applicable regulations, or under any other laws or regulations, related to Defendant’s or a Released Person’s discharge or disposal of PCBs. This Agreement shall in no way affect any administrative test claims related to the California Water Board. Released Claims also include any claim for attorneys’ fees, expenses, costs, and catalyst fees under any state’s law or under federal law. The Releases provided herein shall be mutual between Plaintiffs, Settlement Class Members, and Releasing Persons, on the one hand, and Defendant and Released Persons on the other hand. Releasing Persons release only Released Persons as defined herein.

42. “Released Persons” means Defendant and any Affiliate of Defendant, including but not limited, to Bayer AG, Pfizer Inc., and Eastman Chemical Company. “Affiliate” under this Settlement means each and all past, present, or future, direct or indirect, predecessors, successors (including but not limited to successors by merger or acquisition), parents (including intermediate parents and ultimate parents), subsidiaries, affiliated or related companies, divisions, partnerships, and joint ventures; and any past, present, or future officer, director, shareholder, employee, partner, trustee, representative, agent, servant, insurer, attorney, predecessor, successor, or assignee of any of the above.

43. “Releasing Persons” shall include Named Class Plaintiffs and all Settlement Class Members, and each of their past, present, or future, direct or indirect, predecessors, successors (including but not limited to successors by merger or acquisition), parents (including intermediate parents and ultimate parents), subsidiaries, affiliated or related companies, divisions, partnerships, and joint ventures; and any past, present, or future officer, director, shareholder, employee, partner, trustee, representative, agent, servant, insurer, attorney, predecessor, successor, or assignee of any of the above.

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44. “Responsible Parties” means and refers to those Settlement Class Members that have been designated as potentially responsible or liable parties, as used and defined within the context of a respective regulatory program, including the U.S. EPA Superfund Site Program, U.S. EPA Sediment Site Program, or Clean Water Act TMDL Program.
45. “Sediment Sites” means and refers to those sites wherein PCBs have contaminated sediment through stormwater contribution, including sites from only the following three lists: (1) U.S. EPA Superfund Sites, (2) U.S. EPA Large Sediment Sites, and (3) Clean Water Act Category 4b Sites/Waters, exclusive of sites receiving combined sewer overflow discharges from Defendant’s manufacture of PCBs.
46. “Sediment Sites Fund Application” means and refers to Exhibit F.
47. “Sediment Sites Fund” means and refers to the \$150,000,000 fund to be allocated among the twelve (12) Qualifying Sediment Site Entities.
48. “Sediment Sites Appeals and Reserve Fund” means and refers to the appeals reserve fund equal to or less than 10% of the value of the Sediment Site Fund, as established in the discretion of the Special Master.
49. “Settlement” means the settlement set forth in this Settlement Agreement.
50. “Settlement Agreement” means this document which describes the Settlement.
51. “Settlement Class” means and refers to “As of June 24, 2020 only, but not later, all NPDES Phase I and II city, town, village, borough, township, and independent port district MS4 permittees with jurisdictional boundaries within a HUC 12 Watershed that contains and/or is immediately adjoining a 303(d) water body impaired by PCBs and all NPDES Phase I and II county MS4 permittees with urbanized, unincorporated boundaries within a HUC 12 Watershed that contains and/or is immediately adjoining a 303(d) water body impaired by PCBs.”
52. “Settlement Class” means the Settlement Class above and any and all sub-classes contained therein, as of June 24, 2020 only, but not later.
53. “Settlement Class Allocation” means and refers to the process of Allocating the Class Benefit as described throughout this Settlement Agreement, including but not limited to those paragraphs under Section “IV. SETTLEMENT BENEFITS AND ALLOCATION.”
54. “Settlement Class Members” means all persons who are members of the Settlement Class and who do not timely and properly request exclusion from the Settlement Class pursuant to the terms of this Agreement.
55. “Settling Parties” means Settlement Class Members and Defendant.
56. “Settlement Funds” means the amount of the Settlement to be paid to Settlement Class Members as explained in Section IV.
57. “USGS” means and refers to the United States Geological Survey.

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58. “Special Master” means the individual(s) who the Parties will move the Court to appoint pursuant to Federal Rule of Civil Procedure 53, and who will be responsible for working with the Allocation Experts to allocate certain Settlement Funds, make final Allocation determinations, implement the Allocation, and direct distribution of Settlement Funds, as necessary to further develop and implement the Allocation.
59. “Special Master Allocation” means and refers to the process by which the Special Master allocates the Sediment Sites Fund, Special Needs, Part A Fund, and Special Needs, Part B Fund.
60. “Special Needs Funds” means and refers to those funds allocated to the Special Needs Fund, including Part A and Part B.
61. “Special Needs Fund, Part A” means and refers to those funds allocated to Part A of the Special Needs Fund, equal to \$57,105,000.
62. “Special Needs Fund, Part A Application” means and refers to Exhibit G.
63. “Special Needs Fund, Part B” means and refers to those funds allocated to Part B of the Special Needs Fund, equal to \$50,000,000.
64. “Special Needs Fund, Part B Application” means and refers to Exhibit H.
65. “TMDL” means and refers to Total Maximum Daily Load pursuant to Section 303(d) of the Clean Water Act, and collectively at times may refer to TMDL Alternatives or TMDL Direct-to-Implementation regulatory processes.
66. “TMDL Alternative” means and refers to the TMDL Alternative regulatory process as defined and used in Section 303(d) of the Clean Water Act, 33 U.S.C § 1251 *et seq.* (as amended) (“Clean Water Act”).
67. “TMDL Direct-to-Implementation” means and refers to a regulatory method of implementing and enforcing a TMDL Alternative, and/or means and refers to an alternative method to enforce section 303(d) of the Clean Water Act in lieu of a TMDL.
68. “TMDL Fund Entities” means and refers to those Initial Settlement Class Members listed on Exhibit D. TMDL Fund Entities are effective as of June 24, 2020 only, but not later.

III. REQUIRED EVENTS

69. In conjunction with filing the executed Settlement Agreement with the Court, Named Class Plaintiffs shall file a motion for leave to file an Amended Class Action Complaint naming City of Long Beach; Mayor and City Council of Baltimore; Baltimore County; City of Berkeley; City of Chula Vista; County of Los Angeles; City of Oakland; City of Portland; Port of Portland; City of San Diego; City of San Jose; City of Spokane; and City of Tacoma as Named Class Plaintiffs and seeking certification of the following Settlement Class:

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Settlement Class:

“As of June 24, 2020 only, but not later, all NPDES Phase I and II city, town, village, borough, township, and independent port district MS4 permittees with jurisdictional boundaries within a HUC 12 Watershed that contains and/or is immediately adjoining a 303(d) water body impaired by PCBs and all NPDES Phase I and II county MS4 permittees with urbanized, unincorporated boundaries within a HUC 12 Watershed that contains and/or is immediately adjoining a 303(d) water body impaired by PCBs.”

70. Within a reasonable time following the filing of the Motion for Preliminary Approval, the Parties also agree to file joint motions to stay all the pending litigations. The joint motions to stay will seek to stay each case until the Effective Date of the Settlement as defined in this Settlement Agreement. However, if the Settlement Agreement is not approved and/or does not become effective, all litigation between Named Class Plaintiffs and Defendant will be restored without prejudice to their respective positions in the Actions as if the Settlement Agreement, any application for its approval by the Court, and the filing of the proposed Amended Class Action Complaint in the *City of Long Beach* Action had not been made, submitted or filed. The Parties shall file a joint Motion for Conditional Certification of Settlement Class, Preliminary Approval of Settlement, Approval of Notice Plan, Appointment of Notice Administrator, and Appointment of Class Counsel (“Motion for Preliminary Approval”). The Motion for Preliminary Approval shall, among other things:

- (a) Include supporting declarations from the Special Master, Judge (Ret.) Jay Gandhi, and the proposed Class Action Settlement Administrator, Steven Weisbrot of Angeion Group, LLC; and
- (b) Seek entry of a proposed Preliminary Approval Order which would, for settlement purposes only, certify the Settlement Class; preliminarily approve the Settlement Agreement; approve the proposed Notice Plan, including the Direct Notice, as set forth in Exhibit I and Section V of this Settlement Agreement; appoint Steven Weisbrot as the Class Action Settlement Administrator; appoint Judge (Ret.) Jay Gandhi as the Special Master to implement the Allocation (with the assistance of Mediator Lexi Myers and Allocation Experts Michael Trapp and Rob Hesse); appoint Lead and Co-Class Counsel; schedule the Final Approval Hearing; and set a briefing schedule for the Final Approval Hearing.

71. In accordance with the Court’s Preliminary Approval Order, the Parties shall subsequently file a joint Motion for Final Approval of Settlement (“Motion for Final Approval”). The Motion shall seek entry of a proposed Final Approval Order that would, among other things: grant final approval of the Settlement Agreement and direct its implementation pursuant to its terms and conditions; discharge and release the Released Persons, and each of them, from the Released Claims; permanently bar and enjoin all Releasing Persons from instituting, maintaining, or prosecuting, either directly or indirectly, any lawsuit that asserts Released Claims; direct that the action be dismissed with prejudice and without costs; state pursuant to Federal Rule of Civil Procedure 54(b) that there is no just reason for delay and directing that the Final Approval Order

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and Judgment is a final, appealable order; and reserve to the Court continuing and exclusive jurisdiction over the Settling Parties with respect to the Settlement Agreement and the Final Approval Order. In particular, the proposed Final Approval Order shall specify that, without in any way affecting the finality of the Final Approval Order, the Court expressly retains exclusive and continuing jurisdiction over the Parties, including the Settlement Class, in all matters relating to the administration, consummation, validity, enforcement and interpretation of the Settlement Agreement and the Final Approval Order, including, without limitation, for the purpose of: (a) enforcing the terms and conditions of the Settlement Agreement and negotiations and resolving any disputes that arise out of the implementation or enforcement of the Settlement Agreement; (b) entering such additional orders, if any, as may be necessary or appropriate to protect or effectuate the Final Order and the Settlement Agreement (including, without limitation, orders enjoining persons or entities pursuing any claims), or to ensure the fair and orderly administration of the Settlement; and (c) entering any other necessary or appropriate orders to protect and effectuate this Court's retention of continuing jurisdiction over the Settlement Agreement and the Parties in matters relating to the implementation or enforcement of the Settlement Agreement.

IV. SETTLEMENT BENEFITS AND ALLOCATION

72. Settlement Class Members will receive a settlement check from the Class Action Settlement Administrator based on the Settlement Class Allocation method developed by Lead Class Counsel, the Special Master, and the Named Class Plaintiffs' consulting experts. Under Plaintiffs' Settlement Class Allocation, four separate funds will be created, including: (1) Monitoring Fund; (2) TMDL/TMDL Alternative/TMDL Direct-to-Implementation Fund ("TMDL Fund"); (3) Sediment Sites Fund; and (4) Special Needs Fund.

73. Settlement benefits vary based on the Settlement Class Members' status as described in Paragraphs 76-82 below. Monsanto Company, on behalf of the entities described in Paragraphs 14 and 42, agrees to pay, within thirty (30) days of the Effective Date of this Agreement, into the Class Action Settlement Administrator's escrow account a lump sum of Five Hundred and Fifty Million Dollars (\$550,000,000) that shall be distributed to Settlement Class Members in four (4) annual payments based on the following percentages: Year 1: 40%; Year 2: 20%; Year 3: 20%; Year 4: 20% ("Settlement Fund"), except that the Monitoring Fund Payments will be disbursed in their entirety during the first payment in Year 1. The first payment (Year 1) shall be made as soon as possible and at the earliest reasonable direction by the Special Master to the Claims Administrator. Each subsequent annual payment will be made at or near the anniversary date, at the direction of the Special Master to the Claims Administrator. In addition, Monsanto Company, on behalf of the entities described in Paragraphs 14 and 42, agrees to pay Attorneys' Fees and Expenses as provided under Section VII of the Settlement Agreement. Monsanto Company, on behalf of the entities described in Paragraphs 14 and 42, also agrees to pay Claims Administration Expenses.

74. Subject to Paragraphs 79(e), 81, and 102, any remainder or unclaimed Settlement Funds, that are remaining or unclaimed one (1) year after the date of disbursement of those particular funds, shall be redistributed, at the direction of the Special Master to the Class Action Settlement Administrator, to Class Members that received an allocation under Special Needs Fund, Part B on a pro-rata basis.

75. **Class Member Identification**

“As of June 24, 2020 only, but not later, all NPDES Phase I and II city, town, village, borough, township, and independent port district MS4 permittees with jurisdictional boundaries within a HUC 12 Watershed that contains and/or is immediately adjoining a 303(d) water body impaired by PCBs and all NPDES Phase I and II county MS4 permittees with urbanized, unincorporated boundaries within a HUC 12 Watershed that contains and/or is immediately adjoining a 303(d) water body impaired by PCBs.”

Initial Settlement Class Members are identified in accordance with the Class Definition using three publicly maintained and available databases, as follows: (1) the U.S. EPA 303(d) list of bodies of water impaired by PCBs; (2) USGS HUC 12 Watersheds; (3) U.S. Census Bureau.

- (a) The list of Initial Settlement Class Members is attached hereto as Exhibit A.
- (b) The list of U.S. EPA 303(d) water bodies impaired by PCBs is attached hereto as Exhibit B.
- (c) The list of USGS HUC 12 Watersheds that contain and/or immediately adjoin 303(d) water bodies impaired by PCBs is attached hereto as Exhibit C.

The following geospatial and data overlay analyses reveal the total, finite list of Initial Settlement Class Members:

First, all 303(d) water bodies impaired by PCBs were identified. Then, all USGS HUC 12 Watersheds, which contain and/or are immediately adjoining all 303(d) water bodies impaired by PCBs, were identified. Thirdly, as of June 24, 2020 only, but not later, the NPDES Phase I and II city, town, village, borough, township, and independent port district MS4 permittees with jurisdictional boundaries within a HUC 12 Watershed that contains and/or is immediately adjoining a 303(d) water body impaired by PCBs and all NPDES Phase I and II county MS4 permittees with urbanized, unincorporated boundaries within a HUC 12 Watershed that contains and/or is immediately adjoining a 303(d) water body impaired by PCBs, were identified. The U.S. Census Bureau database was used to identify all class members except townships, which were originally identified as MS4 permittees by EPA and then confirmed using the U.S. Census Bureau database.

The total number of Initial Settlement Class Members, as identified in Exhibit A, is 2,528.

76. **Settlement Class Allocation**

The Settlement Funds of five hundred and fifty million dollars (\$550,000,000) will be allocated into four separate Allocation Funds as follows:

- (a) Monitoring Fund: \$42,895,000

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- (b) TMDL Fund: \$250,000,000
- (c) Sediments Fund: \$150,000,000
- (d) Special Needs Fund: \$107,105,000

Each Allocation Fund will be allocated as described in each corresponding section, below.

77. **Monitoring Fund:**

The Monitoring Fund will provide a minimum payment to all Settlement Class Members as consideration for a class release. The funds are intended to pay for PCB sampling and/or any other mitigation efforts in the Settlement Class Member's sole discretion, as part of compliance with applicable law. The total number of nationwide class members is 2,528, each of which will receive payment from the Monitoring Fund as follows:

The Monitoring Fund provides payment at four levels based on whether the Initial Settlement Class Member is a Phase I or Phase II NPDES Permittee, and whether the Initial Settlement Class Member contains a population of at least 100,000. Independent port districts are excluded from the population consideration and therefore included in levels above 100,000. Phase I Permittees are generally larger than Phase II Permittees. There are two hundred and seventy-three (273) Phase I Initial Settlement Class Members, and there are two thousand two hundred and fifty-five (2,255) Phase II Initial Settlement Class Members. Notwithstanding of any other payment made within the Allocation, Phase I Initial Settlement Class Members with populations greater than 100,000 and Phase I independent port districts each will receive thirty thousand dollars (\$30,000); Phase I Initial Settlement Class Members with populations less than 100,000 each will receive twenty thousand dollars (\$20,000); Phase II Initial Settlement Class Members with populations greater than 100,000 and Phase II independent port districts each will receive twenty-five thousand dollars (\$25,000); Phase II Initial Settlement Class Members with populations less than 100,000 each will receive fifteen thousands dollars (\$15,000).

- (a) Phase I \geq 100,000 pop. and Phase I independent port districts: $124 \times \$30,000 = \$3,720,000$
- (b) Phase I $<$ 100,000 pop.: $149 \times \$20,000 = \$2,980,000$
- (c) Phase II \geq 100,000 pop. and Phase II independent port districts: $237 \times \$25,000 = \$5,925,000$
- (d) Phase II $<$ 100,000 pop.: $2018 \times \$15,000 = \$30,270,000$

78. **TMDL Fund:**

- (a) **TMDL Fund.** The TMDL Fund is allocated two hundred and fifty million dollars (\$250,000,000) and includes only those Initial Settlement Class Members that are subject to and/or responsible for, as of June 24, 2020 only, but not later, a TMDL, TMDL Alternative, or TMDL Direct-to-Implementation regulation, promulgated

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or updated after January 1, 2010, wherein PCB is a named constituent. There are two hundred and forty-two (242) TMDL Fund Entities, as of June 24, 2020 only, but not later, as listed in and attached hereto as Exhibit D. TMDL funds are intended to compensate Settlement Class Members for restitution and remediation including mitigation of contaminated property, stormwater, and/or stormwater systems, including compliance with a TMDL.

- (b) **Allocation Algorithm.** The TMDL Funds of \$250,000,000 are further allocated among all 242 TMDL Fund Entities using the following TMDL Allocation Calculation: for all TMDL Fund Entities, multiply (1) the total jurisdictional area within any HUC 12 Watershed that contains and/or is immediately adjoining a 303(d) water body with a PCB TMDL, by (2) the USGS Geodatabase Imperviousness of such jurisdictional area (known as “Weighted Imperviousness”). Then, proportionally normalize¹ all Weighted Imperviousness values to calculate a weighted, relative percentage for each TMDL Fund Entity. Lastly, multiply (1) the weighted, relative percentage for each TMDL Fund Entity, by (2) the total fund less Population Factor Awards. A 0.7 multiplier is applied to any TMDL Fund Entity with a population of less than one hundred thousand (100,000).
- (c) **Large Population Factor.** To account for population as a factor in the equitable allocation of the TMDL Fund, each TMDL Fund Entity town, city, village, borough, or township with a population of more than 1 million, and each TMDL Fund Entity county with a population of more than 2 million, will receive a Population Factor Award of \$2 million.
- (d) **Maximum Allowance.** No TMDL Fund Entity shall recover more than seven million five hundred thousand dollars (\$7,500,000) as an absolute maximum recovery under the TMDL Fund, regardless of whether a Population Factor Award would otherwise have provided for an amount greater than \$7,500,000.

79. **Sediment Sites Fund:**

- (a) **Sediment Sites Fund.** The Sediment Sites Fund is allocated \$150,000,000 and includes those Initial Settlement Class Members that, as of June 24, 2020 only, but not later, are a Noticed Party or named Responsible Party in at least one of three types of regulated Sediment Sites wherein PCBs have contaminated sediments due to stormwater contribution. The three types of Sediments Sites include only the following: (1) U.S. EPA Superfund Sites, (2) U.S. EPA Large Sediment Sites, and/or (3) Clean Water Act Category 4b Sites/Waters. Sediment Site funds are

¹ TMDL fund class member portion =

$$\left(\frac{\text{Class member's impervious TMDL land area}}{\sum \text{Impervious TMDL land areas of all TMDL fund class members}} \right) \times (\text{Total TMDL fund} - \sum \text{population bonus})^*$$

*TMDL fund class member exceeding 3% of total TMDL fund will be capped at 3% of the total TMDL fund. These TMDL fund class members will be subtracted from the proportional calculation of the TMDL fund. A 0.7 multiplier is applied to any TMDL Fund Entity with a population of less than 100,000.

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intended to compensate Class Members for restitution and remediation, including mitigation of contaminated property, stormwater and/or stormwater systems, and including compliance with a regulatory process.

- (b) **Qualifying Sediment Sites.** The following is the list of the nine (9) Sediment Sites wherein at least one Initial Settlement Class Member, as of June 24, 2020 only, but not later, is a Noticed Party or named Responsible Party due to stormwater contribution of PCBs: Diamond Alkali-Lower Passaic River (Newark, New Jersey); Newtown Creek (New York, New York); Gowanus Canal (New York, New York); Lower Duwamish Waterway (Seattle, Washington); Portland Harbor (Portland, Oregon); Commencement Bay, Near Shore/Tide Flats (Tacoma, Washington); Harbor Island (Lead) (Seattle, Washington); Pacific Sound Resources (Seattle, Washington); San Diego Bay (San Diego, California).
- (c) **Qualifying Sediment Site Entities.** The following is the list of the twelve (12) Initial Settlement Class Members that, as of June 24, 2020 only but not later, are Noticed Parties or named Responsible Parties, due to stormwater contribution of PCBs, in at least one Sediment Site: City of Newark, New Jersey; City of New York, New York; City of Seattle, Washington; King County, Washington; Port of Seattle, Washington; City of Tukwila, Washington; City of Tacoma, Washington; Port of Tacoma, Washington; City of Portland, Oregon; Port of Portland, Oregon; City of San Diego, California; Port of San Diego, California.
- (d) **Special Master Allocation.** The Sediment Fund will be further allocated among the twelve (12) Qualifying Sediment Site Entities pursuant to a court-appointed Special Master, who will equitably allocate Sediment Site funds, upon application, based on the totality and relativity of the following PCB-caused factors: past costs and expenses spent as of the date of the application for Sediment Site remediation; past costs and expenses spent as of the date of the application for other mitigation required due to the Sediment Site; documented and evidenced future costs and expenses that will be spent for Sediment Site remediation; documented and evidenced future costs and expenses that will be spent for mitigation required due to the Sediment Site; and any other important factors or information deemed relevant by the Special Master. The Special Master will rely solely on the application and documents submitted and will not include oral advocacy, presentation, interview, or interactive process. All applications and documents submitted to the Special Master for the Allocation will be and will remain confidential, and subject to Federal Rule of Evidence section 408 and state law equivalent code sections, to this Settlement Allocation process and shall not be disclosed or shared beyond the review of the following: the Special Master, the Allocation Experts, Lead Class Counsel, the Class Action Settlement Administrator, and the Court. At the discretion of the Special Master, Defendant may have access to the information for business purposes only, such as insurance or other business needs, provided however that such materials are maintained by Defendant as confidential to the extent legally allowable. The Class Action Settlement Administrator shall also provide Monsanto with a quarterly accounting of the Settlement Funds and any distributions made as part of the Allocation.

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Documents related to the Portland Harbor Superfund Site shall remain confidential in any event during the pendency of the Portland Harbor Superfund Site action. The standard for any judicial oversight or review, if any, of the Special Master will be an “abuse of discretion” standard.

- (e) **Sediment Sites Application.** The Sediment Sites Application is attached hereto as Exhibit F. To the extent a Qualifying Sediment Site Entity Opt Out of the Settlement Class, or a Qualifying Sediment Site Entity does not Opt Out but fails to submit an Application, the Special Master will rely on the Allocation Experts to determine, upon application completed by the Allocation Experts, the allocation amount that could have been otherwise allocated to the Qualifying Sediment Site Entity that did not submit an application. Settlement Class Members that do not return a completed application or that return a late application will forfeit the right to appeal as described in subsection (f) below, but will not forfeit the receipt of Reserve Funds, distributed pro-rata after all appeals are exhausted. Funds allocated to any non-Opt-Out Qualifying Sediment Entities shall be disbursed in accordance with this Agreement. Funds allocated to any non-Litigating Entity Qualifying Sediment Site Entity Opt-Outs shall be disbursed to all non-Opt-Out Qualifying Sediment Site Entities on a pro-rata basis as determined by the Special Master. Funds allocated to any Opt-Out Litigating Entity Qualifying Sediment Site Entity shall be refunded to Defendant.
- (f) **Sediment Site Allocation Appeals and Reserve Funds.** The Special Master shall use the Sediment Sites Application to inform, guide, and design an equitable allocation among all eligible applicants. The Special Master may, but is not required to, create an appeals process by utilizing a Sediment Sites Appeals Reserve Fund of up to ten percent (10%) of the \$150,000,000 fund. If created by the Special Master, the appeals process will allow for one (1) *de novo* appeal from each eligible applicant, and any decisions will be at the discretion of the Special Master. The appeals process, if any, shall be conducted within an efficient time-frame so as not to hinder the progress of the overall Allocation. The appeals process, if any, shall include only a two (2) page written appeal explaining the basis for the appeal, referring only to the original application as evidence of such basis. Any Sediment Sites Appeals Reserve Funds remaining after all appeals have been decided by the Special Master shall be redistributed to all Sediment Site Settlement Class Members on a pro-rata basis. All final decisions of the Special Master, after any appeals process, if any, will be final, binding, and unappealable.

80. **Special Needs Funds:**

- (a) **Special Needs Funds.** The Special Needs Fund is allocated \$107,105,000, and further allocated into two separate parts known as Special Needs Fund, Part A (\$57,105,000), and Special Needs Fund, Part B (\$50,000,000).
- (b) **Special Needs Fund, Part A.** Special Needs Fund, Part A is allocated fifty seven million one hundred and five thousand (\$57,105,000) to compensate and accommodate those Litigating Entities whose time, energy, effort, attorney work

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product, costs, expenses, and risk of litigation helped to cause the entire Class Settlement, for the benefit of all 2,528 Initial Settlement Class Members.

- (c) **Litigating Entities.** Special Needs Fund, Part A is available only to those Initial Settlement Class Members that are Litigating Entities. Litigating Entities are Initial Settlement Class Members that, as of June 24, 2020 only, but not later, (1) have filed tort, public nuisance, and/or product liability lawsuits against Defendants for PCB contamination of stormwater and sediment, and/or (2) that are Named Class Members. Litigating Entities include only the following fifteen (15) Initial Settlement Class Members: City of Chula Vista, City of San Diego, Unified Port District of San Diego, City of Long Beach, County of Los Angeles, City of San Jose, City of Berkeley, City of Oakland, City of Portland, Port of Portland, City of Seattle, City of Tacoma, City of Spokane, City of Baltimore, and Baltimore County.
- (d) **Special Master Allocation.** Special Needs Fund, Part A, will be further allocated pursuant to a court-appointed Special Master, who will equitably and reasonably allocate Part A funds, upon application, based on the totality and relativity of the following factors: whether outside counsel was retained; whether a lawsuit was filed; how long the lawsuit was filed at the time of Preliminary Class Approval; the case posture and procedure of any lawsuit; the amount, time, energy, cost, and productivity during discovery with Defendants; the retention of experts; the development of expert testimony and reports; the preparation and presentation of experts for deposition; the litigation of significant motions, including but not limited to motions to dismiss, discovery motions, motions for summary judgment or adjudication, in limine motions, and other motions; and any other important factors or information deemed relevant by the Special Master as having a significant impact on, or catalyst for, this Settlement. The Special Master will rely solely on the application and documents submitted and will not include oral advocacy, presentation, interview, or interactive process. All applications and documents submitted to the Special Master for the Allocation will be and will remain confidential, and subject to Federal Rule of Evidence section 408 and state law equivalent code sections, to this Settlement Allocation process and shall not be disclosed or shared beyond the review of the following: the Special Master, the Allocation Experts, Lead Class Counsel, the Class Action Settlement Administrator, and the Court. The Claims Administrator shall also provide Monsanto with a quarterly accounting of the Settlement Funds and any distributions made as part of the Allocation. The standard for any judicial oversight or review, if any, of the Special Master will be an “abuse of discretion” standard. The Special Master will give attention and consideration to any Litigating Entity that has incurred attorneys’ fees to outside counsel, other than Lead or Co-Class Counsel. The Special Master will reasonably and equitably prioritize and reimburse any Litigating Entity that, through outside counsel other than Lead or Co-Class Counsel, incurred reasonable, documented out-of-pocket litigation costs.
- (e) **Restrictions.** Litigating Entities, which as of October 2019, were under contract for representation by Lead or Co-Class Counsel shall not recover for outside counsel fees in the Special Needs Fund, Part A. Litigating Entities that retained

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outside counsel, and that were not under contract for representation by Lead or Co-Class Counsel, may apply for and receive, subject to Special Master Allocation, an equitable and reasonable allocation for such outside counsel, including attorneys' fees and costs. Nothing herein shall prevent any Litigating Entity from applying for and receiving, subject to Special Master Allocation, an equitable allocation for in-house or general counsel fees, overhead, salaries, time, energy, costs, resources, and/or attention, including but not limited to city attorneys, county counsel, and/or general counsel.

- (f) **Application and Forfeiture.** The Special Needs Fund, Part A Application is attached hereto as Exhibit G. The Special Master shall use the Special Needs Fund, Part A Application to inform, guide, and design an equitable allocation among all eligible applicants. Litigating Entities that do not timely return a completed application forfeit any right to Part A Funds.
- (g) **Part A Appeals and Reserve Funds.** The Special Master may, but is not required to, create an appeals process by utilizing a Part A Appeals Reserve Fund of up to ten percent (10%) of the \$57,105,000 fund. If created by the Special Master, the appeals process will allow for one (1) *de novo* appeal from each eligible applicant, and any decisions will be the discretion of the Special Master. The appeals process, if any, shall be conducted within an efficient time-frame so as not to hinder the progress of the overall Allocation. The appeals process, if any, shall include only a two (2) page written appeal explaining the basis for the appeal, referring only to the original application as evidence of such basis. Any Part A Appeals Reserve Funds remaining after all appeals have been decided by the Special Master shall be redistributed to all Litigating Entities on a pro-rata basis. All final decisions of the Special Master, after any appeals process, if any, will be final, binding, and unappealable.
- (h) **Special Needs Fund, Part B.** Special Needs Fund, Part B, is allocated fifty million dollars (\$50,000,000) and available to all Settlement Class Members who apply and make a showing, in the discretion of the Special Master, of a significant regional, state, or national benefit, cost, or contribution regarding 303(d) bodies of water impaired by PCBs through stormwater and/or dry weather runoff, and such benefit, cost, or contribution is not otherwise encompassed within any other part of this Allocation.
- (i) **Special Master Allocation, Application, and Forfeiture.** The Special Needs Fund, Part B Application is attached hereto as Exhibit H. The Special Master shall use the Special Needs Fund, Part B Application to equitably allocate Part B Funds among only those who apply. Settlement Class Members who do not apply will receive no Part B Funds. Application does not guarantee that the Special Master will allocate Part B Funds to the applicant. Some Part B applicants may not receive any Part B Funds. The Special Master shall use the Special Needs Fund, Part B Application to inform, guide, and design an equitable allocation among all eligible applicants. The Special Master will rely solely on the application and documents submitted and will not include oral advocacy, presentation, interview, or interactive

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process. All applications and documents submitted to the Special Master for the Allocation will be and will remain confidential, and subject to Federal Rule of Evidence section 408 and state law equivalent code sections, to this Settlement Allocation process and shall not be disclosed or shared beyond the review of the following: the Special Master, the Allocation Experts, Lead Class Counsel, the Claims Administrator, and the Court. At the discretion of the Special Master, Defendant may have access to the information for business purposes only, such as insurance or other business needs, provided however that such materials are maintained by Defendant as confidential to the extent legally allowable. The Class Action Settlement Administrator shall also provide Monsanto with a quarterly accounting of the Settlement Funds and any distributions made as part of the Allocation. Documents related to the Portland Harbor Superfund Site shall remain confidential in any event during the pendency of the Portland Harbor Superfund Site action. Settlement Class Members that do not timely return a completed application forfeit any right to Part B Funds.

- (j) **Part B Appeals and Reserve Funds.** The Special Master may, but is not required to, create an appeals process by utilizing a Part B Appeals Reserve Fund of up to ten percent (10%) of the \$50,000,000 fund. If created by the Special Master, the appeals process will allow for one (1) *de novo* appeal from each eligible applicant, and any decisions, including regarding eligibility, will be the discretion of the Special Master. The appeals process, if any, shall be conducted within an efficient time-frame so as not to hinder the progress of the overall Allocation. The appeals process, if any, shall include only a two (2) page written appeal explaining the basis for the appeal, referring only to the original application as evidence of such basis. Any Part B Appeals Reserve Funds remaining after all appeals have been decided by the Special Master shall be redistributed to all Part B awarded applicants only on a pro-rata basis. Part B applicants who did not receive an award under either an initial application or an appeal will not receive any pro-rata distribution after all appeals are exhausted. All final decisions of the Special Master, after any appeals process, if any, will be final, binding, and unappealable.
- (k) **Part B Equitable Purpose.** The Special Master may, in his sole discretion, fairly and reasonably, and consistent with the intention and general structure of the terms of the Allocation, equitably balance monetary allocations to Settlement Class Members to the extent that any did not receive a proper and appropriate Allocation in accordance with the terms herein.

81. In the event that a State Attorney General or any other entity acting on behalf of a State or a State-controlled entity files a future action (on or after March 27, 2020) against Defendant related to PCBs for which one or more Settlement Class Members were or are compensated under this settlement, then Settlement Class Members, within that same state, that are permitted and discharge or release PCBs into the 303(d) body of water impaired by PCBs that is the subject of the newly filed suit, shall have only their future payments reduced by twenty percent (20%). The 20% reduction of future payments shall occur evenly across all remaining payments in the payment schedule. In the event an Attorney General files a PCB suit that attempts to address PCBs across the entire state, then all Class Members in that state will have their future payments reduced by

20%. This Settlement shall not preclude nor waive any defenses Defendant may have with respect to such subsequently-filed action. This section requires that future payments to each entity be determined and notice of same be provided to Defendant prior to submitting the Settlement for Final Approval.

V. NOTICE OF PROPOSED SETTLEMENT TO SETTLEMENT CLASS MEMBERS

82. Notice of the Settlement to Settlement Class Members shall be provided pursuant to orders of the Court.

83. The Parties agree that reasonable notice of this Agreement consistent with Due Process requirements of the United States Constitution shall be given to any and all Settlement Class Members. To effectuate such notice, Lead Class Counsel has agreed to engage the Class Action Settlement Administrator to advise them and administer the notice process. Although Lead Class Counsel will be responsible for ensuring the Notice process is effectuated, Defendant's Counsel will have continued involvement in the Notice process. The text of the notice and the mechanisms for distributing the notices shall be subject to the approval of the Court and shall be the responsibility of the Class Action Settlement Administrator.

Initial Settlement Class Members have been identified in accordance with the Class Definition using three publicly maintained and available databases, as follows: (1) the U.S. EPA 303(d) list of bodies of water impaired by PCBs; (2) USGS HUC 12 Watersheds; (3) U.S. Census Bureau. Initial Settlement Class Members are identified as:

As of June 24, 2020 only, but not later, all NPDES Phase I and II city, town, village, borough, township, and independent port district MS4 permittees with jurisdictional boundaries within a HUC 12 Watershed that contains and/or is immediately adjoining a 303(d) water body impaired by PCBs and all NPDES Phase I and II county MS4 permittees with urbanized, unincorporated boundaries within a HUC 12 Watershed that contains and/or is immediately adjoining a 303(d) water body impaired by PCBs.

84. As part of the Notice Plan, the Class Action Settlement Administrator shall send the Direct Notices, substantially in the form attached hereto as Exhibit I, by U.S. Mail, to each member of the Settlement Class identified by the Parties through reasonable efforts as set forth above. All reasonable efforts will be made to notify each Class Member's in-house counsel or managing executive. Lead Class Counsel shall promptly provide this information to the Class Action Settlement Administrator who shall then mail Direct Notice within five days after the issuance of the Preliminary Approval Order, unless otherwise directed by the Court. The Class Action Settlement Administrator will promptly log each Direct Notice that is returned as undeliverable and shall provide copies of the log to Class Counsel and Defense Counsel. The Class Action Settlement Administrator shall take reasonable steps to re-mail all undeliverable Direct Notices to updated addresses provided by the National Change of Address Database maintained by the United States Post Office or by other means. In the event that any Direct Notice mailed to a Settlement Class Member is returned as undeliverable a second time, then no further mailing shall be required. Where the Class Action Settlement Administrator re-mails Direct Notice, the sixty (60) day

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deadlines to request exclusion or object as set forth in Sections VI.A and B shall apply from the date of the initial mailing attempt that was returned as undeliverable.

85. The Direct Notice, substantially in the form attached as Exhibit I or in such other form as directed by the Court, shall advise Settlement Class Members of the following:

- (a) General Terms: The Notice shall contain a plain and concise description of the nature of the Action; the fact of preliminary certification of the Settlement Class for settlement purposes; and the proposed Settlement itself, including a description of the Settlement Class Members, the benefits under the proposed Settlement, and what claims are released under the proposed Settlement.
- (b) Requests for Exclusion: The Notice shall inform Settlement Class Members that they have the right to exclude themselves from (opt out of) the Settlement. The Notice shall provide the deadlines and procedures for exercising this right.
- (c) Objections: The Notice shall inform Settlement Class Members of their right to object to the proposed Settlement and appear at the Final Approval Hearing. The Notice shall provide the deadlines and procedures for exercising these rights.
- (d) The Notice shall inform Settlement Class Members about the amounts being sought by Class Counsel as Attorneys' Fees and Expenses.

86. The Class Action Settlement Administrator shall maintain records of all of its activities, including logs of all telephone calls received and all mailings, and shall maintain an electronic database reflecting the running tally of all calls received and number and types of materials mailed by it in connection with this Settlement.

87. Pursuant to the Class Action Fairness Act of 2005, 28 U.S.C. § 1715(b), Defendant's Counsel shall serve notice of the settlement via First Class Mail on the appropriate federal and state officials no later than ten (10) calendar days after the filing of this Settlement Agreement with the Court. A proposed form of CAFA notice, without the accompanying attachments, is attached as Exhibit J.

88. The Class Action Settlement Administrator shall be responsible for, without limitation: (a) printing, mailing or arranging for the mailing of the Direct Notices; (b) handling returned mail not delivered to Settlement Class Members; (c) attempting to obtain updated address information for any Direct Notices returned without a forwarding address; (d) making any additional mailings required under the terms of this Settlement Agreement; (e) receiving and maintaining on behalf of the Court any Settlement Class Member correspondence regarding requests for exclusion and/or objections to the Settlement; (f) forwarding written inquiries to Class Counsel or their designee for a response, if warranted; and (g) otherwise implementing and/or assisting with the dissemination of the Notice of the Settlement. The Class Action Settlement Administrator shall also be responsible for, without limitation, implementing the terms of the Claims Process and related administrative activities.

89. If the Class Action Settlement Administrator fails to perform adequately on behalf of Defendant or the Settlement Class, the Parties may agree to remove the Class Action Settlement

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Administrator. If counsel cannot resolve the issue after a good faith attempt to do so, they will refer the matter to the Court for resolution.

90. The Class Action Settlement Administrator may retain one or more persons to assist in the completion of his or her responsibilities as reasonably necessary to fulfill the Class Action Settlement Administrator's duties herein.

91. Not later than twenty-one (21) days before the date of the Final Approval Hearing, the Class Action Settlement Administrator shall file with the Court a list of those persons who have opted out of or objected to the Settlement. The Class Action Settlement Administrator shall also file with the Court proof, by affidavit or declaration, of the aforesaid publications and mailings as well as the details outlining the scope, method and results of the notice program.

92. The Class Action Settlement Administrator and the Parties shall promptly after receipt provide copies of any requests for exclusion, objections and/or related correspondence to each other.

93. The cost of the above Notice shall be paid by Defendant.

VI. OBJECTIONS/REQUESTS FOR EXCLUSION/CANCELLATION

A. Requests for Exclusion

94. A Settlement Class Member may opt out of the Settlement Class. To exercise this exclusion right, the Settlement Class Member must send a written notification of the decision to request exclusion via certified or first class mail to the Class Action Settlement Administrator. The request for exclusion must bear the signature of the Settlement Class Member (even if represented by counsel), and the Settlement Class Member's current address and telephone number. If the Settlement Class Member has entered into a written or oral agreement to be represented by counsel, the request for exclusion shall also be signed by the attorney who represents the Settlement Class Member. Such requests must be postmarked or personally delivered on such schedule as the Court may direct. In seeking Preliminary Approval of this Agreement, the parties will request that the deadline for submission of requests for exclusion shall be set on a date no less than sixty (60) days after the Direct Notices are mailed. That deadline will be stated in the Direct Notice. Exclusions sent by any Settlement Class Member to incorrect locations shall not be valid. The Class Action Settlement Administrator shall forward within five (5) days copies of any written requests for exclusion to Lead Class Counsel and Defendant's Counsel. A list reflecting all requests for exclusion shall be filed with the Court by the Class Action Settlement Administrator no later than twenty-one (21) days before the Final Approval Hearing. If a potential Settlement Class Member files a request for exclusion, he or she may not file an objection under Paragraphs 98-101.

95. Any Settlement Class Member who has not timely and properly filed a written request for exclusion as provided in Paragraph 94 shall be bound by the Settlement and all subsequent proceedings, orders, and judgments, including, but not limited to, the Release and Final Approval Order. Any Settlement Class Member who elects to opt out of the Settlement Class pursuant to this Agreement shall not be entitled to relief under or affected by this Agreement.

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96. Settlement Class Members who have elected to opt out of the Settlement Class may withdraw their opt out requests prior to the Effective Date, but only if they accept the benefits and terms of this Settlement and dismiss with prejudice any other pending action against Defendant arising out of PCB-related impairments to water bodies.

97. Lead Class Counsel shall have the right to contact persons who file exclusion requests and to challenge the timeliness and validity of any exclusion requests, as well as the right to effect the withdrawal of any exclusion filed in error and any exclusion request which a Settlement Class Member wishes to withdraw for purposes of participating in the Settlement as set forth in this Agreement. The Court shall determine whether any of the contested opt-outs are valid.

B. Objections

98. A Settlement Class Member may object to the Settlement. To exercise this objection right, the Settlement Class Member must provide written notice of the objection via certified or first class mail to the Court and the Class Action Settlement Administrator. The objection must bear the signature of the Settlement Class Member (even if represented by counsel), the Settlement Class Member's current address and telephone number, and state the exact nature of the objection including any legal support the Settlement Class Member wishes to introduce in support of the objection, and whether or not the Settlement Class Member intends to appear at the Final Approval Hearing. If the Settlement Class Member is represented by counsel, the objection shall also be signed by the attorney who represents the Settlement Class Member and state whether the attorney representing the objector will appear at the Final Approval Hearing. Such objection must be postmarked or personally delivered on such schedule as the Court may direct. In seeking Preliminary Approval of this Agreement, the parties will request that the deadline for submission of notice of objections shall be set on a date no less than sixty (60) days after the Direct Notices are mailed. Objections sent by any Settlement Class Member to incorrect locations shall not be valid.

99. The Class Action Settlement Administrator shall forward any objection(s) to Class Counsel and Defendant's Counsel within five (5) days of receipt.

100. Any Settlement Class Member who fails to comply with the provisions of Paragraph 94-98 above shall waive and forfeit any and all rights to appear separately and/or to object, and shall be bound by all the terms of this Settlement Agreement and by all subsequent proceedings, orders and judgments, including, but not limited to, the Release, the Final Order and the Final Judgment in the Actions. The exclusive means for any challenge to this Settlement shall be through the provisions of this Section VI.B. Without limiting the foregoing, any challenge to the Settlement or Final Approval Order shall be pursuant to appeal under the Federal Rules of Appellate Procedure and not through a collateral attack.

101. Any Settlement Class Member who objects to the Settlement shall be entitled to all of the benefits of the Settlement if this Settlement Agreement and the terms contained herein are approved, as long as the objecting Settlement Class Member complies with all requirements of this Settlement Agreement applicable to Settlement Class Members, including the timely submission of an Application and other requirements herein.

C. Cancellation

102. Before the Parties move the Court for Final Approval of the Settlement, Defendant has the option to withdraw from the settlement, if any Named Class Action Plaintiff listed in Paragraph 28 or more than two percent (2%) of the Settlement Class Members opt out of the Settlement. If any Party that has filed a lawsuit against Defendant as of the issuance of the Final Order approving the Class Action Settlement (“Litigating Plaintiff”) opts out of the Settlement, then the total settlement amount to be paid by Defendant under Paragraph 73 will be reduced by each opting out Litigating Plaintiff’s allocated share of the Settlement Funds.

VII. ATTORNEYS’ FEES AND EXPENSES

103. In advance of the date set by the Court for Objections, Class Counsel agrees to request approval of an award of all Attorneys’ Fees and Expenses in a total amount of \$98,000,000. Defendant agrees to pay the Attorneys’ Fees and Expenses awarded by the Court in an amount not to exceed \$98,000,000, and will do so within thirty (30) days of the Effective Date. The amount of Attorneys’ Fees and Expenses was negotiated after the substantive terms of the Settlement, including the benefits to Settlement Class Members. The attorneys’ fee was the product of the mediation process. The Motion for Preliminary Approval and Direct Notice shall state that Class Counsel will seek an award of Attorneys’ Fees and Expenses in an amount not to exceed \$98,000,000. Lead Class Counsel will petition the Court for approval. Lead Class Counsel may attach a declaration of the Mediator, declarations of other experts, and additional supporting documentation.

104. If the request for an award of Attorneys’ Fees and Expenses is finally approved by the Court and upheld on any appeal, then Defendant shall pay the amount ordered by the Court via electronic transfer to Lead Class Counsel within thirty (30) days after the Effective Date, provided that Lead Class Counsel has submitted appropriate routing information and payment information reasonably necessary for Defendant to process such transfer.

105. Lead Class Counsel shall distribute Attorneys’ Fees and Expenses to Co-Class Counsel. Should a dispute arise regarding the distribution, the cost shall be borne by Class Counsel. Neither this Agreement nor the Class Benefit are conditioned on the award of any particular amount of Class Counsel Attorneys’ Fees and/or Expenses. No Attorneys’ Fees and/or Expenses will be paid from the Settlement Fund.

VIII. MUTUAL RELEASE

106. Upon entry of the Final Approval Order, Defendant and Released Persons will have released any and all claims arising from PCB contamination that they have alleged or could allege against any Named Class Plaintiffs, Settlement Class Members, and/or Releasing Persons. Upon entry of the Final Approval Order, the Releasing Persons will have released the Released Persons from the Released Claims. Additionally, Defendant is entitled to protection from contribution and/or indemnity claims or actions asserted against Defendant by any person or persons who are not parties to this Settlement Agreement for all Released Claims and all matters alleged in the Action or the Underlying Actions. Nothing in this section shall create a duty on the part of Named Class Plaintiffs, Settlement Class Members, and/or Releasing Persons to defend and/or indemnify

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Defendant or Released Persons in any contribution and/or indemnity claim. All Releases provided herein shall be mutual between Plaintiffs, Class Members, and Releasing Persons, on the one hand, and Defendant and Released Persons on the other hand.

107. Each Settlement Class Member agrees to be responsible for any liens, interests, actions, or derivative claims made by any third party for or as against Settlement Funds and/or the consideration that is the subject to this Agreement, to the extent allocated to each Settlement Class Member. Each Settlement Class Members further agree to defend, indemnify, and hold harmless Defendant against any claim, demand, action, cost, expense, attorneys' fee, loss, judgment, or liability it may be subjected to by any person or entity who may claim through the Settlement, for the portion of the Settlement allocated to each Settlement Class Member, in a derivative manner against Defendant, including without limitation, any insurers, agents, representatives, successors, predecessors, assigns, and attorneys, bankruptcy trustees, and any and all other persons, firms, corporations, associations, and other legal entities who may claim through them in a derivative manner.

108. If any Settlement Class Member brings an action or asserts a claim against Defendant contrary to the terms of the Settlement Agreement, Defendant shall provide Lead Class Counsel with a copy of the Settlement Class Member's complaint. Lead Class Counsel agrees to contact counsel of record for the Settlement Class Member and advise him or her of the Settlement Agreement.

IX. MISCELLANEOUS PROVISIONS

A. For Settlement Purposes Only/No Admissions

109. The Settlement 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 an admission of: (a) the validity of any claim or allegation by Plaintiffs, or of any defense asserted by Defendant in the Action; (b) the propriety of class certification or proceeding in whole or in part on a classwide basis for purposes of litigation and/or trial in this Action or any future action against one or more Defendant or any Released Party; or (3) any wrongdoing, fault, violation of law, or liability if any kind on the part of any Defendant or Released Party.

110. In the event that this Agreement does not become effective for any reason, this Agreement shall become null and void and of no further force and effect. In such instance, this Agreement and any negotiations, statements, communications, proceedings, and pleadings relating thereto, and the fact that the Parties agreed to the Agreement, shall be without prejudice to the rights of Plaintiffs or Defendant or any Settlement Class Member, shall not be used for any purpose whatsoever in any subsequent proceeding in this action or in any other action in any court or tribunal, and shall not be construed as an admission or concession by any party of any fact, matter, or allegation. In the event that this Agreement does not become effective, Plaintiffs, Defendant, and the Settlement Class Members shall be restored without prejudice to their respective positions as if the Agreement, any application for its approval by the Court, and the proposed amended complaint in the *City of Long Beach* action had not been made, submitted, or filed. Notwithstanding the foregoing, in the event that the Court should refuse to approve any material

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part of this Agreement or the Exhibits thereto or if, on appeal, an appellate court fails to affirm the judgment entered pursuant to this Agreement, then the Parties may (but are not obligated to) agree in writing to amend this Agreement and proceed with the Settlement as so amended. Neither any award to a Named Class Plaintiff in an amount less than that sought, nor an award of attorneys' fees, costs, and disbursement to Class Counsel in an amount less than that requested by Class Counsel, nor a reversal on appeal of any such award shall be deemed to be a modification of a material part of this Agreement that causes the Agreement to become null and void pursuant to this section.

B. Alternative Dispute Resolution

111. So that the Settling Parties do not have to return to court, if any disputes arise out of finalization of the settlement documentation or out of the Settlement itself, said disputes are to be resolved by the Mediator first by way of mediation. If for any reason the Mediator is unavailable or has a conflict, the Settling Parties will agree on a substitute neutral so that this clause may be enforced without returning to Court. If the Settling Parties cannot agree upon a substitute neutral, they will jointly petition either the Mediator or the Court to select a neutral for them to enforce this clause.

112. If the Parties cannot resolve disputes via mediation, the Court will retain jurisdiction to enforce the terms of this Agreement and will be the ultimate arbiter of any disagreements.

113. Nothing in this provision is intended to prevent the Court from exercising its authority to inquire about the bases for settlement, settlement terms, the implementation of the settlement, or the information provided to the Court in connection with preliminary or final approval of the Settlement.

C. Exclusive Remedy; Dismissal of Actions; Continuing Jurisdiction of the Court

114. Each and every Settlement Class Member who has not requested exclusion pursuant to this Agreement submits to the jurisdiction of the Court and will be bound by the terms of this Settlement (including, without limitation, any and all releases).

115. This Agreement shall be the sole and exclusive remedy for any and all Released Claims, and upon entry of the Final Judgment by the Court, each Settlement Class Member who has not opted out of the Class shall be barred from initiating, asserting, or prosecuting any such Released Claims against Defendant.

116. Upon the entry of the Final Approval Order, this Action will be dismissed with prejudice.

117. No later than ten (10) days following the Effective Date, the Parties shall file a joint stipulation of voluntary dismissal with prejudice and without costs under Fed. R. Civ. P. 41 in each of the related Actions.

D. Best Efforts

118. The Parties, Lead Class Counsel, Co-Class Counsel, and Defendant's Counsel agree to use their best efforts to obtain Court approval of this Settlement, and agree to support all terms of the

FINAL FOR EXECUTION

Settlement Agreement in documents filed with the Court. They further agree to execute all such additional documents as shall be reasonably necessary to carry out the provisions of this Agreement.

E. Administrative Costs

119. Except as provided in Sections V (Notice) and VII (Attorneys' Fees and Expenses), each of the Named Class Plaintiffs and the Defendant shall be solely responsible for his, her, or its own costs and expenses.

F. Taxes

120. Plaintiffs, Settlement Class Members, Lead Class Counsel, and Co-Class Counsel shall be responsible for paying any and all federal, state, and local taxes due on any payments made to them pursuant to the Settlement Agreement.

G. Public Statements

121. Lead Class Counsel, Co-Class Counsel, and Defendant's Counsel shall not disparage the terms of this Settlement Agreement.

H. Complete Agreement

122. This Settlement Agreement and its Exhibits represent the complete agreement as to each and every term agreed to by and among Named Class Plaintiffs, the Settlement Class Members, and Defendant. The Settlement contemplated by this Agreement is not subject to any condition not expressly provided for herein, and there exist no collateral or oral agreements relating to the subject matter of the Agreement. In entering into this Settlement Agreement, no Party has made or relied on any warranty, promise, inducement or representation not specifically set forth herein. Any agreement purporting to change or modify the terms of this Agreement or the Exhibits hereto must be in writing, signed by Lead Class Counsel and Defendant's Counsel. The Parties agree that California law applies to the interpretation of this Agreement.

123. All the Exhibits attached hereto or referred to herein are incorporated as if fully set forth in the body of the Agreement.

I. Headings for Convenience Only

124. The headings in this Settlement Agreement are for the convenience of the reader only and shall not affect the meaning or interpretation of this Settlement Agreement.

J. No Party Is the Drafter

125. None of the Parties shall be considered to be the primary drafter of this Settlement Agreement or any provision hereof for the purpose of any rule of interpretation or construction that might cause any provision to be construed against the drafter.

K. Binding Effect

126. This Settlement Agreement shall be binding according to its terms upon, and inure to the benefit of Named Class Plaintiffs, Settlement Class Members, and Defendant, and their respective agents, successors, and assigns.

L. Authorization to Enter Settlement Agreement

127. Lead Class Counsel represents that they are fully authorized to conduct settlement negotiations with counsel for Defendant on behalf of Named Class Plaintiffs and the Settlement Class Members, and to enter into, and to execute, this Settlement Agreement on behalf of Named Class Plaintiffs and the Settlement Class Members, subject to Court approval pursuant to Federal Rule of Civil Procedure 23(e).

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

129. Lead Class Counsel and Defendant's Counsel counsel represent that they have been fully authorized to execute this Agreement on behalf of their respective clients.

M. Execution in Counterparts

130. This Settlement Agreement may be executed in counterparts, and the execution of counterparts shall have the same effect as if all Parties had signed the same instrument. Facsimile signatures shall be considered as valid signatures as of the date signed, although the original signature dates shall thereafter be appended to the Settlement Agreement. This Settlement Agreement shall not be deemed executed until signed by Lead Class Counsel and Defendant's Counsel.

N. California Civil Code § 1542

131. The Parties have read, understood, and consulted with their attorneys and have been fully advised by them as to the contents and meaning of Section 1542 of the Civil Code of California, which provides that:

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 shall be deemed to have knowingly and voluntarily waived and relinquished all rights and benefits afforded by California Civil Code Section 1542, and by any comparable

FINAL FOR EXECUTION

statutory provision or common law rule that provides, in sum or substance, that a general release does not extend to claims which the party does not know or suspect to exist in its favor at the time of executing the release, which if known by it must have materially affected the settlement. The Parties hereby agree and acknowledge that this waiver is an essential term of this Settlement Agreement without which the consideration given herein by Defendant would not have been given.

IN WITNESS THEREOF, the Parties have executed this Settlement Agreement as of the dates set forth below.

Signatures start on next page

FINAL FOR EXECUTION

CITY OF LONG BEACH,
a municipal corporation

By: _____ Date: _____
Thomas B. Modica
City Manager

Approved as to form:

CHARLES PARKIN, City Attorney

By: _____ Date: _____
Deputy

DATED:

COUNTY OF LOS ANGELES

By _____
OFFICE OF THE COUNTY COUNSEL
Mary Wickham, County Counsel
Scott Kuhn, Assistant County Counsel
Andrea Ross, Principal Deputy County Counsel
Tracy Swann, Senior Deputy County Counsel
Joseph Mellis, Deputy County Counsel

Attorneys for Plaintiff
COUNTY OF LOS ANGELES

DATED:

CITY OF CHULA VISTA

By _____

FINAL FOR EXECUTION

DATED: CITY OF SAN DIEGO,

Rolando Charvel
Chief Financial Officer

APPROVED AS TO FORM:

DATED: MARA W. ELLIOTT, City Attorney

Mark Ankcorn
Chief Deputy City Attorney

DATED: CITY OF SAN JOSE

By: _____

RICHARD DOYLE
City Attorney
NORA FRIMANN
Assistant City Attorney
Office of the City Attorney
200 E. Santa Clara Street, 16th Floor
San Jose California 95113-1905
Tel: (408) 535-1900
Email: caomain@sanjoseca.gov

Attorneys for City of San Jose

DATED: CITY OF OAKLAND

By: _____

Barbara J. Parker
City Attorney for the City of Oakland
One Frank H. Ogawa Plaza, 6th Floor
Oakland, CA 94612
(510) 238-3601
Counsel for the City of Oakland
Subject to City Council Approval

FINAL FOR EXECUTION

DATED:

CITY OF BERKELEY

By: _____
Farimah Faiz Brown
City Attorney

CITY OF SPOKANE

By: _____
Nadine Woodward, Mayor
City of Spokane
Subject to City Council Approval

DATED: _____

Attest:

Approved as to form:

City Clerk

Assistant City Attorney

CITY OF TACOMA

Elizabeth A. Pauli
Tacoma City Manager

Date: _____

Jackie Flowers
Director, Tacoma Public Utilities

Date: _____

Approved as to Form:

William C. Fosbre
Tacoma City Attorney
Date: _____

FINAL FOR EXECUTION

DATED: CITY OF PORTLAND

Karen L. Moynahan, OSB No. 954924
Chief Deputy City Attorney
Email: karen.moynahan@portlandoregon.gov
Subject to Portland City Council Approval

DATED: THE PORT OF PORTLAND

By: _____

Print Name: Curtis Robinhold

As Its: Executive Director

Date: _____

APPROVED FOR LEGAL SUFFICIENCY
FOR THE PORT:

By: _____

Counsel for The Port of Portland

WITNESS: BALTIMORE COUNTY, MARYLAND

_____ By: _____

Stacy L. Rodgers Date
County Administrative Officer
Baltimore County Administrative Office
400 Washington Avenue
Towson, Maryland 21204
(410) 887-2450
srodgers@baltimorecountymd.gov

Approved for Form and
Legal Sufficiency

James R. Benjamin, Jr. Date
County Attorney
Baltimore County Office of Law
400 Washington Avenue

FINAL FOR EXECUTION

Towson, Maryland 21204
(410) 887-4420
jrbenjamin@baltimorecountymd.gov
Bar No. 27056

DATED: MAYOR AND CITY COUNCIL OF BALTIMORE

Dana P. Moore, Acting City Solicitor
Suzanne Sangree, Director of Affirmative Litigation
Baltimore City Department of Law
100 N. Holliday Street, Suite 109
Baltimore, MD 21202
443-388-2190
Law.danapmoore@baltimorecity.gov
Suzanne.sangree2@baltimorecity.gov

DATED: Monsanto Company

William B. Dodero
Vice President & Assistant General Counsel
Global Head Litigation
Bayer U.S. LLC
100 Bayer Boulevard
Whippany NJ 07981
United States

Monsanto Company as power of attorney for Pharmacia
LLC.

William B. Dodero
Vice President & Assistant General Counsel
Global Head Litigation
Bayer U.S. LLC
100 Bayer Boulevard
Whippany NJ 07981
United States

FINAL FOR EXECUTION

Monsanto Company as power of attorney for Solutia, Inc.

William B. Dodero
Vice President & Assistant General Counsel
Global Head Litigation
Bayer U.S. LLC
100 Bayer Boulevard
Whippany NJ 07981
United States

DATED:

Lead Class Counsel and Counsel for Named
Plaintiffs

Scott Summy
Carla Burke Pickrel
BARON & BUDD, PC
3102 Oak Lawn Ave., # 1100
Dallas, Texas 75219

John P. Fiske
BARON & BUDD, PC
11440 W. Bernardo Court, Suite 265
San Diego, CA 92127

DATED:

Counsel for Defendant

Mark D. Anstoetter
Brent Dwerlkotte
SHOOK, HARDY & BACON LLP
2555 Grand Blvd.
Kansas City, MO 64108