

STATE OF NEW YORK
SUPREME COURT COUNTY OF RENSSELAER

JAY BURDICK, CONNIE PLOUFFE,
EMILY MARPE,
as parent and natural guardian of E.Y., an infant,
and, G.Y., an infant, JACQUELINE MONETTE, WILLIAM
SHARPE, EDWARD PERROTTI-SOUSIS,
MARK DENUÉ and MEGAN DUNN,
individually, and on behalf of all similarly situated

Plaintiffs,

v.

TONOGA INC., (d/b/a TACONIC),

Defendant.

**NOTICE OF
MOTION**

**Index No.: EF2016-
00253835**

PLEASE TAKE NOTICE, that upon the Affidavit of Stephen G. Schwarz, dated October 1, 2021, together with the exhibits attached thereto, and the accompanying Memorandum of Law in support, Plaintiffs, by their undersigned attorneys, will move this Court before an IAS Part of the Supreme Court of the State of New York, Rensselaer County, located at 80 Second Street, Troy, New York, 12180, on the 15th day of October, at 11:30 a.m. or as soon thereafter as counsel can be heard for an Order pursuant to CPLR 907 and 908 for an Order: (1) approving the Notice Program; (2) appointing KCC as the General Administrator of the Settlement and directing it to commence the Notice Program; (3) holding that the classes defined in the Third Amended Consolidated Complaint and the Settlement Agreement meet the requirements of CPLR Article 9; (4) providing authority pursuant to CPLR 1201 for parents and guardians of all named Minor Plaintiffs and absent Minor Settlement Class Members, and for legal representatives of absent incompetent Settlement Class Members, to sign Claim Forms and releases on behalf of the Settlement Class Members they represent; (5) setting deadlines and

ordering procedures for Settlement Class Members to opt out of the Settlement or object to the Settlement; and (6) setting a date by which the Court will consider final approval of the Settlement and any application for attorneys' fees, expenses, and Class Representative Service Awards.

Defendant consents to the relief requested in this motion.

Dated: October 1, 2021

Respectfully submitted,



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STATE OF NEW YORK
SUPREME COURT COUNTY OF RENSSELAER

JAY BURDICK, CONNIE PLOUFFE,
EMILY MARPE,
as parent and natural guardian of E.Y., an infant,
and, G.Y., an infant, JACQUELINE MONETTE, WILLIAM
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MARK DENUÉ and MEGAN DUNN,
individually, and on behalf of all similarly situated

Plaintiffs,

v.

TONOGA INC., (d/b/a TACONIC),

Defendant.

**AFFIDAVIT IN
SUPPORT OF
MOTION TO
APPROVE NOTICE
PROGRAM AND
PROPOSED
SETTLEMENT
SCHEDULING
ORDER**

**Index No.: EF2016-
00253835**

STATE OF NEW YORK)
COUNTY OF MONROE) ss:

STEPHEN G. SCHWARZ, being duly sworn, deposes and says:

1. I am an attorney duly admitted in the State of New York and am a partner in the firm of Faraci Lange, LLP. I was appointed Co-Lead Class Counsel by this Court to represent class members in this certified class action. As such, I am fully familiar with the facts and circumstances of this case and the application before this Court. I make this affidavit in support of Plaintiffs' Motion for Approval of Notice Program and to issue a Scheduling Order for Approval of the Proposed Settlement. Defendant consents to the relief requested in Plaintiffs' motion.

PROCEDURAL HISTORY

2. On July 26, 2016, Plaintiffs Burdick and Marpe, individually and as parent and

natural guardian of E.B., an infant, and G.Y., an infant, commenced this action by filing a proposed class action complaint alleging tort theories of negligence, trespass, nuisance, and strict liability based on the presence of perfluorooctanoic acid (PFOA) in the Town of Petersburg Public Water System, in private wells, on or at their properties, and/or in their blood.

3. On September 22, 2016, Plaintiffs Connie and Edward Plouffe, and Frank and Suzanne Seymour filed a second proposed class action complaint asserting similar claims.

4. Defendant moved to dismiss both complaints pursuant to CPLR 3211(a)(7) on November 15, 2016, and Plaintiffs moved to consolidate the cases on December 20, 2016.

5. In each case, the Court denied Defendant's motion to dismiss Plaintiffs' negligence, trespass, and strict liability claims, and also denied Defendant's motion to dismiss nuisance claims alleged on behalf of Plaintiffs with privately owned wells. The Court granted Defendant's motion to dismiss nuisance claims alleged on behalf of Plaintiffs who obtained their drinking water from the Town Public Water System. The Court further ordered the two cases to be consolidated into the present action.

6. On May 3, 2017, Plaintiffs filed their First Amended Consolidated Complaint. On August 30, 2017, Plaintiffs moved for leave to file a Second Amended Consolidated Complaint, which sought to dismiss Plaintiffs Suzanne Seymour and Emily Marpe in her individual capacity, and to join Plaintiffs Jacqueline Monette, William Sharpe, Edward Perrotti-Sousis, Mark Denué, and Megan Dunn as additional representative plaintiffs. Defendant did not oppose Plaintiffs' motion for leave to amend. The Court granted the motion on September 20, 2017.

7. The Parties thereafter engaged in significant discovery efforts, including the exchange of several sets of written discovery served by and on each party, voluminous document productions, depositions of each Plaintiff as well as twelve depositions of Defendant's current or

former employees, several spanning more than one day, third-party discovery of the New York State Department of Environmental Conservation, and motion practice regarding Defendant's privilege log.

8. On February 6, 2018, Plaintiffs moved to certify four classes pursuant to CPLR 902: a class of property owners who obtained drinking water from the Town Public Water System and sought diminution in property value; a class of property owners who obtained drinking water from privately owned wells contaminated with PFOA and sought diminution in property value; a class of owners or renters residing in homes with privately owned wells contaminated with PFOA who sought nuisance damages; and a class of individuals exposed to PFOA from a contaminated source in Petersburg who subsequently obtained blood tests demonstrating that PFOA was present in their blood serum at or above the background level of 1.86 ug/L (parts per billion), and who sought consequential medical monitoring damages. Following submission of extensive briefing and expert affidavits, the Court certified each of the four proposed classes, appointed Plaintiffs as class representatives, and appointed Class Counsel to represent the certified classes.

9. On August 6, 2018, Defendant noticed an appeal of the Court's class certification decision and order. Defendant also moved for a stay of proceedings before this Court pending disposition of its appeal—a motion that was denied.

10. On October 9, 2018, Plaintiffs moved the Court to approve a proposed notice plan pursuant to CPLR 904. After the motion was fully briefed, the Court approved Plaintiffs' proposed plan, which included direct mail notice to all households within the Petersburg zip code, as well as any properties with contaminated private wells within a seven-mile radius of the Taconic facility; information posted to the Petersburg Water Facebook page, which was administered by Plaintiff Emily Marpc; publication notice in local print media; and posted notice on a website

administered by Plaintiffs' counsel.

11. On January 17, 2019, Plaintiffs filed a Note of Issue and Certificate of Readiness for Trial, demanding a jury trial on all issues.

12. On March 1, 2019, Defendant filed a motion for summary judgment, as well as separate motions to exclude the testimony of Plaintiffs' expert witnesses: (1) Dr. David Savitz, (2) Plaintiffs' Medical Monitoring Experts – Drs. Alan Ducatman, Donald R. Brandt, and Sloane Shepard, (3) Drs. Hyeong-Moo Shin and Donald Siegel, (4) Dr. Nicholas Cheremisinoff, and (5) Dr. Jeffrey E. Zabel. The Parties fully briefed each of these motions, which included submission of substantial record evidence. On November 15, 2019, the Court issued orders denying each motion to exclude expert testimony.

13. The Appellate Division, Third Department, heard oral argument on Defendant's appeal of the class certification decision and order in September 2019. On November 21, 2019, the Appellate Division affirmed the decision and order in all respects. On December 27, 2019, Defendant moved for leave to appeal to the Court of Appeals. This motion was denied by the Appellate Division.

14. On December 30, 2019, Defendant filed a notice of appeal of the decision and orders denying its motions to exclude the testimony of Plaintiffs' expert witnesses.

15. On January 24, 2020, this Court issued an order granting in part and denying in part Defendant's motion for summary judgment. In particular, the Court granted Defendant's motion for summary judgment on Plaintiffs' claim for strict liability. The Court denied Defendant's motion for summary judgment in all other respects.

16. On February 20, 2020, in response to a request from Plaintiffs, the Court indicated that it would not set a trial date until all appellate issues were resolved.

17. On March 6, 2020, Defendant filed a notice of appeal of the decision and order granting in part and denying in part its motion for summary judgment.

18. During the summer and fall of 2020, the Parties briefed the pending appeals. The Appellate Division consolidated the appeals for oral argument, which was held on January 12, 2021. On February 25, 2021, the Appellate Division dismissed Defendant's appeals of the orders denying its motions to exclude the testimony of Plaintiffs' expert witnesses. In a separate order issued the same date, the Appellate Division affirmed the decision and order on summary judgment. Defendant's subsequent motions to appeal to the Court of Appeals were denied.

19. On May 3, 2021, following a conference with the Parties, the Court entered a pretrial scheduling order that, *inter alia*, set a trial date of May 5, 2022.

SETTLEMENT NEGOTIATIONS, PROPOSED SETTLEMENT AND PROPOSED SETTLEMENT CLASSES

20. On August 4, 2021, the Parties engaged in a full-day mediation at arm's length before Professor Eric Green of Resolutions, I.I.C. At the end of this mediation session, Plaintiffs and Defendant reached an agreement in principle. The Parties then negotiated the detailed written Settlement Agreement and Appendix that are attached to this Affidavit as the following Exhibits A & B respectively.¹

21. The Settlement provides, among other things, that as consideration for the release from Settlement Class Members, Defendant will pay \$23,464,362 in cash into a Settlement Fund (the Total Settlement Payment). Of this amount, \$4,410,000 will be allocated to members of the Property Settlement Classes (both Town Water and Private Well); \$4,031,250 will be allocated to members of the Private Well Nuisance Class; and \$8,550,000 will be allocated to fund an estimated

¹ Terms capitalized herein and not otherwise defined have the definitions set forth in the Settlement Agreement.

fifteen-year medical monitoring program to benefit members of the Medical Monitoring Settlement Class.

22. In its July 3, 2018 decision and order granting Plaintiffs' motion for class certification, the Court ruled that the Town Water Property Damage Class, Private Well Property Damage Class, Private Well Nuisance Class, and PFOA Invasion Injury Class met the requirements of CPLR 901 for certification, and none of the discretionary factors set forth in CPLR 902 precluded certification. Since the Court's certification order, Plaintiffs filed, with Defendant's consent, a Third Amended Consolidated Complaint that alters three of the class definitions from those previously certified. None of the amendments materially affects the Court's previous analysis of the CPLR Article 9 requirements and considerations.

23. The Town Water Property Damage Class definition has not changed. The Private Well Property Damage Class definition has been revised to require that an affected property is located in the Town of Petersburg and within a seven mile radius of Defendant's facility. Previously, the class definition required that an affected property was located within a seven mile radius, but it did not require a property to be located in the Town of Petersburg. The Private Well Nuisance Class definition has also been revised to insert "at the time the contamination was discovered" after "at or around February 20, 2016," for clarification that the important date was when the contamination was discovered and to remove any ambiguity in the claim process. These changes do not materially alter the Court's prior analysis of the propriety of class certification under CPLR Article 9. A similar revision—requiring affected properties to be located within the Town of Petersburg and clarifying that the date of ownership required is when the contamination was discovered—was made to the Private Well Property Damage Class and Medical Monitoring Settlement Class (also referred to as the PFOA Invasion Injury Class) definitions and those

revisions do not materially alter the Court's class certification analysis with regard to these classes.

24. The Private Well Property Damage Class definition, as set forth in the Agreement, requires that a class member *owned* the affected property on or before February 20, 2016. The class previously certified by the Court required that a class member owned *and* occupied the affected property on or before February 20, 2016. This revision, which is a clarification of the Parties' intent, potentially expands the class definition, though any such expansion does not materially alter the prior class certification analysis and avoid justifiable objection to the Settlement by property owners who did not occupy the contaminated properties they owned at the relevant time.

25. Finally, the Medical Monitoring Settlement Class, as set forth in the Settlement Agreement and in the Third Amended Consolidated Complaint, now also encompasses children who were exposed to PFOA *in utero*, including the recently-joined infant Plaintiff E.Y., who was born in 2018 with a PFOA blood serum level above 1.86 ug/L at birth. This expansion of the class does not materially alter the Court's previous class certification analysis. Indeed, all class members, including those exposed in utero, must present proof of exposure at a level above background levels, meaning that each class member can satisfy the requirement set forth in *Abusio v. Consolidated Edison Co. of New York*, 656 N.Y.S.2d 371, 372 (2d Dep't 1997), to demonstrate a "rational basis" for fear of contracting a disease. As the Court explained in its class certification decision and order, "rational basis" has been construed to mean, *inter alia*, the clinically demonstrable presence of a toxin in a plaintiff's body. The requirement that each class member, including children exposed in utero, provide proof of a blood test thus ensures that all class members share a rational basis for fear of contracting a disease.

26. Accordingly, the Plaintiffs respectfully request that the Court find that the

following classes meet the requirements for class certification set forth in CPLR 901 and satisfy the discretionary considerations enumerated in CPLR 902:

Town Water Property Damage Class:

All Persons who are or were owners of real property and who obtain or obtained their drinking water from the Town Public Water System and who purchased their property on or before February 20, 2016; provided, however, that the Town Water Property Damage Class shall not include Excluded Persons or Taconic Properties.

Private Well Property Damage Class:

All Persons who are or were owners of real property located in the Town of Petersburg within a seven (7) mile radius of Defendant's Facility and who: (i) obtain or obtained their drinking water from a privately owned well contaminated with PFOA; and (ii) owned that property at or around February 20, 2016 when the contamination was discovered; provided, however, that the Private Well Property Damage Class shall not include Excluded Persons or the Taconic Properties.

Private Well Nuisance Class:

All Persons who are or were owners or renters of real property located in the Town of Petersburg within a seven (7) mile radius of the Defendant's Facility and who: (i) obtain or obtained their drinking water from a privately owned well contaminated with PFOA; and (ii) occupied that property at or around February 20, 2016 when the contamination was discovered, provided, however, that the Private Well Nuisance Class shall not include Excluded Persons.

Medical Monitoring Settlement Class or PFOA Invasion Injury Class:

All individuals who have: (a) ingested water at a property that was supplied by the Town Public Water System or from a private well in the Town of Petersburg in which PFOA has been detected; and (b) underwent blood serum tests that detected a PFOA level in their blood above 1.86 ug/L; or any natural child (i) who was born to a female who meets and/or met the above criteria at the time of the child's birth; and (ii) whose blood serum was tested after birth and detected a PFOA level above 1.86 ug/L; provided, however, that the Medical Monitoring Settlement Class shall not include Excluded Persons.

27. It is also requested that the definition of Excluded Persons in the Settlement Agreement be approved by the Court. (Exhibit A, at ¶1(o)). The parties have agreed that plaintiffs in individually filed cases shall have the option to participate in the Settlement while continuing to pursue other claims not included in this Action against Defendant.

28. In addition, it is requested that the class representative Plaintiffs appointed in the

Court's July 3, 2018 decision and order should remain appointed as class representative Plaintiffs, with the exception of Plaintiffs Edward Plouffe and Frank Seymour, both of whom passed away during the course of this litigation.

29. It is further requested that Class Counsel be appointed to represent the Settlement Classes and serve as Class Counsel to Settlement Class Members. Specifically, Plaintiffs request that Stephen G. Schwarz and Hadley Matarazzo of Faraci Lange LLP and James J. Bilsborrow of Seeger Weiss LLP be appointed as Class Counsel to the Settlement Classes..

**REQUEST FOR APPROVAL OF PROPOSED NOTICE PROGRAM AND
APPOINTMENT OF GENERAL ADMINISTRATOR**

30. The Settlement provides for Notice to be mailed directly to all owners of real properties that obtain drinking water from the Town Public Water System and to properties in the Town of Petersburg that obtain drinking water from private wells contaminated with PFOA. (Exhibit F). With regard to the latter category, the Settlement provides that the General Administrator shall be provided with private well testing data obtained by the NYSDEC from well testing it performed on private wells throughout the Town since February 2016. The proposed Notice Form is attached as Exhibit C. The proposed Claim Form and ancillary declarations required for class membership are attached as Exhibit D.

31. In addition to direct mail efforts, the Notice Program consists of a digital media plan that will target adults in New York State, the Albany-Troy-Schenectady region, and the Town of Petersburg using various websites, social media, and Facebook. An affidavit submitted by the General Administrator asserts that this plan will result in 53.3 million internet impressions. (See Exhibit E).

32. The Notice Program will also include newspaper advertisements in the Albany Times Union and Eastwick Press, as well as a national press release. (Exhibit E).

33. The General Administrator will also establish a Settlement Website containing the pertinent Settlement documents, as well as the opt out and objection dates, and the date of a Final Fairness Hearing.

34. Exhibit E provides details regarding the qualifications of KCC as General Administrator of the Settlement, and it is respectfully requested that the Court appoint KCC in this role to carry out the Notice Program and to administer the claims process.

SETTLEMENT OF CLAIM OF INFANT, INCOMPETENT, AND DECEASED CLASS MEMBERS

35. Plaintiff Emily Marpe, who is acting as parent and natural guardian of a G.Y and E.Y, both minors, will apply to the Court for approval of the Settlement on behalf of her two minor children and on behalf of all absent Minor Settlement Class Members. Plaintiff's request that the Court provide authority pursuant to CPLR 1201 for Plaintiff Marpe, the parents and natural guardians of absent minor Settlement Class Members, and for legal representatives of absent incompetent Settlement Class Members, to sign Claim Forms and releases on behalf of the Settlement Class Members they represent. It is further requested that an Order from this Court finally approving the Settlement shall effectuate a settlement under CPLR 1207 for all named Minor Plaintiffs, absent Minor Settlement Class Members, and absent incompetent Settlement Class Members.

36. It is also respectfully requested that the legal representatives of deceased absent Settlement Class Members shall have authority to sign Claim Forms and releases on behalf of the absent Settlement Class Members they represent. The Settlement Agreement requires that where a legal representative of a deceased absent Settlement Class Member submits a Claim Form on that Settlement Class Member's behalf, that legal representative shall attest to their authority to act for the deceased absent Settlement Class Member.

PROCEDURES FOR REQUESTING EXCLUSION FROM OR OBJECTING TO THE SETTLEMENT

37. Plaintiffs respectfully request that the Court approve the Opt Out provisions set forth in the Settlement Agreement. (Exhibit A at ¶10). Specifically, that a Settlement Class Member may request exclusion from the Settlement at any time prior to the Opt Out Deadline, provided an opt-out notice is sent to the General Administrator in accordance with the procedures set forth in the Settlement Agreement. Any Settlement Class Member who elects to opt out of the Settlement shall not be entitled to receive any benefits conferred by the Settlement but also will not be bound by the terms of the Settlement. Conversely, any Settlement Class Member who does not timely and validly request to opt out shall be bound by the terms of the Settlement, including the Release, regardless of whether such person chooses to file a Claim Form to participate in the Settlement. Under the Agreement, if a real property that is encompassed by one of the Property Settlement Classes has more than one legal owner and one of those owners excludes themselves from the relevant Settlement Class, then all owners of that real property shall be deemed to have opted out of the Settlement, and no owner of the real property shall be entitled to a payment under the Settlement.

38. It is respectfully requested that the Court establish a deadline as set forth below for objections to the Settlement, to the application of attorneys' fees and costs, and/or to the Service Award and order that such objections must be served on the Parties in accordance with the Settlement. It is further requested that Class Counsel and/or Defendant be permitted to conduct limited discovery on any objector or objector's counsel consistent with New York law.

39. It is further requested that the Court Order that except for Settlement Class Members who have timely asserted an objection to the Settlement, all Settlement Class Members shall be deemed to have waived all objections and opposition to the fairness, reasonableness, and

adequacy of the Settlement.

**MOTIONS FOR FINAL APPROVAL, FEES, EXPENSES, AND SERVICE AWARDS
AND FINAL APPROVAL HEARING**

40. It is further requested that the Court Order that Plaintiffs shall file their Motion for Final Approval of the Settlement, application for attorneys' fees and costs, for a Service Award to the Plaintiffs, and for all Settlement Administration Costs, no later than 150 days after the Notice Approval and Settlement Scheduling Order is entered. It is proposed that at the Final Approval Hearing, the Court will hear argument on Plaintiffs' Motion for Final Approval of the Settlement, and on Class Counsel's application for attorneys' fees and expenses, for the Service Award for the Plaintiffs, and for all Settlement Administration Costs.

41. It is respectfully requested that the Court set a date for a final approval hearing either live and/or by video conferencing, to assist the Court in determining whether to grant Final Approval to the Settlement, enter the Final Approval Order and Judgment, and grant any motions for fees, expenses, and the Service Award.

OTHER PROVISIONS

42. It is requested that Class Counsel and Defendant be authorized by the Court to take, without further approval of the Court, all necessary and appropriate steps to implement the Settlement according to its terms, including implementing the Notice Program and that pending determination whether the Settlement Agreement should be granted Final Approval, further proceedings against Defendant in this Action be stayed, other than proceedings necessary to carry out or enforce the terms of the Settlement.

43. Additionally, without further orders of the Court, it is requested that the Parties be authorized to agree to make non-material modifications to the Settlement Agreement (including the exhibits thereto) in implementing the Settlement that are not inconsistent with this Court's

Order on this motion, including making minor changes to the Settlement Agreement, to the form or content of the Notice Form, or to any other exhibits that the Parties jointly agree in writing are reasonable or necessary.

44. Finally, it is requested that the Court retain jurisdiction over the Settlement Agreement and consider all further matters arising out of or connected with the Settlement.


PROPOSED SCHEDULE OF DEADLINES

45. It is respectfully requested that the Court sets the following deadlines in its Order on this motion:

Event	Date
Deadline for Defendant to pay \$200,000 Preliminary Settlement Fund Payment in cash to the Escrow Account	No later than 20 days from the date of this Order
Deadline for General Administrator to commence Notice Program	No later than 30 days from the date of this Order
Commencement of the Enrollment Period	30 days from the date of this Order
Opt Out Deadline	105 days from the date of the Notice Date
Objection Deadline	105 days from the date of the Notice Date
Deadline for filing a Motion for Final Approval and any petition for an award of attorneys' fees, costs, and Service Award	No later than 150 days from the date of this Order
Final Approval Hearing	_____ (approximately 180 days from the date of this Order)

46. A Proposed Order granting the relief requested is attached as Exhibit F.

WHEREFORE, it is respectfully requested that the Court issue an Order substantially in the form proposed in Exhibit F, granting all of the relief requested together with such other and further relief as to this Court seems just and proper.


STEPHEN G. SCHWARZ

Sworn to me this 1st
day of October, 2021


NOTARY PUBLIC

TERESA M. ZUKOSKI
Notary Public, State of New York
Qualified in Monroe County
Commission Expires Jan.27,2023

EXHIBIT A

STATE OF NEW YORK
SUPREME COURT COUNTY OF RENSSELAER

JAY BURDICK, CONNIE PLOUFFE,
EMILY MARPE,
as parent and natural guardian of E.Y. an infant,
and, G.Y., an infant, JACQUELINE MONETTE, WILLIAM
SHARPE, EDWARD PERROTTI-SOUSIS,
MARK DENUÉ and MEGAN DUNN,
individually, and on behalf of all similarly situated,

Plaintiffs,

v.

Index No.: 00253835

TONOGA INC., (d/b/a TACONIC),

Defendant.

CLASS SETTLEMENT AGREEMENT

This Class Settlement Agreement is entered into as of the 1st day of October, 2021, by, between and among Plaintiffs, on behalf of themselves and the Settlement Class Members, by and through Class Counsel, and the Defendant, by and through its counsel of record in this Action.

RECITALS

WHEREAS, Plaintiffs have asserted claims against the Defendant in this Action on behalf of four classes, including owners and renters of properties supplied with drinking water either by the Town Public Water System or by private wells in the Town of Petersburg in which PFOA has been detected, and current and former residents of the Town with PFOA detected in their blood;

WHEREAS, Plaintiffs allege that the Defendant is liable under several tort theories for various damages and other relief based on the presence of PFOA in the Town Public Water System, in private wells, on or at their properties, and/or in their blood;

WHEREAS, Plaintiffs allege that PFOA detected in the Town Public Water System and private wells was released from a facility in the Town of Petersburg, which Plaintiffs allege that Defendant currently owns or operates;

WHEREAS, the Defendant has denied and continues to deny Plaintiffs' allegations, any alleged wrongdoing in connection with any PFOA or other PFAS present in the Town Public Water System, in private wells in the Town of Petersburg, on or at Plaintiffs' properties, or in Plaintiffs'

blood, and any liability in connection with Plaintiffs' claims; dispute the factual, legal, scientific, and other bases for Plaintiffs' claims; and maintains that it has meritorious defenses to the claims of liability and damages asserted by Plaintiffs; and

WHEREAS, after carefully considering the facts and applicable law and the risks, costs, delay, inconvenience, and uncertainty of continued and protracted litigation, and after engaging in extensive, arm's-length negotiations, with the assistance of a mediator, the Parties desire to settle the Action and the related claims of Plaintiffs and the Settlement Classes on the terms and conditions stated herein, which Plaintiffs and Co-Lead Class Counsel believe are fair, reasonable, adequate, and beneficial to and in the best interests of the Settlement Class Members;

NOW THEREFORE, subject to approval by the Court pursuant to New York Civil Practice Law and Rules (CPLR) Article 9, the Parties hereby agree that, in consideration of the promises and mutual covenants set forth in this Agreement and upon occurrence of the Effective Date, the Action and the related claims of Plaintiffs and the Settlement Classes shall be settled, compromised, dismissed on the merits and with prejudice, and released as to Defendant on the following terms and conditions:

1. Definitions

In addition to the terms defined at various points within this Agreement, the following defined terms shall apply throughout this Agreement:

- a. **"Action"** means the class action lawsuit captioned *Burdick, et al., v. Tonoga, Inc. (d/b/a Taconic)*, Index No. 00253835, New York State Supreme Court, Rensselaer County.
- b. **"Agreement"** means the Class Settlement Agreement between and among Plaintiffs, on behalf of themselves and the Settlement Class Members, and Defendant, including all exhibits and addenda thereto, and the supplemental agreement set forth in Section 17 herein.
- c. **"APFO"** means, for purposes of this Agreement only, ammonium perfluorooctanoate and all its chemical precursors and degradants. For purposes of this Agreement, the definition of "APFO" is intended to be as broad and inclusive as possible and includes, without limitation, all APFO-containing substances and all products manufactured with APFO, or which used APFO as a processing aid in connection with such manufacturing, their precursors, and their degradants.
- d. **"Claim Form"** means the form in substantially the same form as Exhibit 1 to this Agreement that must be completed by any Person seeking to receive payment and/or participate in the Medical Monitoring Program as a Settlement Class Member.¹
- e. **"Claimant"** means any Person who submits a Claim Form to the General

¹ All Exhibits to this Agreement are appended hereto in Appendix B.

Administrator.

f. **“Class Counsel”** means:

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28 E. Main St., Suite 1100
Rochester, New York 14614

James J. Bilsborrow
SEEGER WEISS LLP
55 Challenger Road
Ridgefield Park, New Jersey 07660

as counsel for Plaintiffs and in their capacity as Class Counsel appointed by the Court pursuant to its July 3, 2018 Order, and the Parties’ Stipulation and Order dated May 10, 2021, and any other attorney or law firm that represents any of the Plaintiffs and seeks to receive any portion of the attorneys’ fees that may be awarded by the Court in connection with this Settlement.

- g. **“Class Notice”** means the notice of the Settlement that will be provided to prospective Settlement Class Members in accordance with Section 9 of this Agreement.
- h. **“Court”** means the New York State Supreme Court, Rensselaer County, the Honorable Patrick J. McGrath presiding.
- i. **“Defendant”** means Tonoga, Inc. (d/b/a Taconic).
- j. **“Effective Date”** means the date on which the last of the following has occurred: (1) twenty-one (21) days following the expiration of the deadline for appealing the Final Approval Order, if no timely appeal is filed; (2) if an appeal of the Final Approval Order is taken, the date upon which all appeals (including any requests for rehearing or other appellate review), as well as all further appeals therefrom, have been finally resolved without the Final Approval Order having been materially changed, reversed, vacated, or otherwise overturned in whole or in part, such that no future appeal is possible; or (3) such date as the Parties otherwise agree in writing.
- k. **“Eligible Property”** means any real property that either: (1) one or more Town Water Property Damage Class Members demonstrates that they owned as of February 20, 2016, and that the property obtained its drinking water from the Town Public Water System, in accordance with Section 3(b)(i); or (2) one or more Private Well Property Damage Class Members demonstrates that they owned at or around February 20, 2016 when the contamination was discovered, and that is in the Town of Petersburg, and obtained their drinking water from a private well contaminated with PFOA, in accordance with Section 3(b)(ii).

- l. **"Enrollment Period"** means the period within which potential Settlement Class Members must submit a Claim Form and any supporting documentation so that the General Administrator may determine whether they are eligible to receive payment or participate in the Medical Monitoring Program as Settlement Class Members. The Enrollment Period shall commence thirty (30) calendar days after Notice Approval and shall conclude one hundred and forty (140) days from the Notice Date. Claim Forms postmarked on the date the Enrollment Period closes shall be deemed timely submitted so long as received by the General Administrator within fourteen (14) days thereof.
- m. **"Escrow Account"** means the account established and administered by the General Administrator, into which the Total Settlement Payment, including the Preliminary Settlement Fund Payment, will be deposited as set forth in Section 2(b).
- n. **"Escrow Agent"** means the General Administrator.
- o. **"Excluded Persons"** means: (i) any Person who has timely and validly excluded themselves from the Settlement Classes, in accordance with Section 10 of this Agreement; (ii) any Person who has previously filed a claim against Defendant alleging a PFOA-related injury or illness, including without limitation a spousal derivative claim, or seeking medical monitoring, nuisance, or property damages, related to the presence of PFOA in the Town Public Water System, in private wells in the Town of Petersburg, on or at their property, and/or in their blood, except for the Action, that, as of thirty (30) days prior to the Final Approval Hearing; (a) has not been dismissed and/or a request to dismiss the claim pursuant to N.Y. CPLR § 3217(b) or Fed. R. Civ. P. 41(a)(2) is not pending; or (b) such Person has not filed an amended complaint or a motion for leave to file an amended complaint that does not assert against Defendant a nuisance claim, a request for medical monitoring relief, or property damages related to the presence of PFOA in the Town Public Water System, in private wells in the Town of Petersburg, on or at their property, and/or in their blood; (iii) the Defendant, any entity or division in which the Defendant has a controlling interest, its legal representatives in this Action, and its officers, directors, assigns and successors; (iv) the judge to whom this Action is assigned, any member of the judge's immediate family and the judge's staff, or any other judicial officer or judicial staff member assigned to this case; (v) any Class Counsel, including their partners, members, and shareholders, and any immediate family members of Class Counsel; (vi) any State, including without limitation the United States, or any of its agencies; and (vii) the Town of Petersburg.
- p. **"Execution Date"** means the date on which the last of Plaintiffs, Class Counsel, and Defendant executes this Agreement.
- q. **"Facility"** shall have the same meaning as set forth in 42 U.S.C. § 9601(9) and shall include but not be limited to the sites (and any improvements or modifications thereon) located at 136 Coonbrook Road, Petersburg, New York 12138.
- r. **"Final Approval"** means the date that the Court enters the Final Approval Order.

- s. **“Final Approval Hearing”** means the hearing at which the Court will consider whether to give final approval to the Settlement and make such other rulings as are contemplated in the Final Approval Order, including determining the amount of attorneys’ fees and costs awarded to Class Counsel, any General Settlement Administration Costs, and the amount of any Service Awards to the Plaintiffs.
- t. **“Final Approval Order”** means the Court’s order: (a) granting final approval to the Settlement; (b) directing that the Agreement be implemented in accordance with its terms; (c) dismissing the Action against Defendant with prejudice, and without costs; (d) determining that there is no just reason for delay and directing entry of a final judgment; (e) ruling that each of the Releasing Parties has expressly, intentionally, fully, finally, and forever released, waived, compromised, settled, and discharged all Released Claims; (f) barring each of the Releasing Parties from asserting any of the Released Claims against any of the Released Parties; (g) barring claims by any Person against the Released Parties for contribution or similar claims (however denominated) for all or a portion of any amounts paid or awarded in the Action by way of settlement, judgment, or otherwise; (h) awarding any attorneys’ fees, costs, and expenses payable in connection with the Settlement or the Action; (i) finding that the Class Notice complied with CPLR Article 9; (j) establishing and approving the Settlement Fund; and (k) reserving exclusive and continuing jurisdiction over the Settlement Fund and the interpretation, performance, implementation, administration, and enforcement of this Agreement and the Court’s orders in the Action.
- u. **“General Administrator”** means KCC Class Action Services, the claims administrator for the Town Water Property Damage Class, Private Well Property Damage Class, and Private Well Nuisance Class, and who shall determine the eligibility of Medical Monitoring Settlement Class Members for the Medical Monitoring Program. The General Administrator will also be responsible for performing duties related to dissemination of Class Notice, administration of the Escrow Account, and administration of the Settlement Fund in accordance with this Agreement. Class Counsel and Defendant may, by agreement, substitute a different organization as General Administrator, subject to approval by the Court if the Court has previously entered the Notice Approval Order or Final Approval Order. In the absence of agreement, either Class Counsel or Defendant may move the Court to substitute a different organization as General Administrator, upon a showing that the responsibilities of the General Administrator have not been adequately executed by the incumbent.
- v. **“General Settlement Administration Costs”** means the costs and fees of the General Administrator to effectuate the Notice Program and to administer the Town Water Property Damage Class, Private Well Property Damage Class, and Private Well Nuisance Class, and to determine the eligibility of Medical Monitoring Settlement Class Members for the Medical Monitoring Program. The General Settlement Administration Costs includes the Preliminary Administrative Expenses.
- w. **“Medical Monitoring Administration Costs”** means the costs and fees of the

Medical Monitoring Administrator to administer the Medical Monitoring Program.

- x. **“Medical Monitoring Administrator”** means the administrator for the Medical Monitoring Program, Edgar C. Gentle III, Esq., whose responsibilities shall include those defined herein and in Appendix A to this Agreement.
- y. **“Medical Monitoring Disbursement”** means the total sum disbursed from the Medical Monitoring Allocation, as defined below, prior to the Program’s termination pursuant to Section 4(c)(ii).
- z. **“Medical Monitoring Participant”** or **“Participant”** means a Medical Monitoring Settlement Class Member who has demonstrated their eligibility, as determined by the General Administrator in accordance with Section 3(b)(iv), and participated in screening offered under the Medical Monitoring Program, including submission of an Informational Survey or receipt of a Consultation or Program Services as set forth in Appendix A.
- aa. **“Medical Monitoring Program”** or **“Program”** means the program described in Appendix A.
- bb. **“Medical Monitoring Remainder”** means the total amount of funds remaining in the Medical Monitoring Allocation when the Program terminates pursuant to Section 4(c)(ii).
- cc. **“Medical Monitoring Settlement Class”** or **“PFOA Invasion Injury Class”** means the class consisting of all individuals who have: (a) ingested water at a property that was supplied by the Town Public Water System or from a private well in the Town of Petersburg in which PFOA has been detected; and (b) underwent blood serum tests that detected a PFOA level in their blood above 1.86 µg/L; or any natural child (i) who was born to a female who meets and/or met the above criteria at the time of the child’s birth; and (ii) whose blood serum was tested after birth and detected a PFOA level above 1.86 µg/L; provided, however, that the “Medical Monitoring Settlement Class” shall not include Excluded Persons.
- dd. **“Medical Monitoring Settlement Class Member”** means any member of the Medical Monitoring Settlement Class who has not timely and validly excluded themselves in an individual or representative capacity, from the Medical Monitoring Settlement Class, in accordance with Section 10 of this Agreement.
- ee. **“Minor”** means a natural Person who is less than eighteen (18) years old.
- ff. **“Net Settlement Fund”** means the portion of the Settlement Fund available for payment to the Settlement Class Members (in accordance with this Agreement) after the payment of any General Settlement Administration Costs, attorneys’ fees, any tax-related expenses, any Court-approved Service Awards to the Plaintiffs, and other costs and expenses payable from the Settlement Fund.
- gg. **“Notice Date”** means the deadline set by the Court by which the General

Administrator must send the Class Notice or, if the Court sets no such deadline, thirty (30) calendar days after Notice Approval.

- hh. **“Notice Form”** means the form of notice that shall be posted on the Settlement Website created by the General Administrator and shall be provided by mail to Town Water Property Damage Class Members, Private Well Property Damage Class Members, Private Well Nuisance Class Members, and certain Medical Monitoring Settlement Class Members, as set forth in Section 9 of this Agreement. The Notice Form is attached hereto as Exhibit 2.
- ii. **“Notice Approval”** means the date that the Court enters the Notice Approval and Scheduling Order.
- jj. **“Notice Approval and Scheduling Order”** means the Court’s order: (i) approving the Class Notice; (ii) setting the Opt Out Deadline, the Objection Deadline, the date and time for the Final Approval Hearing, and other appropriate deadlines; which order will be proposed in substantially the same form as Exhibit 3 and as agreed upon by the Parties.
- kk. **“Notice Program”** means the methods provided for in Section 9 of this Agreement for giving notice to potential Settlement Class Members.
- ll. **“NYSDEC”** means the New York State Department of Environmental Conservation.
- mm. **“Objection”** means a challenge to the Settlement asserted by a Settlement Class Member pursuant to Section 11 of this Agreement.
- nn. **“Objection Deadline”** means the deadline to submit an Objection set by the Court or, if the Court sets no such deadline, one hundred and five (105) days after the Notice Date.
- oo. **“Opt Out”** means the choice of a Settlement Class Member to exclude themselves (in an individual or representative capacity, as appropriate) from the Settlement in accordance with Section 10 of this Agreement.
- pp. **“Opt Out Deadline”** means the deadline to Opt Out set by the Court or, if the Court sets no such deadline, one hundred and five (105) days after the Notice Date.
- qq. **“Party”** means any one of the Plaintiffs or Defendant.
- rr. **“Parties”** means all of the Plaintiffs, on behalf of themselves and the Settlement Class Members, and Defendant.
- ss. **“Person”** means a natural person, guardian, corporation, professional corporation, association, limited liability company, limited company, partnership, limited partnership, joint venture, affiliate, joint-stock company, estate, legal representative, trust, proprietorship, any other type of private entity, states, counties, municipalities, any other public or quasi-public entity, or their respective spouses, heirs,

predecessors, successors, executors, administrators, representatives, or assigns.

- tt. **"PFAS"** means, for purposes of this Agreement only, any fluorinated organic substance that contains one or more carbon atoms on which at least one of the hydrogen substituents has been replaced by a fluorine atom. For purposes of this Agreement, the definition of "PFAS" is intended to be as broad and inclusive as possible and includes, without limitation, all per- and poly-fluoroalkyl substances and their chemical precursors and degradants, including PFOA and APFO, as well as all products manufactured with or containing such substances, their precursors, or their degradants.
- uu. **"PFOA"** means, for purposes of this Agreement only, perfluorooctanoic acid and all its chemical precursors and degradants, including without limitation APFO. For purposes of this Agreement, the definition of "PFOA" is intended to be as broad and inclusive as possible and includes, without limitation, all PFOA-containing substances and all products manufactured with or containing such substances, their precursors, and their degradants.
- vv. **"Plaintiffs"** means any of Jay Burdick, Connie Plouffe, Emily Marpe, as parent and natural guardian of E.Y., an infant, and G.Y., an infant, Jacqueline Monette, William Sharpe, Edward Perrotti-Sousis, Mark Denué, and Megan Dunn.
- ww. **"POET"** means a point-of-entry treatment system.
- xx. **"Preliminary Administrative Expenses"** shall mean any expenses necessary to obtaining Final Approval of the Settlement after Notice Approval is granted, including, but not limited to, expenses associated with providing Class Notice, determining class member eligibility, processing Opt Out requests and Objections, and establishing a qualified settlement fund within the meaning of 26 C.F.R. § 1.468B-1(a) and (c).
- yy. **"Preliminary Settlement Fund"** means the common fund or account established to receive the Preliminary Settlement Fund Payment, and to make payments authorized by this Agreement. The fund shall become part of the Settlement Fund upon Final Approval of the Settlement, or, in the case of termination in accordance with Section 17, any unused portion, including interest accrued thereon, shall be returned to Defendant.
- zz. **"Preliminary Settlement Fund Payment"** means the payment by Defendant after Notice Approval is granted. The amount of the Preliminary Settlement Fund Payment shall be deducted from the Defendant's Total Settlement Payment.
- aaa. **"Private Well Nuisance Class"** means the class consisting of all Persons who are or were owners or renters of real property located in the Town of Petersburg within a seven (7) mile radius of the Defendant's Facility and who: (i) obtain or obtained their drinking water from a privately owned well contaminated with PFOA; and (ii) occupied that property at or around February 20, 2016 when the contamination was discovered, provided, however, that the "Private Well Nuisance Class" shall not

include Excluded Persons.

- bbb. **"Private Well Nuisance Class Member"** means any member of the Private Well Nuisance Class who has not timely and validly excluded themselves in an individual or representative capacity, from the Private Well Nuisance Class, in accordance with Section 10 of this Agreement.
- ccc. **"Private Well Nuisance Settlement Class Member Payment"** means the cash distribution that will be made from the Net Settlement Fund to each Private Well Nuisance Class Member pursuant to the allocation terms of the Settlement.
- ddd. **"Private Well Property Damage Class"** means the class consisting of all Persons who are or were owners of real property located in the Town of Petersburg within a seven (7) mile radius of Defendant's Facility and who: (i) obtain or obtained their drinking water from a privately owned well contaminated with PFOA; and (ii) owned that property at or around February 20, 2016 when the contamination was discovered; provided, however, that the "Private Well Property Damage Class" shall not include Excluded Persons or the Taconic Properties.
- eee. **"Property Settlement Class"** means, collectively, the Town Water Property Damage Class and the Private Well Property Damage Class.
- fff. **"Property Settlement Class Member"** means any member of either the Town Water Property Damage Class or the Private Well Property Damage Class who has not timely and validly excluded themselves in an individual or representative capacity, from the Town Water Property Damage Class or the Private Well Property Damage Class, respectively, in accordance with Section 10 of this Agreement.
- ggg. **"Property Settlement Class Member Payment"** means the cash distribution that will be made from the Net Settlement Fund to each Property Settlement Class Member pursuant to the allocation terms of the Settlement.
- hhh. **"Released Claims"** shall have the meaning set forth in Section 6 of this Agreement.
- iii. **"Released Parties"** means Defendant and its current, former, and future direct and indirect parents, subsidiaries, divisions, affiliates, affiliated business entities, joint ventures, successors, predecessors, including without limitation, any entity identified as a predecessor to Defendant in the Third Amended Complaint and/or for which the Third Amended Complaint alleges that Defendant has succeeded to liability on the basis of any legal theory; and all of its current, former, and future agents, employees, officers, directors, partners, shareholders, owners, members, promoters, representatives, distributors, trustees, attorneys, insurers, subrogees, and assigns, individually or in their corporate or personal capacity, and anyone acting on its behalf, including in a representative or derivative capacity.
- jjj. **"Releasing Parties"** means the Plaintiffs and all other Settlement Class Members and any Person or entity with the right, capacity, or obligation to assert any claim by, on behalf of, for the benefit of, or derived from any alleged damage or injury to the

Settlement Class Members, including without limitation any guardians, next friends, trusts, corporate parents, subsidiaries, divisions, affiliates, affiliated business entities, predecessors, successors, and all of their current or former agents, employees, officers, directors, partners, shareholders, owners, members, promoters, representatives, trustees, executors, heirs, attorneys, insurers, subrogees, and assigns, individually or in their corporate or personal capacity, and anyone acting on their behalf, including in a representative or derivative capacity. Notwithstanding that the United States government is excluded from the Settlement Classes, with respect to any Settlement Class Member that is a government entity, Releasing Parties includes any Settlement Class Member as to which the government entity has the legal right to release such claims.

- kkk. **“Taconic Properties”** means any real property located within the Town of Petersburg that, as of February 20, 2016, was owned in whole or in part by Defendant.
- lll. **“Service Award”** means any Court-approved payment to Plaintiffs for serving as class representatives, which is in addition to any Property Settlement Class Member Payment, Private Well Nuisance Class Member Payment, or payment due to them under this Agreement as members of the Medical Monitoring Settlement Class.
- mmm. **“Settlement”** means the settlement and compromise reflected in this Agreement.
- nnn. **“Settlement Administration Costs”** means all General Settlement Administration Costs and Medical Monitoring Administration Costs.
- ooo. **“Settlement Classes”** means all Persons who are members of the Town Water Property Damage Class, Private Well Property Damage Class, Private Well Nuisance Class, and/or Medical Monitoring Settlement Class.
- ppp. **“Settlement Class Member”** means a member of one or more of the Settlement Classes who has not timely and validly excluded themselves (in an individual or representative capacity, as appropriate) from the Settlement Classes, in accordance with Section 10 of this Agreement.
- qqq. **“Settlement Fund”** means the common fund or account established pursuant to and approved by an order of the Court to resolve and satisfy the Released Claims as a qualified settlement fund within the meaning of 26 C.F.R. § 1.468B-1(a) and (c), to receive the Total Settlement Payment, including any unused portion of the Preliminary Settlement Fund Payment, and to make payments authorized by this Agreement.
- rrr. **“Settlement Website”** means the website that the General Administrator will establish as a means for Settlement Class Members to obtain notice of and information about the Settlement, through and including hyperlinked access to this Agreement, the Notice Form, the Third Amended Complaint, Plaintiffs’ motion seeking Notice Approval and Scheduling Order, Notice Approval and Scheduling Order, Plaintiffs’ motion seeking Final Approval, the Final Approval Order, and the

Claim Form, and such other documents as the Parties agree to post or that the Court orders posted on the website. These documents shall remain on the Settlement Website for at least six months after Final Approval. The Settlement Website's URL will be petersburghpfoasettlement.com.

- sss. **"Third Amended Complaint"** or **"Complaint"** means the Third Amended Consolidated Complaint filed in the Action on September 14, 2021.
- ttt. **"Total Settlement Payment"** means the TWENTY-THREE MILLION FOUR HUNDRED SIXTY-FOUR THOUSAND THREE HUNDRED SIXTY-TWO DOLLARS (\$23,464,362) total cash payment that Defendant is obligated to make under the terms of this Settlement in accordance with Section 2 of this Agreement.
- uuu. **"Town Public Water System"** means the municipal water system for the Town of Petersburg, New York, including the sources of water for the system.
- vvv. **"Town Water Property Damage Class"** means the class consisting of all Persons who are or were owners of real property and who obtain or obtained their drinking water from the Town Public Water System and who purchased their property on or before February 20, 2016; provided, however, that the "Town Water Property Damage Class" shall not include Excluded Persons or Taconic Properties.

2. **Settlement Payment and Settlement Funds**

a. Settlement Administration.

- i. In connection with the motion for Notice Approval and Scheduling Order, Class Counsel has selected and shall propose KCC (whose qualifications are set forth in Exhibit 4) to serve as an independent, third-party General Administrator, to administer the Settlement Fund. Defendant does not object to Class Counsel's proposal for the General Administrator.
- ii. In connection with the motion for Notice Approval and Scheduling Order, Class Counsel has selected and shall propose Edgar C. Gentile, III, Esq. (whose qualifications are set forth in Exhibit 5) to serve as an independent, third-party Medical Monitoring Administrator, to administer the Medical Monitoring Program. Defendant does not object to Class Counsel's proposal for the Medical Monitoring Administrator.

b. Settlement Consideration.

- i. Within twenty (20) days of the issuance of the Notice Approval and Scheduling Order, Defendant shall pay TWO HUNDRED THOUSAND DOLLARS (\$200,000) in cash (the Preliminary Settlement Fund Payment) into the Escrow Account to create the Preliminary Settlement Fund for the benefit of the Settlement Class Members to pay Preliminary Administrative Expenses.

- ii. Within twenty-one (21) days of the Effective Date, Defendant shall pay the remaining TWENTY-THREE MILLION TWO HUNDRED SIXTY-FOUR THOUSAND THREE HUNDRED SIXTY-TWO DOLLARS (\$23,264,362) in cash (which combined with the Preliminary Settlement Fund Payment shall constitute the Total Settlement Payment) into the Escrow Account to create the Settlement Fund for the benefit of the Settlement Class Members. The Settlement Fund shall be used to pay Property Settlement Class Member Payments and Private Well Nuisance Settlement Class Member Payments; to fund the Medical Monitoring Program, including to pay incentive payments and distributions to Participants in the Medical Monitoring Program as provided in Sections 4(c)(iv) and (v) herein, as well as all Medical Monitoring Administration Costs; to pay any and all attorneys' fees and costs awarded to Class Counsel; to pay any Service Award to Plaintiffs; and to pay all General Settlement Administration Costs. All funds held by the General Administrator shall remain subject to the jurisdiction of the Court until distributed pursuant to this Agreement.
 - iii. All costs of the Notice Program and of other General Settlement Administration Costs shall be paid from the Settlement Fund. Prior to the Effective Date, any General Settlement Administration Costs must be approved by Class Counsel before incurred.
- c. No Liability for Distribution of Settlement Funds. Once the Total Settlement Payment is paid to the Escrow Account, Defendant shall have no liability arising from the allocation or distribution of the Settlement Funds to Settlement Class Members, the Medical Monitoring Program, or anyone else. In no event shall Defendant or its counsel have any liability for the administration of the Settlement Fund or for acts or omissions of the General Administrator or the Medical Monitoring Administrator. Payment of the Total Settlement Payment shall constitute Defendant's sole monetary obligation under the Settlement. In no circumstances shall the Defendant be required to pay anything more than the Total Settlement Payment in relation to this Agreement.
- d. Nature of the Settlement Payment and Settlement Funds.
 - i. The Settlement Fund and Preliminary Settlement Fund at all times is intended to be a "qualified settlement fund" within the meaning of United States Treasury Regulation § 1.468B-1, 26 C.F.R. § 1.468B-1 and shall be established pursuant to an order of the Court and will be subject to the continuing jurisdiction of the Court for the life of the Settlement Fund. Neither the Parties nor the General Administrator shall take a position in any filing or before any tax authority that is inconsistent with such treatment. Defendant is a "transferor" within the meaning of United States Treasury Regulation § 1.468B-1(d)(1) to the Settlement Fund. The General Administrator shall be the "administrator" of the Settlement Fund within the meaning of United States Treasury Regulation § 1.468B-2(k)(3) and, as the administrator, the General Administrator shall: (a) timely make or join in any and all filings or elections necessary to make the

Settlement Fund a qualified settlement fund at the earliest possible date (including, if requested by Defendant, a relation-back election within the meaning of United States Treasury Regulation § 1.468B-1(j)); (b) timely file all necessary or advisable tax returns, reports, or other documentation required to be filed by or with respect to the Settlement Fund; (c) timely pay any taxes (including any estimated taxes, and any interest or penalties) required to be paid by or with respect to the Settlement Fund; and (d) comply with any applicable information reporting or tax withholding requirements imposed by applicable law, in accordance with United States Treasury Regulation § 1.468B-2(l). Any such taxes, as well as all other costs incurred by the General Administrator in performing the obligations created by this subsection, shall be paid out of the Settlement Fund. Defendant shall have no responsibility or liability for paying such taxes and no responsibility to file tax returns with respect to the Settlement Fund or to comply with information-reporting or tax-withholding requirements with respect thereto. Defendant shall provide the General Administrator with the combined statement described in United States Treasury Regulation § 1.468B-3(c)(2)(ii).

- ii. Defendant makes no representations to Settlement Class Members concerning any tax consequences or treatment of any allocation or distribution of funds to Settlement Class Members pursuant to this Agreement.
- iii. The Total Settlement Payment, including the Preliminary Settlement Fund Payment, constitutes remediation (as defined in 26 U.S.C. § 162(f)) for the claims alleged by Plaintiffs on behalf of themselves and the Settlement Class Members. No portion of the Total Settlement Payment, including the Preliminary Settlement Fund Payment, constitutes a fine, penalty, punitive damages, disgorgement of profits, or reimbursement for investigation or litigation costs within the meaning of 26 U.S.C. § 162(f), or an amount paid in settlement of any claim for any of the foregoing; and if a determination were made to the contrary, the amounts paid would qualify under the exceptions in Subsections 162(f)(2) and (3).

3. **Class Enrollment and Eligibility**

- a. Submission of Claim Form and Review.
 - i. To become eligible to receive Property Settlement Class Member Payments or Private Well Nuisance Settlement Class Member Payments and/or to participate in the Medical Monitoring Program pursuant to this Agreement, Claimants must submit a Claim Form and, if necessary, supporting documents, to the General Administrator during the Enrollment Period. The Claimant shall identify on the Claim Form the Settlement Classes to which he, she, or it, or in their capacity as a representative, purports to belong. The General Administrator shall review the Claim Form and any supporting documentation and determine whether the Claimant is an eligible Settlement Class Member of the Settlement Classes in which they, or in their capacity as a representative,

purports to belong. A Claim Form postmarked after the Enrollment Period concludes will be rejected by the General Administrator as untimely, and the Claimant submitting such Claim Form cannot qualify to receive payment, participate in the Medical Monitoring Program and/or otherwise qualify for Settlement benefits pursuant to this Agreement.

- ii. The Claim Form shall be in substantially the same form as Exhibit 1 attached hereto. The Claim Form shall be available on the Settlement Website. To become eligible to receive Property Settlement Class Member Payments or Private Well Nuisance Settlement Class Member Payments and/or to participate in the Medical Monitoring Program pursuant to this Agreement, Claimants may be required to submit certain qualifying documentary support, as set forth below. The General Administrator shall be entitled to verify the identity of any Claimant and any information required by the Claim Form.
- iii. If the General Administrator determines that a Claimant has submitted insufficient proof of eligibility, the General Administrator will provide an opportunity for the Claimant to cure the submission to the extent practicable.
- iv. Payments to Settlement Class Members who demonstrate eligibility as determined by the General Administrator and this Agreement shall be paid from the Settlement Fund as set forth in Section 4. The General Administrator shall use reasonable efforts to complete payment then due in accordance with Section 4 within 90 days of the Effective Date.

b. Eligibility Determination.

- i. Town Water Property Damage Class. To demonstrate eligibility to receive payment as a Town Water Property Damage Class Member, Claimants must complete the Claim Form and provide proof of ownership as of February 20, 2016 of real property that obtains or obtained its drinking water from the Town Public Water System. Proof of ownership may include a combination of the following: 1) a copy of the deed to the property; 2) a copy of a tax bill demonstrating ownership of the property as of February 20, 2016; and/or 3) any other form of proof deemed appropriate by the General Administrator. If the Claimant does not submit documentary proof of ownership, or does not submit documentary proof sufficient to show ownership as of February 20, 2016, the Claimant's eligibility may also be determined by the General Administrator's reference to public property records. Proof of water source may be provided by a copy of a Town Public Water System water bill (of any date) or any other form of proof deemed appropriate by the General Administrator. If the General Administrator is able to obtain public records that establish property ownership as of February 20, 2016, and/or water source of the property, the obligation of the Claimant to provide such proof may be waived by the General Administrator.

- ii. Private Well Property Damage Class. To demonstrate eligibility to receive payment as a Private Well Property Damage Class Member, Claimants must complete the Claim Form and provide proof that they owned real property in the Town of Petersburg within a seven (7) mile radius of Defendant's Facility and who obtain or obtained their drinking water from a privately owned well contaminated with PFOA, and who owned that property at or around February 20, 2016 when the contamination was discovered. Proof of ownership may include a combination of the following: 1) a copy of the deed to the property; 2) a copy of a tax bill demonstrating ownership of the property; and/or 3) any other form of proof of ownership deemed appropriate by the General Administrator. If the Claimant does not submit documentary proof of ownership, the Claimant's eligibility may also be determined by the General Administrator's reference to public property records. Proof of detectable levels of PFOA in the property's private well water may be demonstrated by a copy of test results reporting a detectable level of PFOA in the property's private well water from a qualified laboratory or from the State of New York, or any other form of proof deemed appropriate by the General Administrator. Proof of residency on or after February 20, 2016 may be provided by a declaration of residency sworn to by the Claimant. If the General Administrator is able to obtain public records and/or confidential records and data provided by the New York State Department of Health and/or NYSDEC that establish property ownership at or around February 20, 2016, and/or PFOA contamination in the property's private well water, the obligation(s) of the Claimant to provide some or all such proof may be waived by the General Administrator.
- iii. Private Well Nuisance Class. To demonstrate eligibility to receive payment as a Private Well Nuisance Class Member, Claimants must complete the Claim Form and provide proof of ownership of, or leasehold interest in, real property in the Town of Petersburg within a seven (7) mile radius of Defendant's Facility and who: 1) obtain or obtained their drinking water from a privately owned well contaminated with PFOA; and 2) occupied that property at or around February 20, 2016 when the contamination was discovered. Proof of ownership or leasehold interest may include a combination of the following: 1) a copy of the deed to the property; 2) a copy of a tax bill demonstrating ownership of the property; 3) a copy of the lease for such property; 4) a sworn declaration confirming a leasehold interest at or around February 20, 2016 when the contamination was discovered; and/or 5) any other form of proof deemed appropriate by the General Administrator. Proof of detectable levels of PFOA in the property's private well water may be demonstrated by a copy of test results reporting a detectable level of PFOA in the property's private well water from a qualified laboratory or from the State of New York, or any other form of proof deemed appropriate by the General Administrator. Proof of residency at or around February 20, 2016 when the contamination was discovered may be provided by a declaration of residency sworn to by the Claimant. If the General Administrator is able to obtain public records and/or confidential records and data provided by the New York State Department of Health and/or NYSDEC that establish property ownership, residency at or around February 20, 2016

when the contamination was discovered, and/or PFOA contamination in the property's private well water, the obligation(s) of the Claimant to provide some or all such proof may be waived by the General Administrator.

- iv. Medical Monitoring Settlement Class. To demonstrate eligibility to participate in the Medical Monitoring Program as a Medical Monitoring Settlement Class Member, a Claimant must complete the Claim Form and provide proof that (a) they ingested water at a property that was supplied with drinking water by the Town Public Water System or a private well within a seven (7) mile radius of Defendant's Facility in the Town of Petersburg in which PFOA was detected; and (b) had a serum PFOA concentration of more than 1.86 µg/L. A Claimant may also establish eligibility by demonstrating that they are a natural child (i) born to a female who meets and/or met these criteria at the time of their birth and (ii) whose blood serum was tested after birth, disclosing a serum PFOA concentration of more than 1.86 µg/L. Proof of water consumption at a qualifying property may be provided by a sworn declaration. Proof that the property's drinking water was supplied by the Town Public Water System can be demonstrated through a copy of a water bill (of any date) for such residence or such other proof as the General Administrator deems appropriate. Proof that the property's drinking water was supplied by a private well in which PFOA was detected may be demonstrated by a copy of test results reporting a detectable level of PFOA in the property's private well water from a qualified laboratory or from the State of New York, or any other form of proof deemed appropriate by the General Administrator. The General Administrator may also obtain such information by reference to public records and/or confidential records and data provided by the New York State Department of Health and/or NYSDEC. Proof of a serum PFOA concentration above 1.86 µg/L may be demonstrated by a copy of a serum PFOA test result from a qualified laboratory or from the State of New York.

4. **Calculation of Class Member Payments**

a. Property Settlement Classes

- i. Property Payment Allocation. The sum of FOUR MILLION FOUR HUNDRED TEN THOUSAND DOLLARS (\$4,410,000) shall be allocated from the Settlement Fund for distribution to Property Settlement Class Members who demonstrate eligibility in accordance with Section 3(b)(i) or (ii). This shall be referred to as the "Property Payment Allocation."
- ii. Calculation of Settlement Payment for Each Property. The General Administrator shall total the full market values of all Eligible Properties as determined by the 2015 County Assessment Roll for the Town of Petersburg, which will comprise the denominator of a fraction. For calculating the distribution for each Eligible Property, the full market value of that Eligible Property as determined by the 2015 County Assessment Roll for the Town of Petersburg shall comprise the numerator of this fraction, which will then be

multiplied by the Property Payment Allocation to yield the individual amount due to the Property Settlement Class Member(s) who owned the Eligible Property as of February 20, 2016 or when the contamination was discovered. The amount payable for each Eligible Property shall be based upon this fraction regardless of the number of owners of such property. If there are multiple Property Settlement Class Members who owned an individual Eligible Property as of February 20, 2016 or when the contamination was discovered and demonstrate eligibility in accordance with Section 3(b)(i) or (ii), the General Administrator shall pay this amount in equal shares to each such Property Settlement Class Member.

b. Private Well Nuisance Class

- i. Nuisance Payment Allocation. The sum of FOUR MILLION THIRTY-ONE THOUSAND TWO HUNDRED AND FIFTY DOLLARS (\$4,031,250) shall be allocated from the Settlement Fund for distribution to Private Well Nuisance Class Members who demonstrate eligibility in accordance with Section 3(b)(iii). This shall be referred to as the “Nuisance Payment Allocation.”
- ii. Calculation of Private Well Nuisance Settlement Class Member Payment. The Nuisance Payment Allocation shall be divided evenly by the General Administrator among all Private Well Nuisance Settlement Class Members who demonstrate eligibility in accordance with Section 3(b)(iii), and an equal share shall be paid to each Private Well Nuisance Class Member who demonstrates eligibility in accordance with Section 3(b)(iii).

c. Medical Monitoring Settlement Class

- i. Medical Monitoring Allocation. The sum of EIGHT MILLION FIVE HUNDRED FIFTY THOUSAND DOLLARS (\$8,550,000) shall be allocated to the Medical Monitoring Program from the Settlement Fund. This shall be referred to as the “Medical Monitoring Allocation.” The Medical Monitoring Administrator shall establish an account into which the Medical Monitoring Allocation shall be deposited by the General Administrator, and the Medical Monitoring Allocation shall thereafter be used to pay all expenses related to the Medical Monitoring Program as further delineated in Appendix A, including payments to Participating and Non-Participating Physicians, laboratories, and all Medical Monitoring Administration Costs.
- ii. Term. The Medical Monitoring Program shall begin on the Effective Date and shall terminate at the earlier of: (a) when the Medical Monitoring Allocation has been expended; or (b) when all bills submitted to the Medical Monitoring Administrator for services under the Medical Monitoring Program rendered on or before the fifteen (15) year anniversary of the Effective Date are paid.
- iii. Medical Monitoring Program Provisions. The testing and services protocols under the Medical Monitoring Program, their frequency, and other details

concerning the operation of the Medical Monitoring Program are set forth in Appendix A, attached hereto and incorporated herein.

- iv. Incentive Payments. A maximum incentive payment of ONE HUNDRED DOLLARS (\$100) shall be paid to any Medical Monitoring Settlement Class Member who completes both the Initial Informational Survey and the Initial Screening Consultation as described in Appendix A within twelve (12) months of the Effective Date. No other incentive payments shall be made at any time for participation in the Medical Monitoring Program.
- v. Distribution of Remainder of Funds at Termination of the Medical Monitoring Program. The amount, if any, remaining of the Medical Monitoring Allocation when the Program terminates pursuant to Section 4(c)(ii) shall be distributed as follows:
 - 1. An amount equal to the Medical Monitoring Disbursement or to the Medical Monitoring Remainder, whichever is less, shall be distributed on a pro-rata basis to all Participants in the Medical Monitoring Program based on their level of participation during its term, as determined by the Medical Monitoring Administrator. For example, Participants who have participated in all services available to them under the Medical Monitoring Program as determined by the Medical Monitoring Administrator shall receive one pro-rata share, while Participants who have participated in 50% of services available to them under the Medical Monitoring Program shall receive one-half of a pro-rata share.
 - 2. In the event the Medical Monitoring Remainder is greater than the Medical Monitoring Disbursement, an amount equal to the difference between the Medical Monitoring Remainder and the Medical Monitoring Disbursement will be paid as a contribution to a not-for-profit organization that focuses on health and well-being of residents in or around the Town of Petersburg that serves the Town of Petersburg community. The Parties will work together to identify the appropriate recipient organization within 120 days of the Effective Date and thereafter seek Court approval of their selection. If the recipient organization identified by the Parties ceases to exist at any time after the Effective Date but before termination of the Medical Monitoring Program pursuant to Section 4(c)(ii), the Parties shall meet and confer in good faith to propose a reasonable substitute recipient organization and shall seek Court approval of their proposal.
 - 3. Nothing in this Agreement or in Appendix A shall be construed as Defendant's agreement with or endorsement of any oral or written statements made by or the selection of the General Administrator, the Medical Monitoring Administrator, an Overseeing Program Physician or a Program Physician (as those terms are defined in Appendix A), or the Medical Monitoring Program itself, including as to any purported health or environmental risks associated with PFOA (or PFAS).

- d. Excess Settlement Funds. To the extent that any amounts remain in the Settlement Fund after all payments have been made pursuant to Section 4(a)-(c) herein, and following disbursement of Court-approved attorneys' fees and costs, General Settlement Administration Costs, any tax-related expenses, and any Court-approved Service Awards, those remaining amounts shall be added to the Medical Monitoring Allocation.

5. Attorneys' Fees, Costs, and Expenses

- a. Class Counsels' Fees and Costs. Class Counsels' reasonable attorneys' fees and costs, as determined and approved by the Court, shall be paid from the Settlement Fund no later than twenty-eight (28) days after the Effective Date. Class Counsel shall apply for an award of attorneys' fees up to 25% of the Total Settlement Payment, or FIVE MILLION SIX HUNDRED SEVENTY-THREE THOUSAND ONE HUNDRED AND TWELVE DOLLARS (\$5,673,112), and reimbursement of reasonable litigation costs of up to FOUR HUNDRED THOUSAND DOLLARS (\$400,000), to be approved by the Court. Defendant agrees not to oppose an application for attorneys' fees and costs in those amounts. Defendant shall not be responsible for any attorneys' fees, expenses, or costs in this Action beyond the amounts allocated for these purposes in this paragraph.
- b. Service Awards. Subject to Court approval, each Plaintiff shall be entitled to receive a Service Award of up to \$25,000 each for their role as a class representative. The Service Awards shall not exceed \$200,000 in the aggregate and shall be paid from the Settlement Fund no later than twenty-eight (28) days from the Effective Date.
- c. Administrative Fees and Costs. The General Settlement Administration Costs shall be paid from the Preliminary Settlement Fund and, after Final Approval, the Settlement Fund within ten (10) days after invoicing to and written approval by Class Counsel. Total General Settlement Administration Costs, including Preliminary Administrative Expenses, shall not exceed \$200,000, except that, in the event of exceptional circumstances, an additional amount not to exceed \$50,000 may be paid from the Settlement Fund for General Settlement Administration Costs.
- d. Total Settlement Payment. When combined with the amounts set forth in Sections 4(a)(i), (b)(i), and (c)(i), the sum of amounts set forth in Sections 5(a)-(c) shall not exceed the Total Settlement Payment amount set forth in Section 1(ttt).

6. Dismissal, Release of Claims, and Related Provisions

- a. Dismissal. In the motion for final approval of the Settlement, Plaintiffs, on behalf of themselves and the Settlement Classes, shall request that the Final Approval Order dismiss the Action with prejudice and enter a final judgment.
- b. Release. Upon the Effective Date, the Releasing Parties shall have expressly, intentionally, voluntarily, fully, finally, irrevocably, and forever released, relinquished, waived, compromised, settled, and discharged the Released Parties from each and every past, present, and future claim and cause of action, including

without limitation causes of action and/or relief created or enacted in the future—whether known or unknown, whether direct or indirect, individual or class, in constitutional, federal, state, local, statutory, civil, or common law or in equity, or based on any other law, rule, regulation, ordinance, directive, contract, or the law of any foreign jurisdiction, whether fixed or contingent, known or unknown, liquidated or unliquidated, suspected or unsuspected, asserted or unasserted, matured or unmatured, or for compensatory damages, consequential damages, incidental damages, statutory damages, punitive, special, multiple, treble, or exemplary damages, nominal damages, disgorgement, restitution, indemnity, contribution, penalties, injunctive relief, declaratory relief, attorneys’ fees, court costs, or expenses of any kind—that were or could have been asserted in the Action or any other forum, arising out of or related to, either directly or indirectly or in whole or in part: (i) the subject matter of any allegations contained in the Third Amended Complaint, any allegations otherwise asserted in the Action, or the subject matter of any discovery obtained in the Action; (ii) the alleged presence of PFAS (including PFOA) in drinking water or the environment (including but not limited to in air, groundwater, surface water, municipal water, private well water, or soil) within the Town of Petersburg; (iii) the sale, purchase, use, handling, transportation, release, discharge, migration, emission, spillage, or disposal of PFAS (including PFOA) to, at, or from a Facility in or near the Town of Petersburg, including any such PFAS (including PFOA) present as a result of disposal at or discharge to, directly or indirectly, any landfill, sewage system, water treatment facility, or any other location in and around the Town of Petersburg, and/or resulting in any alleged exposure of any Settlement Class Member to PFAS (including PFOA) through drinking water, inhalation, dermal contact, or otherwise; (iv) for any type of relief with respect to the acquisition, installation, maintenance, operation, or presence of, including the cost or purported inconvenience or loss of enjoyment of, property associated with whole-house filters, point-of-entry (POET) filters, point-of-use filters, municipal water, private well water, bottled water, alternative water supplies, or remediation; (v) for property damage or property-value diminution, including without limitation stigma, purportedly attributable to the alleged presence of PFAS (including PFOA) in the Town Public Water System or any private well, or in the air, groundwater, surface water, municipal water, private well water, or soil in or around the Town of Petersburg; and/or (vi) based on PFAS (including PFOA) in the blood or tissue of any Settlement Class Member (the “**Released Claims**”); provided, however, that the “Released Claims” do not include any individual claims of the Releasing Parties: (a) for any damages (including for screenings, tests, examinations, and/or diagnostic procedures) related to past, present, or future manifested bodily injuries that have resulted in a medically diagnosed condition; or (b) to enforce the terms of this Agreement or the Final Approval Order. For purposes of this Agreement, “manifested bodily injuries that have resulted in a medically diagnosed condition” do not include the detection or accumulation of PFAS (including PFOA) in blood or other bodily tissue.

- c. N.Y. Gen. Oblig. § 15-108: The releases set forth herein are given pursuant to New York law and shall be construed under New York law, including N.Y. General Obligations Law § 15-108, which bars claims for contribution by joint tortfeasors as

provided for in article fourteen of the New York Civil Practice Law and Rules, without regard to New York's conflict or choice of law principles. This Agreement is expressly intended to absolve the Released Party from any claims for contribution (however denominated) by any other Person that might be subsequently added or joined as a party in the Action, or any other Person sued or deemed responsible for any claim or damages arising out of or related to the Released Claims, in the manner and to the fullest extent permitted under the law of New York, including N.Y. General Obligations Law § 15-108, or of any other jurisdiction that might be construed or deemed to apply for claims of contribution (however denominated) against any Released Party. Notwithstanding the foregoing, should any court determine that any person or entity was legally entitled to any kind of contribution from the Defendant arising out of or related to Released Claims, the Releasing Parties agree that any money judgment subsequently obtained by the Releasing Parties against any other Person subsequently added or joined as a party in the Action shall be reduced to an amount such that, upon paying the entire amount, the Person subsequently sued would have no claim for contribution (however denominated) against the Released Party.

- d. Minor Plaintiffs: Each of the Plaintiffs who filed this Action as parent and natural guardian of a Minor will apply to the Court individually or jointly for approval of the settlement on behalf of the Minor class representatives and all absent Minor Settlement Class Members. It is contemplated by the Parties that the Notice Approval and Scheduling Order will provide authority under N.Y. CPLR § 1201 for parents and guardians of all named Minor Plaintiffs and absent Settlement Class Members to sign Claim Forms and releases on behalf of their Minor children and wards. It is further contemplated by the Parties that an Order from the Court finally approving the Settlement shall effectuate a settlement under N.Y. CPLR § 1207 for all named Minor Plaintiffs and absent Minor Settlement Class Members.
- e. Incompetent Absent Class Members: It is contemplated by the Parties that legal representatives of incompetent absent Settlement Class Members shall have authority to sign Claim Forms and releases on behalf of the absent Settlement Class Members they represent. Where a legal representative of an incompetent absent Settlement Class Member submits a Claim Form on that Settlement Class Member's behalf, that legal representative shall attest to their authority to act for the incompetent absent Settlement Class Member. It is contemplated by the Parties that the Notice Approval and Scheduling Order will provide authority under N.Y. CPLR § 1201 for such legal representatives to sign the Claim Forms and releases on behalf of the incompetent Settlement Class Members they represent. It is contemplated by the Parties that an Order from the Court finally approving the Settlement shall effectuate a settlement under N.Y. CPLR § 1207 for all absent incompetent Settlement Class Members.
- f. Deceased Absent Class Members: It is contemplated by the Parties that legal representatives of deceased absent Settlement Class Members shall have authority to sign Claim Forms and releases on behalf of the absent Settlement Class Members they represent. Where a legal representative of a deceased absent Settlement Class Member submits a Claim Form on that Settlement Class Member's behalf, that legal

representative shall attest to their authority to act for the deceased absent Settlement Class Member.

- g. No Waiver of Defenses: Defendant does not waive or forfeit any claims, defenses or arguments that they could assert, including as to any claims or causes of action that are outside the definition of “Released Claims.”
- h. Exclusive Remedy: The relief provided for in this Agreement shall be the sole and exclusive remedy for all Releasing Parties with respect to any Released Claims, and the Released Party shall not be subject to liability or expense of any kind with respect to any Released Claims other than as set forth in this Agreement.
- i. Covenant Not To Sue: Each of the Releasing Parties shall forever refrain from instituting, maintaining, prosecuting, or continuing any suit, action, arbitration, or proceeding against the Released Party with respect to the Released Claims.
- j. Waiver of Statutory Rights: To the extent the provisions apply, the Releasing Parties expressly, knowingly, and voluntarily waive the provisions of Section 1542 of the California Civil Code, which provides as follows:

A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in their favor at the time of executing the release and that, if known by them, would have materially affected their settlement with the debtor or released party.

To the extent the provisions apply, the Releasing Parties likewise expressly, knowingly, and voluntarily waive the provisions of Section 20-7-11 of the South Dakota Codified Laws, which provides:

A general release does not extend to claims which the creditor does not know or suspect to exist in his favor at the time of executing the release, which if known by him must have materially affected his settlement with the debtor.

To the extent the laws apply, the Releasing Parties expressly waive and relinquish all rights and benefits that they may have under, or that may be conferred upon them by, Section 1542 of the California Civil Code, Section 20-7-11 of the South Dakota Codified Laws, and all similar laws of other States, to the fullest extent that they may lawfully waive such rights or benefits pertaining to the Released Claims. In connection with such waiver and relinquishment, the Releasing Parties acknowledge that they are aware that they or their attorneys may hereafter discover claims or facts in addition to or different from those that they now know or believe to exist with respect to the Released Claims, but that it is their intention to accept and assume that risk and fully, finally, and forever release, waive, compromise, settle, and discharge all of the Released Claims against Released Persons. The release thus shall remain in effect notwithstanding the discovery or existence of any additional or different claims or facts.

- k. Full and Complete Defense: To the extent permitted by law, this Agreement may be pleaded as a full and complete defense to, and may be used as the basis for an injunction against, any action, suit, arbitration, or other proceeding that may be instituted, prosecuted, or attempted in breach of or contrary to this Settlement Agreement, or that asserts any Released Claims against the Released Party.

7. No Admission of Wrongdoing or Liability

- a. Defendant does not admit or concede any liability, fault, omission, or wrongdoing, acknowledge any validity to the allegations or claims asserted in the Action, admit, concede or acknowledge that the Medical Monitoring Program is medically necessary, or acknowledge any weakness in the defenses asserted in the Action, and nothing in this Agreement, the Notice Approval and Scheduling Order, or the Final Approval Order shall be interpreted to suggest anything to contrary.
- b. Nothing in this Agreement, any negotiations, statements, communications, proceedings, filings, or orders relating thereto, or the fact that the Parties entered the Agreement and settled the Action shall be construed, deemed, or offered as an admission or concession by any of the Parties, Settlement Class Members, or Defendant, or as evidentiary, impeachment, or other material available for use or subject to discovery in any suit, action, or proceeding (including this Action) before any civil or criminal court, administrative agency, arbitral body, or other tribunal, except: (i) as required or permitted to comply with or enforce the terms of this Agreement, the Notice Approval and Scheduling Order, or the Final Approval Order; or (ii) in connection with a defense based on *res judicata*, claim preclusion, collateral estoppel, issue preclusion, release, or other similar theory asserted by any of the Released Parties. The limitations described in this paragraph shall apply whether or not the Court enters the Notice Approval and Scheduling Order or the Final Approval Order, or any such order is affirmed, reversed, vacated, or overturned by an appellate court.

8. Notice Approval and Scheduling

- a. Upon execution of this Agreement by all Parties, Class Counsel shall promptly move the Court for a Notice Approval and Scheduling Order. The proposed Notice Approval and Scheduling Order shall be attached to the motion, or otherwise filed with the Court, and shall be in a form attached hereto as Exhibit 3.
- b. The motion for Notice Approval and Scheduling Order shall, among other things, request that the Court: (1) appoint the General Administrator; (2) approve the Notice Program set forth herein and approve the form and content of the Class Notice; (3) approve the procedures set forth herein in Sections 10 and 11 for Settlement Class Members to Opt Out or object to the Settlement; (4) provide the requisite authority for parents and guardians of all named Minor Plaintiffs and absent Minor Settlement Class Members, and for legal representatives of absent incompetent Settlement Class Members, to sign Claim Forms and releases on behalf of the Settlement Class Members they represent; (5) stay further proceedings against Defendant in this

Action pending Final Approval of the Settlement; and (6) schedule a Final Approval Hearing for a time and date mutually convenient for the Court, Class Counsel, and counsel for Defendant, at which the Court will conduct an inquiry into the fairness of the Settlement, determine whether it was made in good faith, and determine whether to approve the Settlement and Class Counsels' application for attorneys' fees and costs and for a Service Award to Plaintiffs.

- c. In Plaintiffs' motion seeking entry of a Notice Approval and Scheduling Order, Plaintiffs shall request that the Court approve the Notice Form attached at Exhibit 2 and approve the Notice Program. The Court will ultimately determine and approve the content and form of the Notice Form to be distributed to the Settlement Class Members.
- d. The Parties further agree that in Plaintiffs' motion seeking Notice Approval and Scheduling Order, Plaintiffs will request that the Court enter the following schedule governing the Settlement: (1) deadline for commencing Class Notice (the Notice Date): thirty (30) days from Notice Approval; (2) Opt Out Deadline: one hundred and five (105) days from the Notice Date; (3) Objection Deadline: one hundred and five (105) days from the Notice Date; (4) deadline for filing motions for approval of Plaintiffs' Service Awards and attorneys' fees and costs awards: one-hundred fifty (150) days from Notice Approval; (5) deadline for filing motion for final approval: one-hundred fifty (150) days from Notice Approval; (6) Final Approval Hearing: one-hundred eighty (180) days from Notice Approval, or as soon thereafter as is mutually convenient.

9. **Class Notice**

- a. Provision of Information to the General Administrator. The proposed General Administrator shall execute an Affidavit attesting to comply with the Confidentiality Order entered in this Action on or before the filing of Plaintiffs' motion seeking Notice Approval and Scheduling Order. Within twenty (20) days of the General Administrator's execution of this Affidavit, Plaintiffs' counsel will provide the General Administrator with confidential private well testing data provided by the NYSDEC and/or the New York State Department of Health, including property addresses, from testing performed on properties within the Town of Petersburg since February 2016. The General Administrator shall use this information solely for the purposes of providing Class Notice and administering the Settlement, including making eligibility determinations, as described in Section 3.
- b. Within thirty (30) days of Notice Approval, or by the time specified by the Court, the General Administrator shall commence the Notice Program, including by mailing the Notice Form in such form as is approved by the Court. The General Administrator shall transmit the Notice Form via direct mail to all owners of real Properties that obtain drinking water from the Town Public Water System and owners and renters of real properties in the Town of Petersburg that obtain drinking water from private wells contaminated with PFOA.

- c. Commencing on the Notice Date, the General Administrator shall implement the Notice Program. As set forth in more detail in Exhibit 6, the Notice Program shall consist of direct mail; internet, national and social media impressions; a national press release; and a community outreach effort. As set forth in more detail in Exhibit 6, the Notice Program will feature a media campaign with the following features:
- i. A digital media plan will achieve approximately 53.3 million impressions, targeting adults eighteen and over by geo-targeting New York State, Albany-Troy-Schenectady, and the Town of Petersburg on desktop and mobile devices via various websites and Facebook. A supplemental digital media plan will target adults eighteen and over nationwide via various websites and adults eighteen and over on Facebook and Instagram who have Bennington College listed as part of their education.
 - ii. A newspaper campaign will feature one quarter-page ad to be published in the Main News section of the Albany Times Union (on any one Monday through Saturday) and Eastwick Press (on any one Friday).
 - iii. A nationwide press release.
 - iv. A community outreach plan will work with prominent news organizations, agencies, and community organizations to disseminate notice of the Settlement to their audiences and networks.
- d. The General Administrator shall maintain a Settlement Website containing the Third Amended Complaint, this Agreement, the Notice Form, Plaintiffs' motion seeking Notice Approval and Scheduling Order, the Notice Approval and Scheduling Order, Plaintiffs' motion seeking Final Approval, the Final Approval Order, the Claim Form, and such other documents as the Parties agree to post or that the Court orders posted. These documents shall remain on the Settlement Website for at least six months after Final Approval. The Settlement Website's URL will be petersburghpfoasettlement.com.
- e. The General Administrator shall send the Notice Form and Claim Form by mail to any potential Settlement Class Member who requests a copy. It will be conclusively presumed that the intended recipients received the Notice Form and Claim Form if the Notice Form and/or Claim Forms have not been returned to the General Administrator as undeliverable within fifteen (15) calendar days of mailing.
- f. The Parties may by mutual written consent make non-substantive changes to the Notice Form without Court approval after the Court's approval of the Notice Form.
- g. A Spanish-language translation of the Notice Form agreed upon by the Parties shall be available on the Settlement Website and will be provided to Settlement Class Members who request it from the General Administrator.

10. Opt Outs

- a. A Settlement Class Member may Opt Out by submitting to the General Administrator a timely and valid request that complies with the Opt Out procedure described in the Class Notice. To be timely and valid, an Opt Out request must have a verified submission date on or before the Opt Out Deadline and must include: (i) the full name, current address, and telephone number of the requestor; (ii) a statement of the facts that make the requestor a Settlement Class Member; (iii) a statement requesting exclusion from the Settlement Classes; and (iv) the signature of the requestor.
- b. Any Settlement Class Member that submits a timely and valid Opt Out request shall not: (i) be bound by any orders or judgments entered in the Action to implement and effectuate the Settlement and this Agreement; (ii) be entitled to any of the relief or other benefits provided under this Agreement; (iii) gain any rights by virtue of this Agreement; or (iv) be entitled to submit an Objection.
- c. Any Settlement Class Member that does not submit a timely and valid Opt Out request submits to the jurisdiction of the Court and shall be bound by the terms of this Agreement and by all orders and judgments in the Action to implement and effectuate the Settlement and this Agreement.
- d. If a Property Settlement Class Member submits a timely and valid Opt Out request, and that Settlement Class Member owns real property jointly with one or more other Property Settlement Class Members, all Settlement Class Members owning such property shall be deemed to have submitted a timely and valid Opt Out request.
- e. No “mass” or “class” Opt Out requests shall be valid, and no Settlement Class Member may submit an Opt Out request on behalf of any other Settlement Class Member; provided, however, that a Settlement Class Member who is the legal guardian of a Minor Settlement Class Member or the legal representative of an incompetent or deceased Settlement Class Member may submit an Opt Out request on behalf of that Settlement Class Member.
- f. Any Settlement Class Member that submits an Opt Out request may revoke the request by submitting to the General Administrator a statement of revocation with a verified submission date no later than forty (40) days before the Final Approval Hearing. Class Counsel and counsel for Defendant shall jointly have discretion to extend this deadline on a case by case basis.
- g. As soon as practicable and no later than thirty (35) days before the Final Approval Hearing, the General Administrator shall furnish the Parties with a final list of all timely and valid Opt Out requests that have been submitted and not revoked.

11. Objections

- a. A Settlement Class Member may make an Objection by serving on the Parties a timely and valid statement of Objection that complies with the Objection procedure described

in the Class Notice. Class Counsel shall file all such Objections with the Court at least twenty (20) days prior to the Final Approval Hearing.

- b. To be timely and valid, a statement of Objection must be postmarked or received on or before the Objection Deadline and must include: (i) the full name, current address, and telephone number of the objector; (ii) a statement of the facts that make the objector a Settlement Class Member; (iii) a statement describing all of the objector's challenges to this Agreement or the Settlement and the reasons for those challenges; (iv) all of the papers and evidence the objector intends to submit in support of those challenges; (v) a statement of whether the objector intends to appear at the Final Approval Hearing; (vi) the signature of the objector; (vii) a statement that the objector is willing to be deposed, upon request, on a mutually acceptable date at least ten (10) days before the Final Approval Hearing; (viii) the caption of each case in which the objector or counsel representing the objector have objected to a class action settlement within the preceding five years and a copy of all orders related to or ruling upon those objections; and (ix) all agreements that relate to the Objection, whether written or verbal, between or among the objector, counsel for the objector, and/or any other Person.
- c. No "mass" or "class" Objections shall be valid, and no Settlement Class Member may submit a statement of Objection on behalf of any other Settlement Class Member; provided, however, that a Settlement Class Member who is the legal guardian of a Minor Settlement Class Member or the legal representative of an incompetent or deceased Settlement Class Member may submit a statement of Objection on behalf of that Settlement Class Member.
- d. Unless the Court orders otherwise, only those Settlement Class Members whose statements of Objection express an intention to appear at the Final Approval Hearing shall have the right to present their Objections orally at the Final Approval Hearing.
- e. Plaintiffs and the Defendant shall have the right, but not the obligation, to respond to any timely-filed objection no later than seven (7) days prior to the Final Approval Hearing. Any Party who wishes to respond shall file a copy of the written response with the Court, and shall serve a copy, by hand or overnight delivery, to the objecting Settlement Class Member (or their counsel) and by email to counsel for Plaintiffs and/or the Defendant.
- f. A Settlement Class Member that does not submit a timely and valid Objection shall have waived, and shall be foreclosed from making, any challenge to this Agreement or the Settlement in the Action or any other proceeding.

12. Final Approval and Entry of Final Judgment

- a. The Parties shall jointly seek a Final Approval Order and entry of final judgment from the Court that:
 - i. Approves the Settlement Agreement in its entirety pursuant to CPLR Article 9 as fair, reasonable, and adequate;

- ii. Confirms certification of the Settlement Classes as satisfying the requirements of CPLR 901 and 902;
 - iii. Confirms appointment of the General Administrator and Medical Monitoring Administrator;
 - iv. Confirms the appointment of Class Counsel;
 - v. Finds that the Class Notice has satisfied the requirements set forth in CPLR Article 9;
 - vi. Settles the claims of all named Minor Plaintiffs, absent Minor Settlement Class Members, and absent incompetent and deceased Settlement Class Members;
 - vii. Bars and enjoins each Settlement Class Member from commencing, asserting, and/or prosecuting any and all Released Claims against any Released Party;
 - viii. Dismisses with prejudice all claims in the Third Amended Complaint asserted against Defendant, without further costs, including claims for interest, penalties, costs, and attorneys' fees;
 - ix. Enters final judgment pursuant to CPLR Article 9;
 - x. Confirms that it retains continuing jurisdiction over the Medical Monitoring Program and the Settlement Fund; and
 - xi. Expressly incorporates the terms of this Agreement and provides that the Court retains continuing and exclusive jurisdiction over the Parties, the Settlement Class Members, and this Agreement, to interpret, implement, administer and enforce the Agreement in accordance with its terms.
- b. The motion for Final Approval of this Settlement shall include a request that the Court enter the Final Approval Order and, if the Court grants Final Approval of the Settlement and incorporates the Agreement into the final judgment, that the Court shall dismiss this Action with prejudice, and enter final judgment, subject to the Court's continuing jurisdiction to enforce the Agreement.

13. **Representations and Warranties**

- a. Plaintiffs represent and warrant to Defendant as follows:
- i. Each of the Plaintiffs is a Settlement Class Member.
 - ii. Each of the Plaintiffs has received legal advice from Class Counsel regarding the advisability of entering into this Agreement and the legal consequences of this Agreement.

- iii. No portion of any of the Released Claims possessed by any of the Plaintiffs and no portion of any relief under this Agreement to which any of the Plaintiffs may be entitled has been assigned, transferred, or conveyed by or for any of the Plaintiffs to any other Person, except pursuant to any contingency fee agreement with Class Counsel.
 - iv. None of the Plaintiffs is relying on any statement, representation, omission, inducement, or promise by the Defendant, its agents, or its representatives, except those expressly stated in this Agreement.
 - v. Each of the Plaintiffs, through Class Counsel, has investigated the law and facts pertaining to the Released Claims and the Settlement.
 - vi. Each of the Plaintiffs, or for named Minor Plaintiffs their legal guardians, or for incompetent or deceased Plaintiffs their legal representatives, has carefully read, and knows and understands, the full contents of this Agreement and is voluntarily entering into this Agreement after having consulted with Class Counsel or other attorneys.
 - vii. Each of the Plaintiffs, or for named Minor Plaintiffs their legal guardians, or for incompetent or deceased Plaintiffs their legal representatives, has all necessary competence and authority to enter into this Agreement on their own behalf or on behalf of any named Minor Plaintiffs, incompetent plaintiffs, or deceased plaintiffs, and on behalf of the respective Settlement Classes they represent. Each of the Plaintiffs who filed this Action as parent and natural guardian of a Minor has complied, and for purposes of this Settlement will comply, with all applicable state and federal laws pertaining to Minors and legal representative and guardianship laws, and has the authority and capacity to bind the named Minor Plaintiff to this Agreement.
 - viii. None of the Plaintiffs will Opt Out or file an Objection.
- b. Class Counsel represents and warrants to Defendant as follows:
- i. Class Counsel believes the Settlement is fair, reasonable, adequate, and beneficial to each Settlement Class Member and that participation in the Settlement would be in the best interests of each Settlement Class Member.
 - ii. Class Counsel does not currently represent any client or clients that plan to, or are considering whether to, Opt Out, file an Objection, or otherwise challenge the Settlement or this Agreement.
 - iii. Class Counsel recognizes the risk that they could have a conflict of interest if they represented (directly or indirectly) any client in connection with an effort to Opt Out, file an Objection, or otherwise challenge the Settlement or this Agreement.

- iv. Because Class Counsel believes that the Settlement is in the best interests of each Settlement Class Member, Class Counsel will not solicit, or assist others in soliciting, Settlement Class Members to Opt Out, file an Objection, or otherwise challenge the Settlement or this Agreement.
 - v. Class Counsel has all necessary authority to enter into and execute this Agreement on behalf of Plaintiffs and the Settlement Classes.
 - vi. Each of the Plaintiffs, or for Minor Plaintiffs their legal guardians, has approved and agreed to be bound by this Agreement.
 - vii. The representations in Section 13(a) of this Agreement are true and correct to the best of Class Counsel's knowledge.
- c. Defendant represents and warrants to Plaintiffs as follows:
- i. Defendant has received legal advice from its attorneys regarding the advisability of entering into this Agreement and the legal consequences of this Agreement.
 - ii. Defendant is not relying on any statement, representation, omission, inducement, or promise by Plaintiffs, Settlement Class Members, or Class Counsel, except those expressly stated in this Agreement.
 - iii. Defendant, with the assistance of its attorneys, has investigated the law and facts pertaining to the Released Claims and the Settlement.
 - iv. Defendant has carefully read, and knows and understands, the full contents of this Agreement and is voluntarily entering into this Agreement after having consulted with its attorneys.
 - v. Defendant has all necessary authority to enter into this Agreement, has authorized the execution and performance of this Agreement, and has authorized the Person signing this Agreement on its behalf to do so.

14. **Liens and Medicare Obligations**

- a. Any liens or subrogation interests as to any damage to real property or other property of a Settlement Class Member shall be the responsibility of that Settlement Class Member.
- b. Any liens or subrogation interests as to any costs, expenses, or fees incurred by a Settlement Class Member in connection with any alleged exposure to PFAS (including PFOA) shall be the responsibility of that Settlement Class Member.
- c. Nothing in this Agreement is intended to create or give rise to any liens or subrogation claims not otherwise provided by law or contract.

- d. Due to the nature of the claims at issue in the Action and the Released Claims, the Parties agree that the Settlement does not give rise to any reporting requirements under Section 111 of the Medicare, Medicaid, and SCHIP Extension Act of 2007, and therefore that no Party will make any such report.
- e. The Parties have sought to draft this Settlement to avoid any impacts to the rights of any public or private program (e.g. Medicare) or to Settlement Class Members' rights thereunder. However, by choosing not to Opt Out, Settlement Class Members acknowledge that: (i) the Settlement could impact, limit, or preclude their rights to receive certain future Medicare benefits arising out of the allegations in this lawsuit; and (ii) they want to proceed with the Settlement and voluntarily waive any and all claims against Defendant for denial of Medicare benefits related to the Settlement. It is understood that the intent of this Agreement is that the Releasing Parties will protect, defend, and hold the Released Party harmless from any future or further payments or exposure with regard to claims for reimbursement of public or private medical insurance benefits paid on behalf of the Releasing Parties. The Releasing Parties voluntarily waive any and all claims of any nature against Defendant related to any effort by Medicare or a Medicare Advantage Organization to demand payment of covered medical expenses that are asserted to be related to this Settlement, including but not limited to a private cause of action under 42 U.S.C. § 1395y(b)(3)(A).
- f. The Parties have considered Medicare's interest in any potential Medicare-covered medical expenses occurring before or after the Effective Date. The Parties are satisfied that no allocation for expenses to protect Medicare's interest now or in the future is necessary and will not allocate any amount of the proceeds of this Settlement for past or future medical expenses, but reserve the right to do so in the future if necessary and appropriate in the sole discretion of the Medical Monitoring Administrator.

15. **Amendment of Agreement**

- a. The Parties may agree to amend this Agreement for any reason at any time.
- b. Prior to entry of the Final Approval Order, this Agreement may be amended only by a writing executed by all Parties.
- c. After entry of the Final Approval Order, this Agreement may be amended only by a writing executed by all Parties and approved by the Court.

16. **Termination Rights and Effect of Termination**

- a. Any of the Parties may terminate this Agreement if any of the following events happen: (i) the Court declines to approve any part of the Settlement; (ii) the Court declines to approve or changes a material term of the requested Notice Approval and Scheduling Order or the requested Final Approval Order; (iii) an appellate court reverses, vacates, or otherwise overturns the Final Approval Order in whole or in part; (iv) another of the Parties materially breaches this Agreement before the Effective Date and fails to promptly cure the breach after receiving written notice of the breach; or (v) the Effective Date otherwise does not come to pass; provided, however, that

none of the Parties may terminate this Agreement because the Court or any appellate court awards less than the requested amount of attorneys' fees, costs, and expenses.

- b. After receipt of the final Opt Out list provided by the General Administrator pursuant to Section 10 of this Agreement, Defendant may terminate this Agreement based on the number of Settlement Class Members who Opt Out, pursuant to the Supplemental Agreement Regarding Settlement Termination Rights discussed in Section 17.
- c. To exercise a right to terminate this Agreement, a Party must deliver written notice of termination to counsel for all other Parties within ten (10) days after the later of the event creating the right to terminate or the Party learning of the event creating the right to terminate, unless that deadline is extended by written consent of counsel for all Parties.
- d. If a Party exercises a right to terminate this Agreement: (i) the Parties shall have thirty (30) days to resume settlement negotiations and determine if the Parties can reach an amended agreement, including without limitation with the assistance of a mediator; (ii) all deadlines under this Agreement shall be stayed for the duration of the negotiations; (iii) the Parties shall jointly request a stay of all Court deadlines for the duration of the negotiations; and (iv) the Parties shall jointly advise the Court of the status of this Agreement or any amendment to this Agreement within seven (7) days after the conclusion of the thirty-day negotiation period.
- e. Unless the Parties agree otherwise in writing, thirty-one (31) days after a Party exercises a right to terminate this Agreement:
 - i. The Agreement (except for Sections 7(a), 7(b), 16 (a)-(f), 18(a), 18(c), 19 (a), 19(b) shall become null and void and of no further force and effect.
 - ii. Any unused portion of the Preliminary Settlement Fund Payment, including interest accrued thereon, shall be returned to Defendant.
 - iii. The Action shall resume as if the Parties never entered into the Agreement.
 - iv. The Parties shall be restored to their respective positions in the Action as of the Execution Date, with all of their respective legal claims and defenses preserved as they existed on that date.
 - v. The Parties shall jointly move to vacate any orders entered in connection with the Settlement.
 - vi. The Parties shall jointly move for the entry of a scheduling order establishing procedures and deadlines for, among other things, a trial on Plaintiffs' claims.
 - vii. No Party shall be deemed to have waived any claims, objections, rights or defenses, or legal arguments or positions, including but not limited to, claims or objections to class certification, or claims or defenses on the merits. Each

Party reserves the right to prosecute or defend this Action in the event that this Agreement does not become final and binding.

- f. If a Party breaches the Agreement after the Effective Date, none of the Parties may terminate the Agreement and any aggrieved Parties may seek relief only from the breaching Party. In no event shall any non-breaching Party have any liability arising out of or related to a breach of the Agreement by any other Party.

17. Supplemental Agreements

- a. In addition to the provisions contained in Section 16, Defendant shall have the right, but not the obligation, in its sole discretion, to terminate this Agreement pursuant to the Supplemental Agreement Regarding Settlement Termination Rights to be executed by the Parties contemporaneously with the execution of this Agreement. This Supplemental Agreement shall not be submitted to the Court except in the event of a dispute thereunder, in which case the Parties shall seek to file it only under seal. The Supplemental Agreement Regarding Settlement Termination Rights is expressly incorporated into this Agreement.

18. Publicity and Confidentiality

- a. The Parties, Class Counsel, counsel for Defendant, the General Administrator, and the Medical Monitoring Administrator shall keep strictly confidential and not disclose to any third party any non-public information received during litigation of the Action or negotiation or implementation of the Settlement. All agreements made and orders entered during the course of the Action relating to the confidentiality of information will survive this Settlement Agreement.
- b. Within one hundred eighty (180) days after the latest of: (i) the Effective Date; (ii) any final judgment in the Action; (iii) expiration or exhaustion of opportunities for appellate review of any final judgment without the final judgment having been reversed, vacated, or otherwise overturned in whole or in part; or (iv) entry of final judgment or an order of dismissal in the last-related action filed in New York State Supreme Court, Rensselaer County against Defendant for exposure to PFOA or other PFAS compounds released from its facility in Petersburg, New York, Class Counsel, on behalf of Plaintiffs and the Settlement Classes, the General Administrator, and the Medical Monitoring Administrator shall return or destroy (and certify in writing that they have destroyed upon a request to so certify) the Defendant's confidential documents produced in connection with the Action, settlement discussions, or the negotiation or performance of this Agreement.
- c. Recognizing that all Parties negotiated in good faith to reach an arms-length settlement, the Parties and their counsel agree that their public statements will not disparage the Settlement Agreement, or any Party's motivations, reasons, or decision to enter into the Settlement Agreement.

19. **Miscellaneous**

- a. Jurisdiction and Venue. New York State Supreme Court, Rensselaer County shall retain jurisdiction over the Parties and Settlement Class Members to interpret, implement, administer, and enforce the terms of this Agreement and resolve any dispute regarding this Agreement, the Settlement, the Notice Approval and Scheduling Order, or the Final Approval Order. All proceedings related to this Agreement, the Settlement, the Notice Approval and Scheduling Order, or the Final Approval Order shall be initiated and maintained in New York State Supreme Court, Rensselaer County.
- b. Governing Law. The Agreement shall be governed by and construed in accordance with the law of the State of New York without regard for choice-of-law or conflict-of-laws principles.
- c. All Reasonable Efforts. The Parties agree to cooperate with one another and use all reasonable efforts to support, promote, and obtain court approval and finality, and to exercise reasonable efforts to accomplish the terms and conditions of this Agreement.
- d. Voluntary Settlement: The Parties and their counsel agree that, in consideration of all the circumstances, and after significant, adversarial arm's-length settlement negotiations among counsel and with the assistance of a mediator, the proposed Settlement embodied in this Agreement is fair, reasonable, adequate, and in the best interests of the Settlement Classes, and was reached voluntarily after consultation with competent legal counsel.
- e. Binding Nature. This Agreement shall be binding upon and inure to the benefit of the Parties, the Settlement Class Members, and their respective agents, employees, representatives, heirs, executors, administrators, successors, and assigns.
- f. Mistake. Each of the Parties to the Agreement has investigated the facts pertaining to it to the extent each Party deems necessary. In entering into this Agreement, each Party assumes the risk of mistake with respect to such facts. This Agreement is intended to be final and binding upon the Parties regardless of any claim of mistake.
- g. Finality. This Agreement is intended to be final and binding among the Parties, and is further intended to be a full and final accord and satisfaction between and among each of them. Defendant and Plaintiffs rely on the finality of this Agreement as a material factor inducing that Party's execution of this Agreement.
- h. Authorization to Settle. Each of the Parties (or, for Minor Plaintiffs, their legal guardians or for incompetent or deceased Plaintiffs their, representatives) has all necessary authority to enter into this Agreement, has authorized the execution and performance of this Agreement, and has authorized the Person signing this Agreement on its behalf to do so.
- i. Claim-Splitting Defense Waiver. In the event any plaintiff in an individually filed action against Defendant chooses to amend their complaint to dismiss claims for

property damage, nuisance and/or medical monitoring in order to participate in this Class Action Settlement and continue such action only for personal injury or a spousal derivative claim, Defendant hereby waives and agrees not to assert a defense of claim-splitting in such individual action.

- j. Construction. This Agreement was drafted jointly by the Parties and, in construing and interpreting this Agreement, no provision of this Agreement shall be construed or interpreted against any of the Parties based upon the contention that this Agreement or a portion of it was purportedly drafted or prepared by one of the Parties. The Parties agree that the language in all parts of this Agreement shall be construed as a whole, according to its fair meaning. Any captions, titles, headings, or subheadings in this Agreement have been inserted for convenience of reference only and shall have no effect upon the construction or interpretation of any part of this Agreement.
- k. Execution. This Agreement may be executed in counterparts, including via electronic signature, and shall be binding once all Parties have executed the Agreement. The Parties further agree that signatures provided by portable document format (PDF) or other electronic transmission shall have the same force and effect as original signatures.
- l. Dispute Resolution. The Parties will attempt to resolve any disputes regarding this Agreement in good faith. If unable to so resolve a dispute, the Parties will refer the matter to the New York State Supreme Court, Rensselaer County for resolution.
- m. No Liability. No Person shall have any claim against any Plaintiffs, Settlement Class Members, Class Counsel, Released Parties, counsel for Defendant, the General Administrator, or the Medical Monitoring Administrator based on actions that any Plaintiffs, Settlement Class Members, Class Counsel, Released Parties, counsel for Defendant, the General Administrator, or the Medical Monitoring Administrator were required or permitted to take under this Agreement, the Notice Approval and Scheduling Order, or the Final Approval Order. No Person shall have any claim against any Released Parties or counsel for Defendant related to administration of the Settlement, including the Medical Monitoring Program or the allocation or distribution of the Settlement Funds. No Person shall have any claim against Plaintiffs, Class Counsel, the General Administrator, or the Medical Monitoring Administrator related to the administration of the Settlement (including making payments to Settlement Class Members), except for in the presence of proven willful misconduct. No Person shall have any claim against Class Counsel, the General Administrator, the Medical Monitoring Administrator, the Released Parties, or counsel for Defendant related to representations made by a parent or guardian pursuant to Section 15(a) or by a parent, guardian, or legal representative on the Claim Form regarding a Minor, incompetent, or deceased Settlement Class Member, including without limitation purported inaccuracies or misstatements regarding the parent's, guardian's, or legal representative's legal relationship to and authority relative to that Settlement Class Member.
- n. Entire Agreement. This Agreement constitutes the entire agreement of the Parties with respect to the subject matter thereof, and it supersedes all prior and contemporaneous

oral and written agreements and discussions among them on that subject matter. The Settlement is not subject to any condition, representation, warranty, or inducement not expressly provided for herein, and, except as identified in Section 17, there exist no collateral or oral agreements, promises, conditions, representations, warranties, or inducements among any of the Parties, Class Counsel, Defendant, or counsel for Defendant relating to the subject matter of the Agreement that supersede or supplement the Agreement.

- o. Deadlines. If the last date for the performance of any action required or permitted by this Agreement falls on a Saturday, Sunday, or Court or public holiday, that action may be performed on the next business day as if it had been performed within the time period provided for performance of the action.
- p. Reasonable Extensions. Unless the Court orders otherwise, the Parties may agree in writing to any reasonable extensions of time to carry out any of the provisions of this Agreement.
- q. Notices. Any notice, demand, or other communication under this Agreement (other than the Class Notice) shall be in writing and shall be deemed duly given if it is addressed to the intended recipient as set forth below and personally delivered, sent by registered or certified mail (postage prepaid), sent by confirmed email, or delivered by reputable express overnight courier:

To Plaintiffs or Settlement Class Members:

Stephen G. Schwarz
Faraci Lange, LLP
28 E. Main Street, Suite 1100
Rochester, NY 14614
sschwarz@faraci.com

James J. Bilsborrow
Seeger Weiss LLP
55 Challenger Road
Ridgefield Park, NJ 07660
jbilsborrow@seegerweiss.com

To Defendant:

Ann Marie Duffy
Hollingsworth LLP
1350 I Street, NW
Washington, DC 20005
(202) 898-5800
aduffy@hollingsworthllp.com

Corporate Counsel
Taconic
136 Coonbrook Road
Petersburgh, NY 12138
(518) 658-3202


Any notice required to be sent to the General Administrator shall be delivered to his, her, or its official business address.

- r. Waiver. The provisions of this Agreement may be waived only by written agreement signed by the waiving party. The waiver by any Party of any breach of this Agreement shall not be deemed to be or construed as a waiver of any other breach of this Agreement.
- s. Materiality of Appendices and Exhibits. All of the Appendices and Exhibits to the Settlement Agreement are material and integral parts hereof.
- t. Severability. The provisions of this Agreement are not severable, except as provided in the Agreement.
- u. Third-Party Beneficiaries. This Agreement does not create any third-party beneficiaries, except Settlement Class Members and the Released Parties other than Defendant, who are intended third-party beneficiaries.
- v. Force Majeure. The failure of any Party to perform any of its obligations hereunder shall not subject any Party to any liability or remedy for damages, or otherwise, where such failure is occasioned in whole or in part by Acts of God, fires, accidents, pandemics, other natural disasters, interruptions or delays in communications or transportation, labor disputes or shortages, shortages of material or supplies, governmental laws, rules or regulations of other governmental bodies or tribunals, acts or failures to act of any third parties, or any other similar or different circumstances or causes beyond the reasonable control of such Party.

[SIGNATURES ON NEXT PAGE]

APPROVED AND AGREED TO:

Plaintiff Jay Burdick,


 Date: 9/27/21

**Plaintiff Emily Marpe, as parent and
 natural guardian of ~~CH~~, infant**
E.Y. and G.Y. 4w


 Date: 9/27/21

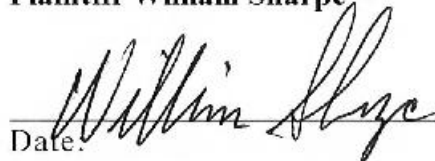
Plaintiff Connie Plouffe

 Date:

Plaintiff Jacqueline Monette,


 Date:

Plaintiff William Sharpe


 Date: 9/27/21

Plaintiff Edward Perrotti-Sousis

 Date:

Plaintiff Mark Denué

 Date:

Plaintiff Megan Dunn

 Date:

APPROVED AND AGREED TO:**Plaintiff Jay Burdick,**_____
Date:**Plaintiff Emily Marpe, as parent and
natural guardian of O.H., infant**_____
Date:**Plaintiff William Sharpe**_____
Date:**Plaintiff Mark Denué**
Date: 9-30-2021**Plaintiff Connie Plouffe**
Date: 9/27/2021**Plaintiff Jacqueline Monette,**_____
Date:**Plaintiff Edward Perrotti-Sousis**
Date: 9/27/21**Plaintiff Megan Dunn**
Date: 9/30/2021


Class Counsel

By: **Stephen G. Schwarz**

Date:

By: **Hadley Lundback Matarazzo**

Date:



By: **James J. Bilsborrow**

Date: *10/1/2021*

Defendant Tonoga, Inc. (d/b/a Taconic)

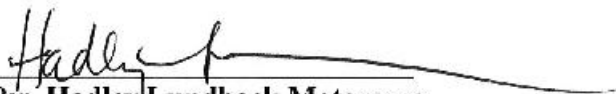
By: **Timothy Kosto**

Position:

Date:

Class CounselBy: **Stephen G. Schwarz**

Date: 9/27/2021

By: **Hadley Lundback Matarazzo**

Date:

By: **James J. Bilsborrow**

Date:

Defendant Tonoga, Inc. (d/b/a Taconic)

By: Timothy Kosto

Position:

Date:

EXHIBITS TO SETTLEMENT AGREEMENT

1. Claim Form [reproduced as Exhibit D to Schwarz Affidavit]
2. Notice Form [reproduced as Exhibit C to Schwarz Affidavit]
3. Proposed Approval Order [reproduced as Exhibit F to Schwarz Affidavit]
4. KCC Qualifications [attached]
5. Gentle CV [attached]
6. KCC Notice Declaration [reproduced as Exhibit E to Schwarz Affidavit]

EXHIBIT 4 – KCC QUALIFICATIONS



KCC Class Action Services Resume

KCC is an industry leader in class action settlement administration. We administer claims processes and distribute funds in a vast array of varying matters, ranging from small and simple settlements to multi-year complex settlements involving millions of claimants.

KCC's parent company, Computershare, is a publicly traded company which, among its many business lines, provides global financial services centering on communications with customers on behalf of our corporate clients. Computershare employs over 12,000 people and does business with more than 25,000 clients in more than 21 countries. KCC's operations are regulated by federal agencies, including both the SEC and OCC. KCC has the largest infrastructure in the class action industry, and is backed by superior data security, call center support and technology. In addition to the immense resources and capabilities brought to bear through Computershare, KCC can execute all operations in-house with zero outsourcing; a capacity which allows for full quality control over each aspect of service.

KCC has administered over 7,200 class action matters and handled thousands of distribution engagements in other contexts as well. Our call centers handle 13.9 million calls each year. Our domestic infrastructure can open and scan 200,000 claims in a single day, and we have document production capabilities that print and mail millions of documents annually. Last year, our disbursement services team distributed more than \$1.6 billion (USD) across four million class payments.

Locations

KCC has an administrative office in El Segundo, CA, operation offices in San Rafael, CA, and Louisville, KY, and presence in the East Coast, South and Midwest. In addition to these offices, KCC has the global support of Computershare. In the United States Computershare has more than 20 offices.

KCC Personnel

KCC's experienced team of experts knows first-hand the intricacies contained in every aspect of settlement administration, and approach each matter with careful analysis and procedural integrity. Each client is assigned a team of experienced consultants, specialists and technology experts who serve as knowledgeable, reliable and accessible partners that have earned a reputation for exceeding clients' expectations. KCC's executive team – Eric Barberio, President; Patrick Ivie, Senior Executive Vice President; and Daniel Burke, Executive Vice President – are experienced industry leaders.

Our personnel have considerable experience which includes years of practice with KCC and related endeavors. KCC's professionals have extensive training, both on-the-job and formal, such as undergraduate and advanced business, information technology and law degrees, and they possess and/or have had licenses and certificates in disciplines that are relevant to class action administration.

Recognition

Our settlement administration services have been recognized by *The National Law Journal*, *The New York Law Journal*, *The New Jersey Law Journal*, *The Recorder*, *Legal Intelligencer*, *Legal Times* and other leading publications. KCC has earned the trust and confidence of our clients with our track record as a highly-responsive partner.



Settlement Value	
Case	Value
Fortis Settlement	\$1,572,690,000
Ramah Navajo Chapter v. Jewell	\$940,000,000
U.S.A. v. The Western Union Company	\$586,000,000
Vaccarino v. Midland National Life Ins. Co	\$555,000,000
In re Facebook Biometric Info. Privacy Litig.	\$550,000,000
Safeco v. AIG	\$450,000,000
Johnson v. Caremark Rx, LLC	\$310,000,000
In re Activision Blizzard, Inc. Stockholder Litigation	\$275,000,000
Harborview MBS	\$275,000,000
Dial Corp. v. News Corporation, et al.	\$244,000,000
In re Medical Capital Securities Litigation Settlement	\$219,000,000
In Re: NCAA Athletic Grant-In-Aid Antitrust Litigation	\$208,664,445
Gutierrez v. Wells Fargo Bank, N.A	\$203,000,000
Postmates Mass Arbitration Settlement	\$179,000,000
BlueCrest Capital Management Limited	\$170,000,000
Bell v. Farmers - Bell III	\$170,000,000
In Re Diamond Foods, Inc. Securities Litigation	\$167,000,000
In re JPMorgan Chase & Co. Securities Litigation	\$150,000,000
Haddock v. Nationwide Life Insurance Co. Settlement	\$140,000,000
In re Freeport-McMoran Copper & Gold Inc. Derivative Litigation Notice	\$137,500,000
Bank of America, et al. v. El Paso Natural Gas Company, et al.	\$115,000,000
In re Anthem, Inc. Data Breach Litigation	\$115,000,000
In re Medical Capital Securities Litigation Settlement	\$114,000,000
Drywall Acoustic Lathing v. SNC Lavalin	\$110,000,000
In re Automotive Parts Antitrust Litigation III	\$103,000,000
Rural/Metro Corporation Stockholders Litigation	\$97,793,880
J.C. Penney Securities Litigation	\$97,500,000
Smokeless Tobacco Cases	\$96,000,000
Oubre v. Louisiana Citizens	\$92,865,000
Ardon v. City of Los Angeles	\$92,500,000
Nishimura v. Gentry Homes, Ltd. II	\$90,341,564
In Re: Potash Antitrust Litigation (II) (Escrow)	\$90,000,000
Ormond, et al, v. Anthem, Inc.	\$90,000,000
In re DRAM Antitrust Litigation	\$87,750,000
In re: Morning Song Bird Food Litigation	\$85,000,000
Ideal v. Burlington Resources Oil & Gas Company LP	\$85,000,000
Willoughby v. DT Credit Corporation, et al. (Drivetime)	\$78,000,000
In Re Tesla Motors, Inc. Stockholder Litigation	\$60,000,000



Class Members	
Case	Volume
Edwards v. National Milk Producers Federation et al.	90,000,000
In re Anthem, Inc. Data Breach Litigation	80,000,000
Carrier IQ Inc. Consumer Privacy Litigation	47,300,000
The Home Depot, Inc. Customer Data Security Breach Litigation	40,000,000
In re Facebook Biometric Info. Privacy Litig.	30,000,000
In Re Midland Credit Management, Inc. TCPA Litigation	30,000,000
Golden v. ContextLogic Inc. d/b/a Wish.com	29,222,936
Cassese v. WashingtonMutual	23,200,344
In re Wawa, Inc. Data Security Litigation	22,000,000
Rael v. The Children's Place, Inc.	22,000,000
In Re Optical Disk Drive Antitrust Litigation	20,000,000
In re UltraMist Sunscreen Litigation	20,000,000
Torres v. Wendy's International, LLC	18,000,000
In Re Lithium Ion Batteries Antitrust Litigation	16,000,000
Gordon v. Verizon Communications, Inc.	15,236,046
Experian Data Breach Litigation	15,000,000
Opperman v. Kong Technologies, Inc. et al.	13,279,377
Lerma v Schiff Nutrition International, Inc.	12,000,000
Kolinek v. Walgreen Co.	10,213,348
Dunstan v. comScore, Inc.	10,000,000
Sprint Government Restitution Program	9,500,000
Steinfeld v. Discover Financial Services	9,088,000
Cohen, et al. v. FedEx Office and Print Services, Inc., et al.	9,000,000
Elvey v. TD Ameritrade, Inc.	8,639,226
In Re: Monitronics International, Inc. Telephone Consumer Protection Act Litigation	7,789,972
In re Portfolio Recovery Associates Telephone Consumer Protection Act Litigation	7,395,511
Morrow v. Ascena Retail Group, Inc. and Ann Inc.	7,277,056
Shames v. The Hertz Corporation	7,271,238
In Re Facebook Biometric Information Privacy Litigation	7,000,000
Roberts, et al. v. Electrolux Home Products, Inc.	6,305,000
Chambers v. Whirlpool Corporation, et al.	5,788,410
Martin v. Safeway Inc.	5,610,739
Morales v. Conopco Inc. dba Unilever (TRESemmé Naturals)	5,000,000
Murray v. Grocery Delivery E-Services USA Inc. dba Hello Fresh	5,000,000

EXHIBIT 5 – GENTLE CV

EXHIBIT B

APPENDIX A

PETERSBURGH CLASS ACTION MEDICAL MONITORING PROGRAM

a) Definitions

All capitalized terms not otherwise defined herein shall have the same meaning as defined in the Class Settlement Agreement (“Agreement”) between and among the Plaintiffs and the Defendant in the putative consolidated class action lawsuit captioned *Burdick et al., v. Tonoga Inc. (d/b/a Taconic)*, New York Supreme Court, Rensselaer County, Index No. 00253835. In addition to the terms defined at various points within the Agreement, the following defined terms shall apply throughout this Appendix A:

1. The “Annual Informational Survey” means the annual survey designed by the Overseeing Program Physician as described below in section (e)(2)(ii), which will be designed by Overseeing Program Physician during the first year of the Program.
2. “Annual Financial Disbursement Report” means the annual report prepared by the Medical Monitoring Administrator, consisting of (1) an aggregated summary of the disbursements made for the Medical Monitoring Program, including identification of the Consultations and/or Program Services rendered by the Program Physicians, Non-Program Physicians, and/or laboratories for which disbursements were made, (2) participation rates and/or the number of Participants in the Medical Monitoring Program, and (3) the median serum PFOA level of Participants as a whole in a given reporting year and the percentage change in such level since the prior reporting year. Any and all Participant data, including Protected Health Information, related to participation or use of the Medical Monitoring Program contained in the Annual Disbursement Report shall be presented in an aggregated,

de-identified form and shall not include the results of any Consultation or Program Services, except for the summary statistics of serum PFOA levels described in this paragraph.

3. “Annual Participant Report” means the annual report prepared by the Medical Monitoring Administrator for dissemination only to Participants, consisting of (1) participation rates and/or the number of Participants in the Medical Monitoring Program, and (2) the median serum PFOA level of Participants as a whole in a given reporting year and the percentage change in such level since the prior reporting year. Any and all Participant data, including Protected Health Information, contained in the Annual Participant Report shall be presented in an aggregated, de-identified form.
4. The “Annual Surveillance Consultation” means the activities described in section (e)(4), including the provision of Program Services performed by, or under the supervision of, a Program Physician or Non-Program Physician.
5. “Consultation” means the Initial Screening Consultation or Annual Surveillance Consultation for a Participant.
6. “Health Condition” means any of thyroid disease, ulcerative colitis, kidney cancer, testicular cancer, elevated uric acid level, abnormal liver function, hyperlipidemia, and hypertensive disorder related to pregnancy.
7. The “Initial Screening Consultation” means the activities described in section (e)(3), including the provision of Program Services performed by, or under the supervision of, a Program Physician or Non-Program Physician.

8. “Informational Survey” means the Initial Informational Survey or Annual Informational Survey.
9. The “Initial Informational Survey” means the informational survey designed by the Overseeing Program Physician as described below and will be substantially similar to attached as Exhibit A. .
10. “Non-Program Physician” means a third-party licensed primary care physician approved by the Medical Monitoring Administrator and Overseeing Program Physician to provide Consultations and to provide or prescribe Program Services to Medical Monitoring Settlement Class Members who reside more than 50 miles from a Program Physician, and who agrees to do so at the request of the Medical Monitoring Administrator. No Non-Program Physician shall be a Medical Monitoring Settlement Class Member or have a pending claim for medical monitoring or personal injury against the Defendant.
11. “Overseeing Program Physician” shall be the physician to fulfill the responsibilities set forth in section (a)(11)(ii). Class Counsel has selected Alan Ducatman, M.D., to serve as Overseeing Program Physician until such time as he becomes unwilling or unable to continue to serve in that role. Class Counsel may substitute a different physician with medical monitoring experience as Overseeing Program Physician, subject to approval by the Court if the Court has previously approved the Settlement preliminarily or finally.
 - i. **Compensation: Compensation:** The Overseeing Program Physician shall invoice the Medical Monitoring Administrator monthly with descriptions of the services provided and the time incurred. The Overseeing Program

Physician shall be compensated on an hourly basis at a rate of \$280 per hour for the first year of the Program and the Medical Monitoring Administrator may increase that rate shall be increased by an amount not to exceed five (5) percent per year in each subsequent year of the program. In the first year of the Medical Monitoring Program, the Overseeing Program Physician shall not be paid for in excess of 150 hours unless approved by Class Counsel. In each subsequent year of the Program, the Overseeing Program Physician shall not be paid in excess of 35 hours unless approved by Class Counsel

ii. **Responsibilities:** The Overseeing Program Physician shall have the following responsibilities:

1. Assist in selecting and approving Program Physicians;
2. Training Program Physicians and Non-Program Physicians on the Medical Monitoring Program design and implementation by (A) developing Physician Training Materials and (B) meeting virtually with Program Physicians and Non-Program Physicians by web conference or telephone conference to provide a one-time training at the inception of the Medical Monitoring Program or, in the case of any Program Physician or Non-Program Physician who is selected and approved after inception of the Program, prior to their participation in the Program;
3. Develop Participant Program Materials; and

4. Designing the Initial Informational Survey to be completed by Participants at the initiation of the Program and the Annual Informational Survey to be completed annually by Participants who have received an Initial Screening Consultation.
- iii. The Overseeing Program Physician shall not receive or have access to data regarding the identity, laboratory testing results, or other medical information of Medical Monitoring Settlement Class Members, except that the Medical Monitoring Administrator may (but need not) consult with the Overseeing Program Physician when the Medical Monitoring Administrator compiles Participant serum PFOA level data to prepare the Annual Participant Report or Annual Financial Disbursement Report and only to the extent that the data has been anonymized.
12. “Participant” means a Medical Monitoring Settlement Class Member who has enrolled in the Medical Monitoring Program by scheduling and receiving a Consultation.
13. “Participant Program Materials” means written materials to be provided to Participants, which shall consist of a list of the Health Conditions, a list of what the Overseeing Program Physician contends are clinical signs and symptoms of the Health Conditions, and reference to the availability of Consultations and Program Services for the Health Conditions and any other general health information related to reducing risks of developing the Health Conditions. Neither the preparation nor dissemination of Participant Program Materials shall be construed as Defendant’s agreement with or endorsement of the content thereof, including the scientific basis

for offering any Consultations or Program Services, and the Participant Program Materials shall contain an express disclaimer to such effect.

14. “Physician Training Materials” means written to be provided to Program Physicians and Non-Program Physicians, which shall consist of a list of the Health Conditions, a list of what the Overseeing Program Physician contends are clinical signs and symptoms of the Health Conditions, the Consultations and Program Services available for the Health Conditions, and the laboratory reference range, if any, associated with each Program Service. Neither the preparation nor dissemination of Physician Training Materials shall be construed as Defendant’s agreement with or endorsement of the content thereof, including but not limited to the scientific basis for offering any Consultations or Program Services, and the Physician Training Materials shall contain an express disclaimer to such effect.
15. “Program Physician” shall be a third-party licensed medical doctor within 50 miles of the Town of Petersburg, New York who has been approved by the Overseeing Program Physician and Medical Monitoring Administrator to provide Consultations and to provide or prescribe Program Services to Medical Monitoring Settlement Class Members, and who agrees to do so at the request of the Medical Monitoring Administrator. No Program Physician shall be a Medical Monitoring Settlement Class Member or have a pending claim for medical monitoring or personal injury against the Defendant.
16. “Program Services” means the services listed in section (e)(6)(i)-(ix) below.
17. “Protected Health Information” shall be defined consistent with 45 C.F.R § 160.103 as individually identifiable health information that is transmitted by electronic

media; maintained in electronic media; or transmitted or maintained in any other form or medium.

b) Scope of the Program

1. The Medical Monitoring Program shall consist solely of the approved Consultations for the Health Conditions with Medical Monitoring Settlement Class Members, and related administrative activities, as described herein. The Medical Monitoring Program shall not include the treatment of any Health Condition or any other medical condition.
2. Medical Monitoring Settlement Class Members who have demonstrated their eligibility as determined by the General Administrator in accordance with Section 3(b)(v) of the Agreement may participate in the Medical Monitoring Program.
3. The Consultations described herein shall be administered by or under the supervision of a Program Physician or Non-Program Physician. Where Program Services are deemed appropriate for a Participant by a Program Physician or Non-Program Physician and are agreed to by a Participant, that Program Physician or Non-Program Physician shall cause such Program Services to be performed. Such Consultations are intended to establish a physician/patient relationship and may include a physical examination of the patient at the discretion of the physician.

c) Program Administration

1. Class Counsel has selected Edgar C. Gentile, III, Esq. as the Medical Monitoring Administrator until such time as he becomes unwilling or unable to continue to serve in that role. Class Counsel may substitute a different administrator as Medical

Monitoring Administrator, subject to approval by the Court if the Court has previously approved the Settlement preliminarily or finally.

2. The Medical Monitoring Administrator shall oversee enrollment in the Medical Monitoring Program for Medical Monitoring Settlement Class Members who the General Administrator determines to be eligible in accordance with Section (b)(2) above and Section 3(b)(v) of the Agreement.
3. Before being approved to participate in the Program, all Program Physicians, Non-Program Physicians, and laboratories shall be required to sign an agreement warranting that all services rendered as part of the Medical Monitoring Program shall be billed to the Medical Monitoring Administrator only and will not be billed to Medicare, Medicaid or any private health insurer. In the event the Medical Monitoring Administrator becomes aware of an inadvertent or erroneously submitted billing to Medicare, Medicaid, or other private health insurer, the Medical Monitoring Administrator shall take all necessary and reasonable steps to insure that said bill is withdrawn from submission to Medicare, Medicaid or other private insurer. All Program Participants shall waive any and all claims against Released Parties for any Private Cause of Action, as that term is defined under 42 U.S.C §1395y(b)(3)(A) of the Medicare Secondary Payer Act, 42 U.S.C §1395y(b).
4. The Medical Monitoring Administrator shall prepare a Medical Monitoring Program budget and financially administer the Medical Monitoring Program.
5. The Medical Monitoring Administrator shall review, approve, and pay Program expenses using sound accounting internal controls.

6. The Medical Monitoring Administrator shall produce an Annual Financial Disbursement Report once each calendar year, which shall be available, upon request, to Class Counsel and the Court. The Annual Financial Disbursement Report shall be treated as confidential and not for public disclosure.
7. The Medical Monitoring Administrator, pursuant to Section (f), shall facilitate the compilation of information or data required by Section (f), while safeguarding Participant confidentiality, for limited use as described in Section (f).

d) Medical Service Providers

1. The Medical Monitoring Administrator shall contract with the Overseeing Program Physician to provide the services set forth above under the limitations set forth above.
2. For any Medical Monitoring Settlement Class Member who resides within 50 miles of a Program Physician, as determined by the Medical Monitoring Administrator, Consultations shall be performed by a Program Physician. For any Medical Monitoring Settlement Class Member who resides more than 50 miles from a Program Physician, as determined by the Medical Monitoring Administrator, Consultations may be performed by an approved Non-Program Physician. Such approval must occur before Consultations are provided.
3. The Medical Monitoring Administrator with the assistance of the Overseeing Physician shall identify and approve up to five (5) Program Physicians. The Medical Monitoring Administrator shall negotiate and execute contracts or memoranda of understanding with the Program Physicians to provide Consultations

to Participants and to seek disbursements for Consultations from the Medical Monitoring Program.

4. The Medical Monitoring Administrator will negotiate and execute contracts or memoranda of understanding with Non-Program Physicians, as necessary, to provide Consultations to Participants who reside more than 50 miles from a Program Physician and to seek disbursements for Consultations from the Medical Monitoring Program.
 5. The Medical Monitoring Administrator, at his discretion, may negotiate contracts with medical laboratories for approved Program Services requiring laboratory testing conducted under this Medical Monitoring Program for purposes of reducing costs to the Program.
- e) Consultations under the Medical Monitoring Program
1. Consultations under the Medical Monitoring Program shall consist solely of the Initial Informational Survey, Annual Informational Surveys, the Initial Screening Consultation, and Annual Surveillance Consultations as described herein.
 2. Informational Surveys.
 - i. At the time a Medical Monitoring Settlement Class Member makes an appointment with a Program Physician or Non-Program Physician for an Initial Screening Consultation as set forth in Section (e)(3) below, the Medical Monitoring Settlement Class Member shall be directed by the Program Physician or Non-Program Physician to complete the Initial Informational Survey prior to the Initial Screening Consultation.

- ii. At the time a Medical Monitoring Settlement Class Member who has received an Initial Screening Consultation makes an appointment for an Annual Surveillance Consultation after year one of the Program, the Medical Monitoring Settlement Class Member shall be directed to complete the Annual Informational Survey prior to the Annual Surveillance Consultation.

3. Initial Screening Consultation.

- i. At commencement of the Medical Monitoring Program as defined in Section 4(c)(ii) of the Agreement, each Medical Monitoring Settlement Class Member determined to be eligible under Section 3(b)(v) of the Agreement will have the opportunity to schedule an appointment for an Initial Screening Consultation with a Program Physician or Non-Program Physician.
- ii. The Initial Screening Consultation of a Participant shall be performed by a Program Physician or Non-Program Physician and shall consist of a discussion of the Initial Informational Survey and where appropriate, as determined by the Program Physician or Non-Program Physician based on the Participant's responses to the Initial Informational Survey and/or physical examination, the provision of Program Services as set forth in Section (f) below or referral to see another physician of the Participant's choosing outside the Medical Monitoring Program.

4. Annual Surveillance Consultation:

- i. In each calendar year after the first year of the Medical Monitoring Program, each Participant who has received an Initial Screening Consultation will have the opportunity to schedule an appointment for an Annual Surveillance Consultation, with a Program Physician or Non-Program Physician.
- ii. The Annual Surveillance Consultation of a Participant shall be performed by a Program Physician or Non-Program Physician and shall consist of a discussion of the Annual Informational Survey and where appropriate, as determined by the Program Physician or Non-Program Physician based on the Participant's responses to the Annual Informational Survey and/or physical examination, the provision of Program Services as set forth in Section (f) below or referral to see another physician of the Participant's choosing outside the Medical Monitoring Program.

5. Follow-Up Notification/Consultation:

- i. Following a Participant's Initial Screening Consultation and any Annual Surveillance Consultations, the Program Physician or Non-Program Physician shall notify the respective Participant of the results of the Consultation.
- ii. Based on the results of the Consultation, pursuant to Sections (e)(3)(ii) and (e)(4)(ii), the Program Physician or Non-Program Physician shall determine whether Program Services shall be provided or a referral provided to see another physician of the Participant's choosing for additional testing or treatment outside the Medical Monitoring Program.

6. Program Services. At the time of an Initial Screening Consultation or Annual Surveillance Consultation, or as follow up to such Consultations in accordance with Section (e)(5) above, Participants may receive Program Services, which shall consist solely of the following:
- i. For PFOA blood level, blood serum test for PFOA level once every other calendar year;
 - ii. For thyroid disease, thyroid stimulating hormone blood test once annually;
 - iii. For ulcerative colitis, consultation with Program Physician or Non-Program Physician once annually;
 - iv. For kidney cancer, urinalysis once annually;
 - v. For testicular cancer, scrotal examination once annually for male Participants;
 - vi. For elevated uric acid levels, uric acid and creatinine blood test once annually;
 - vii. For hyperlipidemia, fasting total and LDL cholesterol blood test once annually;
 - viii. For abnormal liver function, ALT, AST, GGT and bilirubin blood test once annually; and
 - ix. For pregnant Participants, consultation with Program Physician or Non-Program Physician regarding hypertensive disorders during pregnancy and breastfeeding, once per pregnancy.
7. Limitations.

- i. Medical Monitoring Settlement Class Members may receive no services under the Medical Monitoring Program after the earlier of (a) the Medical Monitoring Allocation being expended or (b) the ten (10) year anniversary of the Effective Date.
 - ii. Where a Medical Monitoring Settlement Class Member has received a diagnosis or treatment for any Health Condition prior to a Consultation, that Medical Monitoring Settlement Class Member shall not be prescribed or receive Program Services for that Health Condition under the Medical Monitoring Program, nor shall such Program Services be approved for disbursement under the Medical Monitoring Program, except that if it is determined by a treating physician that such Health Condition has resolved and requires no further follow up, the Medical Monitoring Settlement Class Member will once again be permitted to receive Program Services for such Health Condition under the Program if the Program Physician or Non-Program Physician determines such testing and/or services are warranted.
 - iii. Disbursements from the Medical Monitoring Program shall not be made to pay costs arising from (A) examinations and laboratory testing other than those enumerated in Section (e)(2)-(6); (B) imaging; (C) treatment; or (D) any services performed by, or under the supervision of, a physician other than a Program Physician or Non-Program Physician.
- f) Confidentiality, Collection, Retention, and Use of Participant Information
- 1. The selection, role, and experience of, and/or any oral or written statements made by the Medical Monitoring Administrator, an Overseeing Program Physician, a

Program Physician, or a Non-Program Physician in this Program or in any other connection or capacity therewith shall not be offered as evidence or otherwise utilized to support any contention, including but not limited to, as to his or her qualifications to fulfill this role or the alleged appropriateness of medical screening or surveillance due to PFOA exposure in any litigation or other proceeding, other than to enforce the Agreement. Nor shall any data or information received by any of the foregoing be used in any testimony before courts or administrative agencies or otherwise made public, subject to the terms of section (f)(4)(a)-(c) and (f)(5) below. As a condition of accepting his or her appointments, each of the foregoing individuals shall agree to be bound by this term and all other terms herein that are applicable to him or her. Such obligations shall survive the duration of their work under and responsibilities to the Program.

2. All information relating to a Medical Monitoring Settlement Class Member that is disclosed or obtained by the Overseeing Program Physician, the Program Physicians, any Non-Program Physicians, the Medical Monitoring Administrator, or any other authorized entity as part of the Medical Monitoring Program shall be deemed confidential and shall be treated as Protected Health Information subject to the Health Insurance Portability and Accountability Act of 1996 ("HIPAA") and other applicable privacy laws.
3. Program Physicians and Non-Program Physicians shall retain all medical records of any Participants received or prepared in connection with an Initial Screening Consultation, an Initial Informational Survey, an Annual Surveillance Consultation, an Annual Informational Survey, or Program Services in compliance

with the recordkeeping practices and state and federal laws applicable to each Program Physician or Non-Program Physician.

4. No reports, health information, or health data related to the Medical Monitoring Program shall be distributed or disclosed to anyone by the Medical Monitoring Program, the Medical Monitoring Administrator, the Overseeing Program Physician, any Program Physician, or any Non-Program Physician, except: (a) Protected Health Information with respect to a particular Participant may be disclosed to that Participant or to his or her authorized medical providers upon receipt of appropriate and valid authorization; (b) that the Medical Monitoring Administrator shall facilitate the collection of data that will be disclosed annually to Participants in the Annual Participant Report, as set forth in section (f)(5) below, or that will be contained in the Annual Financial Disbursement Report, as set forth in section (c)(6) above; or (c) as otherwise required by law. For purposes of this Appendix A, health information and health data includes, but is not limited to, Participants' names and addresses, PFOA blood levels, demographic information, Informational Survey responses, personal or family medical history, information provided or created during or further to Consultations, Program Services and the results thereof, recommended testing, test results, and past, current, or recommended treatment information.
5. In addition to each Participant's right to receive his or her specific health data and information, the Medical Monitoring Administrator shall prepare an Annual Participant Report once each calendar year, which may be provided only to Participants.

6. After the Medical Monitoring Program has terminated and any remainder of the Medical Monitoring Allocation has been disbursed in accordance with Section 4(c) of the Agreement, the Medical Monitoring Administrator shall arrange for all databases and/or data repositories created or used as part of the Medical Monitoring Program for the collection or organization of information relating to Participants to be destroyed, and shall certify to the Parties in writing that such databases and/or data repositories have been destroyed upon a request to so certify. This provision will not require the Medical Monitoring Administrator to destroy any records that are otherwise required to be retained under state or federal law.
7. The limitations described in Section (f) are not intended to prevent the Medical Monitoring Administrator or Class Counsel from providing Medical Monitoring Settlement Class Members with information regarding enrollment and participation in the Medical Monitoring Program or the consultations and Program Services available thereunder.

g) Miscellaneous

1. Nothing in the Agreement or in this Appendix A shall be construed as Defendant's agreement with or endorsement of any oral or written statements, including but not limited to as to any purported health or environmental risks associated with PFOA or the appropriateness of any medical screening, surveillance, or treatment therefor, (i) made by the Medical Monitoring Administrator, the Overseeing Program Physician, a Program Physician, a Non-Program Physician, or the Medical Monitoring Program itself, or (ii) otherwise provided to Participants.

EXHIBIT C

NEW YORK STATE SUPREME COURT, COUNTY OF RENSSELAER

If you drank water supplied by the Town of Petersburg Public Water System or from a private well in the Town of Petersburg, or owned or rented property in the Town of Petersburg, you could get benefits from a class action settlement.

A state court authorized this Notice. It is not a solicitation from a lawyer.

- A settlement has been reached with Tonoga, Inc. (doing business as Taconic) (“Defendant”) in a class action lawsuit about the effects of perfluorooctanoic acid (PFOA) contamination in the Town of Petersburg.
- The Settlement includes:
 - Individuals who ingested water at a property that was supplied by the Town Public Water System or from a private well in the Town of Petersburg in which PFOA has been detected *and* underwent blood serum tests that detected a PFOA level in their blood above 1.86 µg/L; *or* any natural child who was born to a female who meets and/or met the above criteria at the time of the child’s birth *and* whose blood serum was tested after birth and detected a PFOA level above 1.86 µg/L (“Medical Monitoring Settlement Class Members”);
 - Persons who are or were owners of real property who obtain or obtained their drinking water from the Town Public Water System *and* who purchased that property on or before February 20, 2016 (“Town Water Property Damage Class Members”);
 - Persons who are or were owners of real property located in the Town of Petersburg within a seven mile radius of Defendant’s Facility *and* who obtained their drinking water from a privately owned well contaminated with PFOA *and* owned that property at or around February 20, 2016 when the contamination was discovered (“Private Well Property Damage Class”); and
 - Persons who are or were owners or renters of real property located in the Town of Petersburg within a seven mile radius of the Defendant’s Facility *and* who obtain or obtained their drinking water from a privately owned well contaminated with PFOA *and* occupied that property at or around February 20, 2016 when the contamination was discovered (“Private Well Nuisance Class Members”).
- Your legal rights are affected regardless of whether you act or do not act. Read this notice carefully.

YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT	
SUBMIT A CLAIM FORM	This is the only way you can get a payment or other benefits from this Settlement.
EXCLUDE YOURSELF FROM THE SETTLEMENT	Do not get a payment or other Settlement benefits. This is the only option that allows you to be part of any other lawsuit against the Released Parties, including the Defendant, for the legal claims made in this lawsuit and released by the Settlement.
OBJECT TO THE SETTLEMENT	Write to the Court with reasons why you do not agree with the Settlement.
GO TO THE FINAL APPROVAL HEARING	You may ask the Court for permission for you or your attorney to speak about your objection at the Final Approval Hearing.
DO NOTHING	You will not get a payment or other benefits from this Settlement and you will give up certain legal rights.

- These rights and options—and the deadlines to exercise them—are explained in this Notice.
- The Court overseeing this case still has to decide whether to approve the Settlement.

BASIC INFORMATION

1. Why is this Notice being provided?

The Court directed that this Notice be provided because you have a right to know about a proposed settlement that has been reached in this class action lawsuit and about all of your options before the Court decides whether to grant final approval to the Settlement. This Notice explains the lawsuit, the Settlement, your legal rights, what benefits are available, who is eligible for them, and how to get them.

The Court in charge of this case is the New York State Supreme Court, Rensselaer County. The case is known as *Burdick, et al., v. Tonoga, Inc. (d/b/a Taconic)*, Index No. 00253835 (the “Action”). Honorable Patrick J. McGrath is presiding over the Action. The people who filed the lawsuit are called Plaintiffs. The company they sued, Tonoga, Inc. (d/b/a Taconic), is called the Defendant.

QUESTIONS? CALL 1-____-____-____ TOLL-FREE OR VISIT WWW.PETERSBURGHPFOASETTLEMENT.COM

2. What is this lawsuit about?

Plaintiffs claim that Defendant owns a facility in the Town of Petersburg that released perfluorooctanoic acid, commonly referred to as PFOA, and contaminated the Town Public Water System and private wells. As a result, people living in the Town of Petersburg allege that they unknowingly consumed drinking water containing PFOA and have concentrations of PFOA in their blood that are higher than average. In addition, Plaintiffs allege that the presence of PFOA has negatively impacted individuals' ability to use and enjoy their properties, increased the risk of exposed residents to developing certain illnesses, requiring them to be closely monitored for such conditions, and negatively impacted property values.

The Defendant denies all of the claims made in the Action and disputes all allegations of wrongdoing or liability.

PFOA is a man-made chemical historically used to manufacture products that were resistant to sticking, heat, water, stains, and grease.

3. What is a class action?

In a class action, one or more people called representative Plaintiffs (in this case, Jay Burdick, Connie Plouffe, Emily Marpe, as parent and natural guardian of E.Y., an infant, and G.Y., an infant, Jacqueline Monette, William Sharpe, Edward Perrotti-Sousis, Mark Denué, and Megan Dunn) sue on behalf of people who have similar claims. Together, all these people and the Persons they represent are called Settlement Class Members. One Court resolves the issues for all Settlement Class Members, except for those who exclude themselves from the Settlement Classes.

4. Why is there a Settlement?

The Court did not decide in favor of the Plaintiffs or the Defendant. Instead, the Plaintiffs and Defendant agreed to a settlement. This way, they avoid the cost and burden of a trial and eligible Settlement Class Members can get benefits more quickly. The class representative Plaintiffs and their attorneys ("Class Counsel") think the Settlement is best for all Settlement Class Members.

WHO IS INCLUDED IN THE SETTLEMENT?

5. How do I know if I am part of the Settlement?

You are part of the Settlement as a Settlement Class Member if you fit within one or more of the four Settlement Class definitions below (unless you fall into one of the exclusions described in Question 6):

1. Medical Monitoring Settlement Class: all individuals who have: (a) ingested water at a property that was supplied by the Town Public Water System or from a private well in the Town of Petersburg in which PFOA has been detected; and (b) underwent blood serum tests that detected a PFOA level in their blood above 1.86 µg/L; or any natural child (i) who was born to a female who meets and/or met the above criteria at the time of the child's birth; and (ii) whose blood serum was tested after birth and detected a PFOA level above 1.86 µg/L. This group is also referred to as the "PFOA Invasion Injury Class."
2. Town Water Property Damage Class: all Persons who are or were owners of real property and who obtain or obtained their drinking water from the Town Public Water System and who purchased their property on or before February 20, 2016. This group, together with the Private Well Property Damage Class, is also referred to as the "Property Settlement Class."
3. Private Well Property Damage Class: all Persons who are or were owners of real property located in the Town of Petersburg within a seven (7) mile radius of Defendant's Facility and who: (i) obtain or obtained their drinking water from a privately owned well contaminated with PFOA; and (ii) owned that property at or around February 20, 2016 when the contamination was discovered. This group, together with the Town Water Property Damage Class, is also referred to as the "Property Settlement Class."
4. Private Well Nuisance Class: all Persons who are or were owners or renters of real property located in the Town of Petersburg within a seven (7) mile radius of the Defendant's Facility and who: (i) obtain or obtained their drinking water from a privately owned well contaminated with PFOA; and (ii) occupied that property at or around February 20, 2016 at the time the contamination was discovered.

The Town Water Property Damage Class and Private Well Property Damage Class do NOT include any real property located within the Town of Petersburg that, as of February 20, 2016, was owned by Taconic (the "Taconic Properties"). In addition, owners (but not renters) of the Taconic Properties are excluded from the Private Well Nuisance Class.

6. Are there exceptions to being included in the Settlement?

Yes. The Settlement does not include (i) anyone who timely and validly requests to be excluded from the Settlement (see Question 18) any Person who has previously filed a claim against Defendant alleging a PFOA-related injury or illness, including without limitation a spousal derivative claim, or seeking medical monitoring, nuisance, or property damages, related to the presence of PFOA in the Town Public Water System, in private wells in the Town of Petersburg, on or at their property, and/or in their blood, except for the Action, that, as of thirty (30) days prior to the Final Approval Hearing: (a) has not been dismissed and/or a request to dismiss the claim pursuant to N.Y. CPLR § 3217(b) or Fed. R. Civ. P. 41(a)(2) is not pending; or (b) such Person has not filed an amended complaint or a motion

for leave to file an amended complaint that does not assert against Defendant a nuisance claim, a request for medical monitoring relief, or property damages related to the presence of PFOA in the Town Public Water System, in private wells in the Town of Petersburg, on or at their property, and/or in their blood; (iii) the Defendant, any entity or division in which the Defendant has a controlling interest, its legal representatives in this Action, and its officers, directors, assigns and successors; (iv) the judge to whom this Action is assigned, any member of the judge's immediate family and the judge's staff, or any other judicial officer or judicial staff member assigned to this case; (v) any Class Counsel, including their partners, members, and shareholders, and any immediate family members of Class Counsel; (vi) any State, including without limitation the United States, or any of its agencies; and (vii) the Town of Petersburg.

7. I am still not sure if I am included.

If you are still not sure whether you are included, you can call 1-____-____-____ or visit www.petersburghpfoasettlement.com for more information.

THE SETTLEMENT BENEFITS—WHAT YOU GET IF YOU QUALIFY

8. What does the Settlement provide?

The Defendant has agreed to pay \$23,464,362 into a Settlement Fund. After deducting attorneys' fees and costs, the class representatives' service awards, and the costs of notice and administration, the balance of the fund will be allocated among the Property Settlement Class (\$4,410,000) and Private Well Nuisance Class (\$4,031,250), and the Medical Monitoring Program (\$8,550,000).

9. How much will the Property Settlement Class payments be?

The full market values of all Eligible Properties as determined by the 2015 County Assessment Roll for the Town of Petersburg will be totaled and used as the denominator of a fraction. The full market value of the Settlement Class Member's Eligible Property on the 2015 Tax Roll will be the numerator of this fraction. The fraction will be multiplied by \$4,410,000 to determine the amount due to the Property Settlement Class Member or Members who owned the Eligible Property as of February 20, 2016.

$$\text{Payment} = (\text{2015 Market value of Settlement Class Member's Eligible Property} / \text{Total 2015 market value of all Eligible Properties}) \times \$4,410,000$$

An Eligible Property is any real property that either: (1) one or more Town Water Property Damage Class Members demonstrates that they owned as of February 20, 2016, and that the property obtained its drinking water from the Town Public Water System; or (2) one or more Private Well Property Damage Class Members demonstrates that they owned and occupied at or around February 20, 2016 when the contamination was discovered, and that is located in the Town of Petersburg, and obtained their drinking water from a private well contaminated with PFOA.

10. How much will the Private Well Nuisance Class payments be?

Nuisance Payment amounts will be calculated by dividing the total number of valid Nuisance claims from Settlement Class Members by the Settlement amount allocated for the Private Well Nuisance Class (\$4,031,250). Payments will be distributed evenly among all eligible Private Well Nuisance Class Members who submit a valid Claim Form.

11. Tell me more about the Medical Monitoring Program.

The Medical Monitoring Allocation will be used to pay all expenses related to medical monitoring, including payments to Participating and Non-Participating Physicians, laboratories, and all Medical Monitoring Administration Costs. The Medical Monitoring Program will begin after the Settlement becomes final and will end on the earlier of: (a) when the \$8,550,000 Medical Monitoring Allocation has been fully used; or (b) when all bills for services under the Medical Monitoring Program incurred on or before the fifteen-year anniversary of the date the Settlement becomes final are paid. Complete details about the testing and services protocols covered by the Medical Monitoring Program are attached to the Class Settlement Agreement as Appendix A.

Medical Monitoring Settlement Class Members who complete both the Initial Informational Survey and the Initial Screening Consultation within 12 months of the date the Settlement becomes final will receive a \$100 (maximum) incentive payment. If money remains in the allocation at the end of the Medical Monitoring Program, additional payment may be made to Medical Monitoring Settlement Class Members who have participated in all services available to them and, under certain circumstances, may also be paid as a contribution to a not-for-profit organization that focuses on health and well-being of residents in or around the Town of Petersburg that serves the Town of Petersburg community.

HOW TO GET SETTLEMENT BENEFITS—SUBMITTING A CLAIM FORM

12. How do I get a payment and participate in the Medical Monitoring Program?

To qualify for a Settlement payment and/or participate in the Medical Monitoring Program, you must complete and submit a Claim Form by **Month __, 2022**. You may use the Claim Form enclosed with this notice and return it in the pre-paid postage envelope, complete and submit a Claim Form online at www.petersburghpfoasettlement.com, or email a completed Claim Form to

QUESTIONS? CALL 1-____-____-____ TOLL-FREE OR VISIT WWW.PETERSBURGHPFOASETTLEMENT.COM

_____. Claim Forms are also available by calling 1-____-____-____ or by writing to *Burdick, et al., v. Tonoga, Inc.* Settlement Administrator, P.O. Box _____, City, ST _____-_____. If more than one person in a household is an eligible class member, please obtain and complete a separate claim form for each such person.

13. When will I get my payment and when will the Medical Monitoring Program begin?

The Court will hold a Final Approval Hearing at ____:00 _m. on Month __, 2022 to decide whether to approve the Settlement. If the Court approves the Settlement, there may be appeals. It is always uncertain whether any appeals will be filed and, if so, how long it will take to resolve them. Settlement payments will be distributed, and the Medical Monitoring Program will begin, as soon as possible, if and when the Court grants final approval to the Settlement and after any appeals are resolved.

14. What am I giving up to get a payment or stay in the Settlement?

Unless you exclude yourself, you are staying in the Settlement. If the Settlement is approved and becomes final, all of the Court's orders will apply to you and legally bind you. You will not be able to sue or be part of any other lawsuit against the Defendant and the Released Parties (see next question) about the legal issues resolved by this Settlement. The rights you are giving up are called Released Claims. Claims for illnesses allegedly related to PFOA exposure are not among the Released Claims and you will retain all rights you presently have to pursue such claims if you decide to participate in the Settlement.

15. What are the Released Claims?

If the Settlement is approved and becomes final, Settlement Class Members will have expressly, intentionally, voluntarily, fully, finally, irrevocably, and forever released, relinquished, waived, compromised, settled, and discharged the Released Parties (Defendant and its current, former, and future direct and indirect parents, subsidiaries, divisions, affiliates, affiliated business entities, joint ventures, successors, predecessors, including without limitation, any entity identified as a predecessor to Defendant in the Third Amended Complaint and/or for which the Third Amended Complaint alleges that Defendant has succeeded to liability on the basis of any legal theory; and all of their current, former, and future agents, employees, officers, directors, partners, shareholders, owners, members, promoters, representatives, distributors, trustees, attorneys, insurers, subrogees, and assigns, individually or in their corporate or personal capacity, and anyone acting on their behalf, including in a representative or derivative capacity) from each and every past, present, and future claim and cause of action, including without limitation causes of action and/or relief created or enacted in the future—whether known or unknown, whether direct or indirect, individual or class, in constitutional, federal, state, local, statutory, civil, or common law or in equity, or based on any other law, rule, regulation, ordinance, directive, contract, or the law of any foreign jurisdiction, whether fixed or contingent, known or unknown, liquidated or unliquidated, suspected or unsuspected, asserted or unasserted, matured or unmatured, or for compensatory damages, consequential damages, incidental damages, statutory damages, punitive, special, multiple, treble, or exemplary damages, nominal damages, disgorgement, restitution, indemnity, contribution, penalties, injunctive relief, declaratory relief, attorneys' fees, court costs, or expenses of any kind—that were or could have been asserted in the Action or any other forum, arising out of or related to, either directly or indirectly or in whole or in part: (i) the subject matter of any allegations contained in the Third Amended Complaint, any allegations otherwise asserted in the Action, or the subject matter of any discovery obtained in the Action; (ii) the alleged presence of PFAS (including PFOA) in drinking water or the environment (including but not limited to in air, groundwater, surface water, municipal water, private well water, or soil) within the Town of Petersburg; (iii) the sale, purchase, use, handling, transportation, release, discharge, migration, emission, spillage, or disposal of PFAS (including PFOA) to, at, or from a Facility in or near the Town of Petersburg, including any such PFAS (including PFOA) present as a result of disposal at or discharge to, directly or indirectly, any landfill, sewage system, water treatment facility, or any other location in and around the Town of Petersburg, and/or resulting in any alleged exposure of any Settlement Class Member to PFAS (including PFOA) through drinking water, inhalation, dermal contact, or otherwise; (iv) for any type of relief with respect to the acquisition, installation, maintenance, operation, or presence of, including the cost or purported inconvenience or loss of enjoyment of, property associated with whole-house filters, point-of-entry (POET) filters, point-of-use filters, municipal water, private well water, bottled water, alternative water supplies, or remediation; (v) for property damage or property-value diminution, including without limitation stigma, purportedly attributable to the alleged presence of PFAS (including PFOA) in the Town Public Water System or any private well, or in the air, groundwater, surface water, municipal water, private well water, or soil in or around the Town of Petersburg; and/or (vi) based on PFAS (including PFOA) in the blood or tissue of any Settlement Class Member.

The Released Claims do not include any individual claims for any damages (including for screenings, tests, examinations, and/or diagnostic procedures) related to past, present, or future manifested bodily injuries that have resulted in a medically diagnosed condition, or to enforce the terms of this Agreement or the Final Approval Order. "Manifested bodily injuries that have resulted in a medically diagnosed condition" do not include the detection or accumulation of PFAS (including PFOA) in blood or other bodily tissue.

THE LAWYERS REPRESENTING YOU

16. Do I have a lawyer in this case?

Yes. The Court appointed Stephen G. Schwarz and Hadley L. Matarazzo of Faraci Lange, LLP, and James J. Bilborrow of Seeger Weiss LLP as "Class Counsel" to represent you and other Settlement Class Members. These lawyers and their firms are experienced in

handling similar cases. You will not be charged for these lawyers. If you want to be represented by your own lawyer, you may hire one at your own expense.

17. How will Class Counsel be paid?

Class Counsel will ask the Court for an award of attorneys' fees of up to 25% of the Settlement Fund (up to \$5,673,112), plus reimbursement of reasonable litigation costs (up to \$400,000). They will also ask the Court to approve \$25,000 service awards to be paid to each of the class representative Plaintiffs (a total payment of \$200,000). The Court may award less than these amounts. If approved, these fees, costs, and awards will be paid from the Settlement Fund before making payments and the Medical Monitoring Program available to Settlement Class Members.

EXCLUDING YOURSELF FROM THE SETTLEMENT

18. How do I get out of the Settlement?

To exclude yourself from the Settlement, you must send a letter by mail stating (1) you want to be excluded from *Burdick, et al., v. Tonoga, Inc. (d/b/a Taconic)*, Index No. 00253835, (2) your full name, current address, and telephone number, (3) facts that prove you are a Settlement Class Member, and (4) your signature. You must mail your exclusion request postmarked no later than **Month __, 2022** to:

Burdick, et al., v. Tonoga, Inc. Settlement Administrator
P.O. Box _____
City, ST _____-____

The Defendant has the right to terminate the Settlement if an undisclosed number of class members choose to exclude themselves from the Settlement. If this occurs, the Settlement will be terminated, and Settlement Class Members will not receive any benefits.

19. If I exclude myself, can I still get a payment or other benefits from the Settlement?

No. If you exclude yourself, you are telling the Court that you do not want to be part of the Settlement. You can only get a payment and/or participate in the Medical Monitoring Program if you stay in the Settlement and submit a valid Claim Form.

20. If I do not exclude myself, can I sue the Defendant for the same thing later?

No. If you stay in the Settlement (*i.e.*, do nothing or do not exclude yourself), you give up any right to separately sue any of the Released Parties, including the Defendant, for the claims made in this lawsuit and released by the Class Settlement Agreement. If you are a Property Settlement Class Member and you submit a timely and valid exclusion request for any real property that you own jointly with one or more other Settlement Class Members, all Settlement Class Members owning the property will be considered to have submitted a timely and valid exclusion request.

OBJECTING TO THE SETTLEMENT

You can tell the Court that you do not agree with the Settlement or some part of it.

21. How do I tell the Court that I do not agree with the Settlement?

If you are a Settlement Class Member, you can object to the Settlement if you do not agree with it or a portion of it. You can give reasons why you think the Court should not approve it. The Court will consider your views. Your objection must include: (1) your full name, current address, and telephone number; (2) a statement of facts that indicate you are a Settlement Class Member; (3) a statement of your objections and the reasons for them; (4) copies of any papers and evidence you intend to submit to support your objection; (5) a statement indicating whether you plan appear at the Final Approval Hearing; (6) a statement indicating that you are willing to be deposed, upon request, on a mutually acceptable date at least 10 days before the Final Approval Hearing; (7) a list containing the case name, court, and docket number of any other class action settlements in which you or your counsel have filed an objection in the past five years, and a copy of all orders related to or ruling upon those objections; (8) all written and verbal agreements between you, your counsel or any other person related to your objection; and (9) your signature.

Your objection must be mailed to Class Counsel and Defense Counsel so it is postmarked no later than **Month __, 2022**.

Class Counsel	Defense Counsel
Stephen G. Schwarz Faraci Lange, LLP 28 E. Main Street, Suite 1100 Rochester, NY 14614	Ann Marie Duffy Hollingsworth ^{LLP} 1350 I Street, NW Washington, DC 20005
James J. Bilsborrow Seeger Weiss, LLP 55 Challenger Road	Corporate Counsel Taconic

Ridgefield Park, NJ 07660	136 Coonbrook Road Petersburgh, NY 12138
---------------------------	---

22. May I come to Court to speak about my objection?

Yes. You or your attorney may request to speak at the Final Approval Hearing about your objection. To do so, you must include a statement in your objection indicating that you or your attorney intend to appear at the Final Approval Hearing.

23. What is the difference between objecting to the Settlement and asking to be excluded from it?

Objecting is simply telling the Court that you do not like something about the Settlement. You can object only if you remain in the Settlement Class (that is, do not exclude yourself). Excluding yourself is telling the Court that you do not want to be part of the Settlement. If you exclude yourself, you cannot object because the Settlement no longer affects you.

THE COURT'S FINAL APPROVAL HEARING

The Court will hold a hearing to decide whether to approve the Settlement. You may attend and you may ask to speak, but you do not have to.

24. When and where will the Court decide whether to approve the Settlement?

The Court will hold a Final Approval Hearing at __: __0 __m. on Month __, 202__, at the Rensselaer County Courthouse, 80 Second Street, Troy, New York 12180. At this hearing, the Court will consider whether the Settlement is fair, reasonable, and adequate. It will also consider whether to approve Class Counsel's request for an award of attorneys' fees and costs, as well as the class representative Plaintiffs' service awards. If there are objections, the Court will consider them. The Court may listen to people who have asked to speak at the hearing (see Question 22 above). After the hearing, the Court will decide whether to approve the Settlement.

25. Do I have to come to the hearing?

No. Class Counsel will answer any questions the Court may have. However, you are welcome to come to the hearing at your own expense. If you send an objection, you do not have to come to court to talk about it. As long as you mailed your written objection on time, the Court will consider it. You may also pay your own lawyer to attend, but it is not required that you do so.

26. May I speak at the hearing?

Yes. You may ask the Court for permission to speak at the Final Approval Hearing (see Question 22 above).

IF YOU DO NOTHING

27. What happens if I do nothing at all?

If you are Settlement Class Member and you do nothing, you will give up the rights explained in Question 14, including your right to start a lawsuit or be part of any other lawsuit against the Released Parties, including the Defendant, about the legal issues resolved by this Settlement. In addition, you will not receive a payment from the Settlement or be eligible to participate in the Medical Monitoring Program.

GETTING MORE INFORMATION

28. How do I get more information?

This Notice summarizes the proposed Settlement. Complete details are provided in the Class Settlement Agreement. The Class Settlement Agreement and other documents are available at www.petersburghpfoasettlement.com. Additional information is also available by calling 1-____-____-____ or by writing to *Burdick, et al., v. Tonoga, Inc.* Settlement Administrator, P.O. Box _____, City, ST _____. Publicly-filed documents can also be obtained by visiting the office of the Clerk of the Court for the Supreme Court of Rensselaer County New York.

EXHIBIT D

SETTLEMENT CLAIM FORM

***Burdick, et al., v. Tonoga, Inc. (d/b/a Taconic), Index No. 00253835, New York
State Supreme Court, Rensselaer County***

INSTRUCTIONS FOR SUBMITTING A SETTLEMENT CLAIM FORM

Please review the following instructions before proceeding:

ELIGIBILITY:

You are a Settlement Class Member (or you are a parent or legal guardian of an infant less than 18 years of age who is a Class Member or you are the legal representative appointed to represent the Estate of a deceased or incompetent Class Member) in one or more Settlement Classes and you are eligible to submit this Settlement Claim Form **only if** you (or the infant, deceased or incompetent person you represent) fall within one or more of the following three groups:

PROPERTY SETTLEMENT CLASS:

- 1) You owned real property in the Town of Petersburg and obtained your drinking water from the Town Public Water System, and you purchased that property on or before February 20, 2016 and owned that property on February 20, 2016; **OR**
- 2) You owned real property in the Town of Petersburg, New York within a seven (7) mile radius of the Taconic Facility in Petersburg, New York, and who obtain or obtained your drinking water from a privately owned well contaminated with PFOA and you owned that property at or around February 20, 2016 when the contamination was discovered.

NUISANCE SETTLEMENT CLASS:

- 3) You owned real property in the Town of Petersburg, New York within a seven (7) mile radius of Taconic's facility in Petersburg, New York, and you obtain or obtained your drinking water from a privately owned well contaminated with PFOA and you occupied that property at or around February 20, 2016 when the contamination was discovered; **OR**
- 4) You rented real property in the Town of Petersburg, New York within a seven (7) mile radius of Taconic's facility in Petersburg, New York, and you obtain or obtained your drinking water from a privately owned well contaminated with PFOA and you occupied that property at or around February 20, 2016 when the contamination was discovered.

MEDICAL MONITORING CLASS:

- 5) You ingested PFOA-contaminated water from the Town Public Water System or from a contaminated private well located in the Town of Petersburg within a seven (7) mile radius of the Taconic Facility in Petersburg, New York and your blood serum was tested and that test disclosed a PFOA level in your blood above 1.86 µg/L (parts per billion); **OR**

- 6) You are the parent or guardian of a child born to a female who meets the criteria in (5) and the child's blood serum was tested after birth, which showed PFOA in the child's blood above 1.86 µg/L (parts per billion).

If you are eligible to do so, you may submit a Claim in more than one class. Each class member must submit a Claim Form. You can only submit a Claim Form for yourself **and** another person if you are a parent or legal guardian of a minor or legal representative of a deceased or incompetent person who is also a Class Member. In such case, you must submit a Claim Form for yourself and a separate Claim form for the minor, deceased, or incompetent person. If you owned more than one property that would qualify you for the Property Settlement Class, you must submit a separate Claim Form for each property.

ADDITIONAL INFORMATION:

- 1) You may obtain additional information about your submission of a Claim or about this Settlement at www.petersburghpfoasettlement.com or by calling [REDACTED].
- 2) You must review, sign and date Section IV below.
- 3) Your completed Settlement Claim Form and supporting documentation (if required) must be submitted electronically and/or postmarked before **[DATE TO BE INSERTED BASED ON APPROVAL]**. You may submit your Settlement Claim Form and supporting documentation, as indicated below:
 - a. By mail to:
[REDACTED]
[REDACTED]
[REDACTED]
 - b. By email to: **[General Administrator's email address]**.
 - c. Electronically at: www.petersburghpfoasettlement.com. You are encouraged to submit your claim online for easy verification and processing.

SECTION I: Claimant's Information

Last Name First Name Middle Initial

Your Current Address (Number/Street/P.O. Box No.):

City: State: Zip Code

Telephone Number: Email Address:

Are you filing this Claim on your own behalf? (Yes/No) _____

Are you filing this Claim on behalf of another person? (Yes/No) _____

If Yes, provide the following information about the person on whose behalf you are completing this Form:

Last Name First Name Middle Initial

If living, this person's Current Address (Number/Street/P.O. Box No.):

City: State: Zip Code

Telephone Number:

Email Address:

Are you the parent or legal guardian of this person? Yes/No

If you are a legally appointed representative of this person, provide the following information:

Nature of Legal Representation (Estate Representative/Guardian/Conservator)

Court that appointed you and Date of Appointment

Submit a Copy of Document from Court Appointing You

If you are filing this Claim on behalf of yourself, or are a legal representative a deceased or incompetent person who was a Class Member in one of the Property Damage or Nuisance Classes, please proceed to **Section II**

If you are filing this Claim on behalf of an infant less than 18 years of age or an incompetent person eligible for the Medical Monitoring Class, please proceed to **Section III**.

SECTION II: Information on Class Member and Claims

Complete this Section if you are filing this Claim on your own behalf

To the best of your knowledge and belief, to which of the following Settlement Classes do you belong? (Please refer to the Instructions on p. 1 of this Claim Form for a description of the Settlement Classes)

Check any that apply:

- _____ Property Settlement Class
- _____ Municipal Water Property Settlement Class (you owned real property on or before February 20, 2016 that obtained drinking water from the Town Public Water System)
- _____ Private Well Water Property Settlement Class (you owned real property that obtained drinking water from a private well that was found to be contaminated with PFOA and owned that property at or around February 20, 2016 when the contamination was discovered)
- _____ Nuisance Settlement Class (you owned or rented real property that obtained drinking water from a private well contaminated with PFOA and occupied that property at or around February 20, 2016 when the contamination was discovered)
- _____ Medical Monitoring Settlement Class (PFOA is or was present in your blood above 1.86 µg/L (parts per billion) and you ingested PFOA-contaminated water from the Town Public Water System or from a contaminated private well located in the Town of Petersburg within a seven (7) mile radius of the Taconic Facility in Petersburg, New York)

If you checked any of the above, please complete the appropriate section(s) below:

PROPERTY SETTLEMENT CLASS

Address of real Property that either: (1) you (or the person you represent) owned or co-owned as of February 20, 2016 (Number/Street/City/Zip Code) that was supplied with drinking water by the Town Public Water System; or (2) you (or the person you represent) owned or co-owned and was supplied with drinking water from a contaminated private well located in the Town of Petersburg, New York within a seven (7) mile radius of the Taconic Facility in Petersburg, New York and that you owned at or around February 20, 2016 when the contamination was discovered:

As of February 20, 2016 or thereafter when the contamination was discovered, did this property obtain drinking water from the Town Public Water System or from a privately owned well located in the Town of Petersburg, New York within a seven (7) mile radius of the Taconic Facility in Petersburg, New York?

If the property obtained drinking water from a privately owned well, was the well tested for the presence of PFOA and, if so, what was the result? **Submit a copy of well testing results if you have them.**

If you (or the person you represent) co-owned this property with another individual, please state their name and relation to you:

If you have it, submit proof of ownership of your property. You may submit any of the following: a copy of the deed, a copy of a tax bill, another document showing ownership. Identify below what, if anything, you are submitting to show ownership of the property. (Note: If you do not have a document showing ownership, the General Administrator may still be able to verify that you own the property):

If you have it, submit proof of your drinking water source and if it is a private well, any PFOA testing performed on your water source. Proof of drinking water source can include a water bill. PFOA testing was generally performed by the NY Department of Environmental Conservation or NY Department of Health and test results sent to private well owners. Do you have proof of your water source and/or private well contamination, if so, what is it?

NUISANCE SETTLEMENT CLASS

Address of Residential Property located in the Town of Petersburg, New York, within a seven (7) mile radius of Taconic's facility in Petersburg, New York, that you (or the person you represent) owned, co-owned, or rented and occupied at or around February 20, 2016 at the time the contamination was discovered, and obtain or obtained your drinking water from a privately owned well contaminated with PFOA(Number/Street/City/Zip Code):

Submit a copy of well testing results if you have them.

You must also complete a Declaration of Residency, stating that you (or the person you represent) resided at the property at or around February 20, 2016. The Declaration of Residency is attached to this Claim Form.

MEDICAL MONITORING SETTLEMENT CLASS

To qualify as a member of this class, you must meet the following criteria: (1) you consumed water at your residence from either the Town Public Water System or a private well located in the Town of Petersburg within a seven (7) mile radius of the Taconic Facility in Petersburg, New York that was tested and found to contain PFOA, and (2) you obtained a blood test that shows your PFOA blood serum level was above 1.86 µg/L (parts per billion). You may also file a Claim on behalf of a minor child who meets this criteria if you are the parent or legal guardian of that child. This includes children who were born to a female who meets and/or met this criteria at the time of the child's birth and who was exposed in utero and who obtained a blood test after they were born disclosing a PFOA blood serum level above 1.86 µg/L (parts per billion).

If you are submitting this Claim on behalf of a minor, proceed to Section III.

If you are submitting this Claim for yourself, you must also complete a Declaration of Eligibility stating that you consumed water that contained PFOA. The Declaration of Eligibility is attached at the end of this Claim Form.

Identify the residence(s) where you consumed drinking water and identify the water source (Town or private well). If you lived at multiple addresses, please identify all residences that qualify:

Property Address

Water source (Town or well)

Property Address

Water source (Town or well)

Property Address

Water source (Town or well)

Property Address

Water source (Town or well)

Has your blood been tested for the presence of PFOA? _____ (Yes/No)

What was your PFOA blood serum level when your blood was tested? _____

You must submit a copy of your blood test along with this Claim Form. If you do not submit a copy of your blood test, your Claim will be deficient and you may not qualify as a Medical Monitoring Settlement Class Member. If you do not have a copy of a blood test, but your blood was tested by the NY Department of Health (or another physician), please contact the General Administrator at _____ for information on how to obtain a copy of your blood test results.

SECTION III: Submission of a Claim on Behalf of a Minor

Complete this Section if you are submitting a Medical Monitoring Claim on behalf of a minor and you are the parent or legal guardian of that child.

If you are submitting a claim for yourself AND a child, you must submit a separate Claim Form for each person.

You may submit a Claim for Medical Monitoring benefits for a minor child who was exposed in utero or at any time after they were born, provided that the minor has obtained a blood test showing that PFOA is present in their blood above 1.86 µg/L (parts per billion).

If you are submitting this Claim on behalf of a minor, you must complete two Declarations that are attached to this Claim Form. The first is a Declaration stating that you are the parent or legal guardian of the minor and the second is a Declaration that the minor child consumed water containing PFOA OR that the child was exposed to PFOA in utero. Do not submit this Claim Form without completing each of these two Declarations.

Provide the Minor's Information below:

Last Name

First Name

Middle Initial

Minor's Current Address (Number/Street/P.O. Box No.):

City:	State:	Zip Code
-------	--------	----------

Minor's Age _____

Identify the residence(s) where the minor consumed drinking water and identify the water source (Town or private well). If the minor lived at multiple addresses, please identify all residences that qualify:

Property Address

Water source (Town or well)

Property Address

Water source (Town or well)

Property Address

Water source (Town or well)

Property Address

Water source (Town or well)

Has the minor's blood been tested for the presence of PFOA? _____
(Yes/No)

What was the minor's PFOA blood serum result? _____

SECTION IV: Claimant Signature

I declare that the information provided in this Claim Form is true and accurate to the best of my knowledge. I understand that the General Administrator may need to verify some of the information that I submitted.

 Signature

 Date

IF YOU ARE A MEMBER OF THE NUISANCE SETTLEMENT CLASS OR MEDICAL MONITORING SETTLEMENT CLASS, OR IF YOU ARE SUBMITTING THIS CLAIM ON BEHALF OF A MINOR, YOU MUST COMPLETE ONE OR MORE DECLARATIONS THAT FOLLOW.

For additional information or assistance in completing this Claim Form, please contact the General Administrator at _____

STATE OF NEW YORK
SUPREME COURT COUNTY OF RENSSELAER

JAY BURDICK, CONNIE PLOUFFE,
EMILY MARPE,
as parent and natural guardian of E.Y. an infant,
and, G.Y., an infant, JACQUELINE MONETTE, WILLIAM
SHARPE, EDWARD PERROTTI-SOUSIS,
MARK DENUE and MEGAN DUNN,
individually, and on behalf of all similarly situated,

Plaintiffs,

v.

Index No.: 00253835

TONOGA INC., (d/b/a TACONIC),

Defendant.

**DECLARATION OF RESIDENCY FOR NUISANCE SETTLEMENT CLASS
ELIGIBILITY ON BEHALF OF REPRESENTATIVE
OF ESTATE OR INCOMPETENT PERSON**

I, _____, declare as follows:
[Name of person signing declaration]

1. I am over eighteen years of age.

2. I am the legally appointed representative of _____,
[Name of person/decedent you represent]
having been appointed by the _____ Court in _____.
[Name of Court] [Date of appointment]

3. At or around February 20, 2016 when the contamination was discovered

[name of person/decedent you represent]

owned or rented [circle which applies] property located at

_____, in the Town of Petersburg, New York.
[Property address with PFOA contaminated well]

4. This property obtained drinking water from a private well that was found to be contaminated with PFOA.

5. _____ resided at this property at or around
[Name of person/decedent you represent]

February 20, 2016 when the contamination was discovered.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on this: _____ day of _____, 2021.

[Sign]

[Print name]

STATE OF NEW YORK
SUPREME COURT COUNTY OF RENSSELAER

JAY BURDICK, CONNIE PLOUFFE,
EMILY MARPE,
as parent and natural guardian of E.Y. an infant,
and, G.Y., an infant, JACQUELINE MONETTE, WILLIAM
SHARPE, EDWARD PERROTTI-SOUSIS,
MARK DENUÉ and MEGAN DUNN,
individually, and on behalf of all similarly situated,

Plaintiffs,

v.

Index No.: 00253835

TONOGA INC., (d/b/a TACONIC),

Defendant.

**DECLARATION OF RESIDENCY FOR NUISANCE SETTLEMENT CLASS
ELIGIBILITY**

I, _____, declare as follows:
[Name of person signing declaration]

1. I am over eighteen years of age.
2. At or around February 20, 2016 when the contamination was discovered, I **owned**
or rented [circle which applies] property located at

_____, in the Town of Petersburg, New York.
[Property address with PFOA contaminated well]

3. This property obtained drinking water from a private well that was found to be
contaminated with PFOA.

4. I resided at this property at or around February 20, 2016 when the contamination was discovered.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on this: _____ day of _____, 2021.

[Sign]

[Print name]

STATE OF NEW YORK
SUPREME COURT COUNTY OF RENSSELAER

JAY BURDICK, CONNIE PLOUFFE,
EMILY MARPE,
as parent and natural guardian of E.Y. an infant,
and, G.Y., an infant, JACQUELINE MONETTE, WILLIAM
SHARPE, EDWARD PERROTTI-SOUSIS,
MARK DENUÉ and MEGAN DUNN,
individually, and on behalf of all similarly situated,

Plaintiffs,

v.

Index No.: 00253835

TONOGA INC., (d/b/a TACONIC),

Defendant.

**DECLARATION OF CONSUMPTION FOR MEDICAL MONITORING CLASS
ELIGIBILITY ON BEHALF OF PARENT
OF PERSON LESS THAN 18 YEARS OF AGE**

Under penalty of perjury, I, _____, declare as
follows:

1. I am over eighteen years of age.
2. I am the parent or legal guardian of _____, who is less
than eighteen years of age.
3. My child consumed water at a residence located at
_____ in the Town of Petersburg, New York.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on this: _____ day of _____, 2021.

[Sign]

[Print name]

STATE OF NEW YORK
SUPREME COURT COUNTY OF RENSSELAER

JAY BURDICK, CONNIE PLOUFFE,
EMILY MARPE,
as parent and natural guardian of E.Y. an infant,
and, G.Y., an infant, JACQUELINE MONETTE, WILLIAM
SHARPE, EDWARD PERROTTI-SOUSIS,
MARK DENUÉ and MEGAN DUNN,
individually, and on behalf of all similarly situated,

Plaintiffs,

v.

Index No.: 00253835

TONOGA INC., (d/b/a TACONIC),

Defendant.

**DECLARATION OF CONSUMPTION OF WATER FROM CONTAMINATED
PROPERTY FOR MEDICAL MONITORING SETTLEMENT CLASS ELIGIBILITY**

I _____, declare as follows:

1. I am over eighteen years of age.
2. I consumed water from the property located at _____, in the Town of
Petersburgh, New York.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on this: _____ day of _____, 2021.

[Sign]

[Print name]

EXHIBIT E

STATE OF NEW YORK
SUPREME COURT COUNTY OF RENSSELAER

JAY BURDICK, CONNIE PLOUFFE,
EMILY MARPE,
as parent and natural guardian of E.B., an infant,
and, G.Y., an infant, JACQUELINE MONETTE, WILLIAM
SHARPE, EDWARD PERROTTI-SOUSIS,
MARK DENUÉ and MEGAN DUNN,
individually, and on behalf of all similarly situated,

Plaintiffs,

Index No.: 00253835

v.

TONOGA INC., (d/b/a TACONIC),

Defendant.

**DECLARATION OF CARLA A. PEAK IN SUPPORT
OF SETTLEMENT NOTICE PROGRAM**

I, Carla A. Peak, declare as follows:

1. My name is Carla A. Peak. I have personal knowledge of the matters set forth herein, and if called as a witness I could and would testify competently to them.
2. I am a nationally recognized expert in the field of legal notice and I have served as an expert in dozens of federal and state cases involving class action notice plans.
3. I am the Vice President of Legal Notification Services for KCC Class Action Services, LLC (“KCC”), a firm that provides comprehensive class action services, including claims administration, legal notification, email and postal mailing campaign implementation, website design, call center support, class member data management, check and voucher disbursements, tax reporting, settlement fund escrow and reporting, and other related services critical to the effective administration of class action settlements. Our experience includes many of the largest and most complex settlement administrations of both private litigation and of actions

brought by state and federal government regulators. KCC has been retained to administer more than 7,000 class actions and distributed settlement payments totaling well over a trillion dollars in assets

4. This Declaration describes KCC's experience, as well as the proposed notice plan (the "Notice Plan" or "Notice Program") designed to provide notice to class members for this class action settlement.

RELEVANT EXPERIENCE

5. KCC has administered class action administrations for such defendants as HP-Compaq, LensCrafters, United Parcel Service, Ford, Mitsubishi, Nissan, Whirlpool, ATI Video Cards, and Twentieth Century Fox.. Some relevant case examples which KCC has been involved with include: *Alvarez v. Haseko Homes, Inc.*, No. 09-1-2691-11 (Cir. Ct. Hawai'i); *Campos v. Calumet Transload Railroad, LLC*, No. 1:13-cv-08376 (S.D.N.Y.); *Charles v. Haseko Homes, Inc.*, No. 09-1-1932-08 (Cir. Ct. Hawai'i); *Eck v. City of Los Angeles*, No. BC577028 (Sup. Ct. Cal.); *Eubank v. Pella Corporation*, No. 1:06-cv-04481 (N.D. Ill.); *Houze v. Brasscraft Manufacturing Co. (EZ-FLO)*, No. BC493276 (Sup. Ct. Cal.); *In Re: Rust-Oleum Restore Marketing, Sales Practices and Products Liability Litig.*, No. 1:15-cv-01364 (N.D. Ill.); *In Re: Uponor, Inc., F1807 Plumbing Fittings Products Liab. Litig.*, No. 11-MD-2247 (D. Minn.); *Kai v. Haseko Homes, Inc.*, No. 09-1-2834-12 (Cir. Ct. Hawai'i); *Lavinsky v. City of Los Angeles*, No. BC542245 (Sup. Ct. Cal.); *Loftus v. SunRun, Inc.*, No. 3:19-cv-01608 (N.D. Cal.); *Nishimura v. Gentry Homes, Ltd.*, No. 11-1-1522 (Cir. Ct., Hawai'i); *Slovin v. Sunrun, Inc.*, No. 4:15-cv-05340 (N.D. Cal.); and *Thomas v. Lennox Industries Inc.*, No. 1:13-cv-07747 (N.D. Ill.).

NOTICE PLAN DETAILS

Class Definition

6. The Settlement Classes consist of:

- (a) all Persons who are or were owners of real property and who obtain or obtained their drinking water from the Town Public Water System and who purchased their property on or before February 20, 2016 (“Town Water Property Damage Class”);
- (b) all Persons who are or were owners of real property located in the Town of Petersburg within a seven (7) mile radius of Defendant’s Facility and who: (i) obtain or obtained their drinking water from a privately owned well contaminated with PFOA; and (ii) owned that property at or around February 20, 2016 when the contamination was discovered (“Private Well Property Damage Class”);
- (c) all Persons who are or were owners or renters of real property located in the Town of Petersburg within a seven (7) mile radius of the Defendant’s Facility and who: (i) obtain or obtained their drinking water from a privately owned well contaminated with PFOA; and (ii) occupied that property at or around February 20, 2016 when the contamination was discovered (“Private Well Nuisance Class”); and
- (d) all individuals who have: (a) ingested water at a property that was supplied by the Town Public Water System or from a private well in the Town of Petersburg in which PFOA has been detected; and (b) underwent blood serum tests that detected a PFOA level in their blood above 1.86 µg/L; or any natural child (i) who was born to a female who meets and/or met the above criteria at the time of the child’s birth; and (ii) whose blood serum was tested after birth and detected a PFOA level above 1.86 µg/L (“Medical Monitoring Settlement Class” or “PFOA Invasion Injury Class”).

Individual Notice

7. KCC will send a Detailed Notice and Claim Form along with a postage pre-paid envelope via United States Postal Service (USPS) to all Settlement Class Members for whom a postal address is provided by the parties. The parties have agreed to provide postal addresses for all properties that obtain drinking water from the Town Public Water System and all properties in the Town of Petersburg at which the New York State Department of Environmental Conservation detected PFOA in a private well. This list of postal addresses will encompass all properties included in the Property Settlement Classes and the Private Well Nuisance Class.

8. Prior to mailing, the postal addresses will be checked against the National Change of Address (NCOA)¹ database maintained by USPS; certified via the Coding Accuracy Support System (CASS);² and verified through Delivery Point Validation (DPV).³

9. Notices returned by USPS as undeliverable will be re-mailed to any address available through postal service forwarding order information. For any returned mailing that does not contain an expired forwarding order with a new address indicated, KCC will conduct further address searches using credit and other public source databases to attempt to locate new addresses and will re-mail these notices where possible.

Media Campaign

10. In addition to the individual notice effort described above, KCC will implement a media campaign consisting of newspapers, digital media, and a press release. Specifically, KCC

¹ The NCOA database contains records of all permanent change of address submissions received by the USPS for the last four years. The USPS makes this data available to mailing firms and lists submitted to it are automatically updated with any reported move based on a comparison with the person's name and last known address.

² Coding Accuracy Support System is a certification system used by the USPS to ensure the quality of ZIP+4 coding systems.

³ Records that are ZIP+4 coded are then sent through Delivery Point Validation to verify the address and identify Commercial Mail Receiving Agencies. DPV verifies the accuracy of addresses and reports exactly what is wrong with incorrect addresses.

will place a quarter page Summary Notice in the *Albany Times-Union* and *Eastwick Press*. KCC will also cause approximately 55.3 million digital impressions to be distributed via various websites and social media platforms, including Facebook and Instagram. The impressions will be (1) geographically targeted to adults in the state of New York, the Albany-Troy-Schenectady designated market area, Petersburg, NY, and the Town of Petersburg, (2) targeted to adults nationwide, and (3) targeted to internet users who have Bennington College listed as part of their Education in their social media profile.

11. KCC will also cause a press release to be distributed nationwide to a variety of press outlets.

12. The media campaign is expected to reach approximately 80% of likely Settlement Class Members.

Response Mechanisms

13. KCC will establish and maintain a case specific website to allow Settlement Class Members to obtain additional information and documents about the Settlement. Settlement Class Members will also be able to review a list of Frequently Asked Questions and Answers and file a Claim Form online.

14. KCC will establish a case specific toll-free number to allow Settlement Class Members to call to learn more about the case in the form of frequently asked questions. It will also allow Settlement Class Members to request to have additional information mailed to them.

CONCLUSION

15. In my opinion, the Notice Plan proposed for this case is consistent with other effective settlement notice programs. It is the best notice practicable and meets the “desire to actually inform” due process communications standard of *Mullane v. Cent. Hanover Bank & Trust Co.*, 339 U.S. 306,

314 (1950). It provides the same reach and frequency evidence that Courts have approved and that has withstood appellate scrutiny, other expert critiques, as well as collateral review.⁴ The Notice Plan and notice documents are consistent with the guidelines set forth in CPLR Article 9, the Manual for Complex Litigation, Fourth, and the Federal Judicial Center's 2010 Judges' Class Action Notice and Claims Process Checklist and Plain Language Guide.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Carla A. Peak

Carla A. Peak

⁴ See for example, *Friend v. FGF Brands (USA), Inc.*, No. 1:18-cv-07644 (N.D. Ill.), *In re Trader Joe's Tuna Litigation*, No. 2:16-cv-01371 (C.D. Cal.), *In re Thalomid and Revlimid Antitrust Litigation*, No. 2:14-cv-06997 (D. N.J.), *Cicciarella v. Califia Farms, LLC*, No. 7:19-cv-08785 (S.D.N.Y.), *Suchanek v. Sturm Foods, Inc.*, No. 3:11-cv-00565 (S.D. Ill.), *In re Morning Song Bird Food Litigation*, No. 3:12-cv-01592 (S.D. Cal.), *Alvarez v. Haseko Homes, Inc.*, No. 09-1-2691-11 (Cir. Ct. Hawai'i), *Eubank v. Pella Corporation*, No. 1:06-cv-04481 (N.D. Ill.), *Houze v. Brasscraft Manufacturing Co. (EZ-FLO)*, No. BC493276 (Sup. Ct. Cal.), *In Re: Rust-Oleum Restore Marketing, Sales Practices and Products Liability Litig.*, No. 1:15-cv-01364 (N.D. Ill.) and *Lavinsky v. City of Los Angeles*, No. BC542245 (Sup. Ct. Cal.).

EXHIBIT F

STATE OF NEW YORK
SUPREME COURT COUNTY OF RENSSELAER

JAY BURDICK, CONNIE PLOUFFE,
EMILY MARPE,
as parent and natural guardian of E.Y., an infant,
and, G.Y., an infant, JACQUELINE MONETTE, WILLIAM
SHARPE, EDWARD PERROTTI-SOUSIS,
MARK DENUÉ and MEGAN DUNN,
individually, and on behalf of all similarly situated

Plaintiffs,

v.

TONOGA INC., (d/b/a TACONIC),

Defendant.

**[PROPOSED]
NOTICE
APPROVAL AND
SETTLEMENT
SCHEDULING
ORDER**

Index No.: 00253835

Plaintiffs Jay Burdick, Connie Plouffe, Emily Marpe, as parent and natural guardian of E.Y., an infant, and G.Y., an infant, Jacqueline Monette, William Sharpe, Edward Perrotti-Sousis, Mark Denué, and Megan Dunn, on behalf of themselves and the Settlement Class Members, and Defendant Tonoga, Inc. (d/b/a Taconic), by their respective counsel, have submitted a Settlement Agreement to this Court, and Plaintiffs have moved under CPLR 907 and 908 for an Order (1) approving the Notice Program; (2) appointing KCC as the General Administrator of the Settlement and directing it to commence the Notice Program; (3) holding that the classes defined in the Third Amended Consolidated Complaint and the Settlement Agreement meet the requirements of CPLR Article 9; (4) providing authority pursuant to CPLR 1201 for parents and guardians of all named Minor Plaintiffs and absent Minor Settlement Class Members, and for legal representatives of absent incompetent Settlement Class Members, to sign Claim Forms and releases on behalf of the Settlement Class Members they represent; (5) setting deadlines and ordering procedures for Settlement Class Members to opt out of the Settlement or object to the Settlement; and (6) setting

a date by which the Court will consider final approval of the Settlement and any application for attorneys' fees, expenses, and Class Representative Service Awards. The Court has considered the Settlement Agreement, the exhibits to the Settlement Agreement, the proposed Notice Program, the record of proceedings, and all papers and arguments submitted in support, and now finds that the motion should, and hereby is, **GRANTED**.

ACCORDINGLY, THE COURT FINDS AND ORDERS:

1. This Court has jurisdiction over the subject matter of this lawsuit and jurisdiction over Plaintiffs and Defendant for purposes of this Settlement.
2. Capitalized terms not otherwise defined in this Order have the definitions set forth in the Settlement Agreement.

SUMMARY OF THE LITIGATION AND SETTLEMENT

3. On July 26, 2016, Plaintiffs Burdick and Marpe, individually and as parent and natural guardian of E.B., an infant, and G.Y., an infant, commenced this action by filing a proposed class action complaint alleging tort theories of negligence, trespass, nuisance, and strict liability based on the presence of perfluorooctanoic acid (PFOA) in the Town Public Water System, in private wells, on or at their properties, and/or in their blood.
4. On September 22, 2016, Plaintiffs Connie and Edward Plouffe, and Frank and Suzanne Seymour filed a second proposed class action complaint asserting similar claims.
5. Defendant moved to dismiss both complaints pursuant to CPLR 3211(a)(7) on November 15, 2016, and Plaintiffs moved to consolidate the cases on December 20, 2016.
6. In each case, the Court denied Defendant's motion to dismiss Plaintiffs' negligence, trespass, and strict liability claims, and also denied Defendant's motion to dismiss nuisance claims alleged on behalf of Plaintiffs with privately owned wells. The Court granted Defendant's motion

to dismiss nuisance claims alleged on behalf of Plaintiffs who obtained their drinking water from the Town Public Water System. The Court further ordered the two cases to be consolidated into the present action.

7. On May 3, 2017, Plaintiffs filed their First Amended Consolidated Complaint. On August 30, 2017, Plaintiffs moved for leave to file a Second Amended Consolidated Complaint, which sought to dismiss Plaintiffs Suzanne Seymour and Emily Marpe in her individual capacity, and to join Plaintiffs Jacqueline Monette, William Sharpe, Edward Perrotti-Sousis, Mark Denué, and Megan Dunn as additional representative plaintiffs. Defendant did not oppose Plaintiffs' motion for leave to amend. The Court granted the motion on September 20, 2017.

8. The Parties thereafter engaged in significant discovery efforts, including the exchange of several sets of written discovery served by and on each party, voluminous document productions, depositions of each Plaintiff as well as twelve depositions of Defendant's current or former employees, several spanning more than one day, third-party discovery of the New York State Department of Environmental Conservation, and motion practice regarding Defendant's privilege log.

9. On February 6, 2018, Plaintiffs moved to certify four classes pursuant to CPLR 902: a class of property owners who obtained drinking water from the Town Public Water System and sought diminution in property value; a class of property owners who obtained drinking water from privately owned wells contaminated with PFOA and sought diminution in property value; a class of owners or renters residing in homes with privately owned wells contaminated with PFOA who sought nuisance damages; and a class of individuals exposed to PFOA from a contaminated source in Petersburg who subsequently obtained blood tests demonstrating that PFOA was present in their blood serum above the background level of 1.86 µg/L (parts per billion), and who

sought consequential medical monitoring damages. Following submission of extensive briefing and expert affidavits, the Court certified each of the four proposed classes, appointed Plaintiffs as class representatives, and appointed Class Counsel to represent the certified classes.

10. On August 6, 2018, Defendant noticed an appeal of the Court's class certification decision and order. Defendant also moved for a stay of proceedings before this Court pending disposition of its appeal—a motion that was denied.

11. On October 9, 2018, Plaintiffs moved the Court to approve a proposed notice plan pursuant to CPLR 904. After the motion was fully briefed, the Court approved Plaintiffs' proposed plan, which included direct mail notice to all households within the Petersburg zip code, as well as any properties with contaminated private wells within a seven-mile radius of the Taconic facility; information posted to the Petersburg Water Facebook page, which was administered by Plaintiff Emily Marpe; publication notice in local print media; and posted notice on a website administered by Plaintiffs' counsel.

12. On January 17, 2019, Plaintiffs filed a Note of Issue and Certificate of Readiness for Trial, demanding a jury trial on all issues.

13. On March 1, 2019, Defendant filed a motion for summary judgment, as well as separate motions to exclude the testimony of Plaintiffs' expert witnesses: (1) Dr. David Savitz, (2) Plaintiffs' Medical Monitoring Experts – Drs. Alan Ducatman, Donald R. Brandt, and Sloane Shepard, (3) Drs. Hyeong-Moo Shin and Donald Siegel, (4) Dr. Nicholas Cheremisinoff, and (5) Dr. Jeffrey E. Zabel. The Parties fully briefed each of these motions, which included submission of substantial record evidence. On November 15, 2019, the Court issued orders denying each motion to exclude expert testimony.

14. The Appellate Division, Third Department, heard oral argument on Defendant's

appeal of the class certification decision and order in September 2019. On November 21, 2019, the Appellate Division affirmed the decision and order in all respects. On December 27, 2019, Defendant moved for leave to appeal to the Court of Appeals. This motion was denied by the Appellate Division.

15. On December 30, 2019, Defendant filed a notice of appeal of the decision and orders denying its motions to exclude the testimony of Plaintiffs' expert witnesses.

16. On January 24, 2020, this Court issued an order granting in part and denying in part Defendant's motion for summary judgment. In particular, the Court granted Defendant's motion for summary judgment on Plaintiffs' claim for strict liability. The Court denied Defendant's motion for summary judgment in all other respects.

17. On February 20, 2020, in response to a request from Plaintiffs, the Court indicated that it would not set a trial date until all appellate issues were resolved.

18. On March 6, 2020, Defendant filed a notice of appeal of the decision and order granting in part and denying in part its motion for summary judgment.

19. During the summer and fall of 2020, the Parties briefed the pending appeals. The Appellate Division consolidated the appeals for oral argument, which was held on January 12, 2021. On February 25, 2021, the Appellate Division dismissed Defendant's appeals of the orders denying its motions to exclude the testimony of Plaintiffs' expert witnesses. In a separate order issued the same date, the Appellate Division affirmed the decision and order on summary judgment. Defendant's subsequent motions to appeal to the Court of Appeals were denied.

20. On May 3, 2021, following a conference with the Parties, the Court entered a pretrial scheduling order that, *inter alia*, set a trial date of May 5, 2022.

21. On August 4, 2021, the Parties engaged in a full-day mediation at arms length

before Professor Eric Green or Resolutions, LLC. At the end of this mediation session, Plaintiffs and Defendant reached an agreement in principle. They then negotiated the detailed written Settlement Agreement and exhibits that are now before the Court.

22. The Settlement provides, among other things, that as consideration for the release from Settlement Class Members, Defendant will pay \$23,464,362 in cash into a Settlement Fund (the Total Settlement Payment). Of this amount, \$4,410,000 will be allocated to members of the Property Settlement Classes; \$4,031,250 will be allocated to members of the Private Well Nuisance Class; and \$8,550,000 will be allocated to fund an estimated fifteen-year medical monitoring program to benefits members of the Medical Monitoring Settlement Class.

23. In its July 3, 2018 decision and order granting Plaintiffs' motion for class certification, the Court ruled that the Town Water Property Damage Class, Private Well Property Damage Class, Private Well Nuisance Class, and PFOA Invasion Injury Class met the requirements of CPLR 901 for certification, and none of the discretionary factors set forth in CPLR 902 precluded certification. Since the Court's certification order, Plaintiffs filed, with Defendant's consent, a Third Amended Consolidated Complaint that alters three of the class definitions from those previously certified. The Court finds that none of the amendments materially affects its previous analysis of the CPLR Article 9 requirements and considerations.

24. The Town Water Property Damage Class definition has not changed. The Private Well Nuisance Class definition has been revised to require that an affected property is located in the Town of Petersburg and within a seven mile radius of Defendant's facility. Previously, the class definition required that an affected property was located within a seven mile radius, but it did not require a property to be located in the Town of Petersburg. The Private Well Nuisance Class definition has also been revised to insert "at the time the contamination was discovered" after "at

or around February 20, 2016” for clarification that the important date was when the contamination was discovered and to remove any ambiguity in the claims process. The Court finds that these revisions make the class more cohesive but otherwise does not materially alter its prior analysis of the propriety of class certification under CPLR Article 9. A similar revision—requiring affected properties to be located within the Town of Petersburg and clarifying that the date of ownership required is when the contamination was discovered—was made to the Private Well Property Damage Class and Medical Monitoring Settlement Class (also referred to as the PFOA Invasion Injury Class) definitions and these revisions do not materially alter the Court’s class certification analysis with regard to these classes.

25. The Private Well Property Damage Class definition, as set forth in the Agreement, requires that a class member *owned* the affected property on or before February 20, 2016. The class previously certified by the Court required that a class member owned *and occupied* the affected property on or before February 20, 2016. This revision, which Plaintiffs explain is a clarification of the Parties’ intent, potentially expands the class definition somewhat, though the Court finds that any such expansion does not materially alter its prior class certification analysis.

26. Finally, the Medical Monitoring Settlement Class, as set forth in the Settlement Agreement and in the Third Amended Consolidated Complaint, now also encompasses children who were exposed to PFOA in utero, including the recently-joined infant Plaintiff E.Y., who was born in 2018 with a PFOA blood serum above 1.86 µg/L at birth. The Court finds that this expansion of the class does not materially alter its previous class certification analysis. Indeed, all class members, including those exposed in utero, must present proof of exposure at a level above background levels, meaning that each class member can satisfy the requirement set forth in *Abusio v. Consolidated Edison Co. of New York*, 656 N.Y.S.2d 371, 372 (2d Dep’t 1997), to demonstrate

a “rational basis” for fear of contracting a disease. As the Court explained in its class certification decision and order, “rational basis” has been construed to mean, *inter alia*, the clinically demonstrable presence of a toxin in a plaintiff’s body. The requirement that each class member, including children exposed in utero, provide proof of a blood test thus ensures that all class members share a rational basis for fear of contracting a disease.

27. The Court further finds that CPLR 907 expressly permits it to alter or amend its prior orders, including its order certifying the four classes. Accordingly, the Court finds that the following classes meet the requirements for class certification set forth in CPLR 901 and satisfy the discretionary considerations enumerated in CPLR 902:

Town Water Property Damage Class:

All Persons who are or were owners of real property and who obtain or obtained their drinking water from the Town Public Water System and who purchased their property on or before February 20, 2016; provided, however, that the Town Water Property Damage Class shall not include Excluded Persons or Taconic Properties.

Private Well Property Damage Class:

All Persons who are or were owners of real property located in the Town of Petersburg within a seven (7) mile radius of Defendant’s Facility and who: (i) obtain or obtained their drinking water from a privately owned well contaminated with PFOA; and (ii) owned that property at or around February 20, 2016 when the contamination was discovered; provided, however, that the Private Well Property Damage Class shall not include Excluded Persons or the Taconic Properties.

Private Well Nuisance Class:

All Persons who are or were owners or renters of real property located in the Town of Petersburg within a seven (7) mile radius of the Defendant’s Facility and who: (i) obtain or obtained their drinking water from a privately owned well contaminated with PFOA; and (ii) occupied that property at or around February 20, 2016 when the contamination was discovered, provided, however, that the Private Well Nuisance Class shall not include Excluded Persons.

Medical Monitoring Settlement Class or PFOA Invasion Injury Class:

All individuals who have: (a) ingested water at a property that was supplied by the Town Public Water System or from a private well in the Town of Petersburg in which PFOA has been detected; and (b) underwent blood serum tests that detected a PFOA level in their blood above 1.86 µg/L; or any natural child (i) who was born to a female who meets and/or met the above criteria at the time of the child’s birth;

and (ii) whose blood serum was tested after birth and detected a PFOA level above 1.86 µg/L; provided, however, that the Medical Monitoring Settlement Class shall not include Excluded Persons.

28. The Court finds that the definition of “Excluded Persons” in the Settlement is reasonable and meets the general requirements under CPLR Article 9.

29. In addition, the Court finds that the class representative Plaintiffs appointed in its July 3, 2018 decision and order should remain appointed as class representative Plaintiffs, with the exception of Plaintiffs Edward Plouffe and Frank Seymour, both of whom passed away during the course of this litigation.

30. The Court further finds that Class Counsel, who have diligently and skillfully litigated this Action for over five years, shall be appointed to represent the Settlement Classes and shall serve as Class Counsel to Settlement Class Members. In particular, the Court appoints Stephen G. Schwarz and Hadley Matarazzo of Faraci Lange LLP and James J. Bilsborrow of Seeger Weiss LLP as Class Counsel to the Settlement Classes. Class Counsel are authorized to act on behalf of the Settlement Classes with respect to all acts required by, or which may be given pursuant to, the Settlement or such other acts that are reasonably necessary to consummate the proposed Settlement set forth in the Settlement Agreement.

THE NOTICE PROGRAM COMPORTS WITH THE REQUIREMENTS OF THE CPLR

31. CPLR 908 states that a “class action shall not be . . . compromised without approval of the Court. Notice of the proposed . . . compromise shall be given to all members of the class in such manner as the court directs.”

32. CPLR 908 provides Supreme Court with discretion to evaluate a proposed notice to compromise a class action proceeding. *See In re Colt Indus. Shareholder Litig.*, 155 A.D.2d 154, 160 (1st Dep’t 1990). Notice, at a minimum, must “inform[] all class members of the pending

class action, the composition of the class, the issues between the parties, the terms of the proposed settlement, how a class member may object, the time period within which such objection, if any, must be made, and the date on which the trial court will hold a hearing, at which same will consider the fairness of the proposed settlement.” *Id.*

33. The Settlement provides for Notice to be mailed directly to all owners of real properties that obtain drinking water from the Town Public Water System and to properties in the Town of Petersburg that obtain drinking water from private wells contaminated with PFOA. With regard to the latter category, the Settlement provides that the General Administrator shall be provided with private well testing data obtained by the NYSDEC from well testing it performed on private wells throughout the Town since February 2016.

34. In addition to direct mail efforts, the Notice Program consists of a digital media plan that will target adults in New York State, the Albany-Troy-Schenectady region, and the Town of Petersburg using various websites, social media, and Facebook. An affidavit submitted by the General Administrator asserts that this plan will result in 53.3 million internet impressions.

35. The Notice Program will also include newspaper advertisements in the Albany Times Union and Eastwick Press, as well as a national press release.

36. The General Administrator will also establish a Settlement Website containing the pertinent Settlement documents, as well as the opt out and objection dates, and the date of a Final Fairness Hearing.

37. Consistent with New York law, the Notice informs all class members of the pending class action, the composition of the classes, the issues between the parties, the terms of the proposed Settlement, how a class member may object, the time period within which such objection, if any, must be made, and the date on which the Court will hold a hearing to consider the fairness

of the proposed Settlement. *In re Colt Indus. Shareholder Litig.*, 155 A.D.2d at 160.

38. The Court finds that the Notice Program, including the Notice Form and the particulars of the Notice Program described in the Affidavit of Carla A. Peake in Support of Settlement Notice Program, satisfy CPLR 908. The Court appoints KCC as General Administrator, approves the Notice Program, and directs that the Notice Program be implemented as set forth in the Settlement.

39. All fees, costs, and expenses incurred in implementing the Notice Program shall be paid from the Preliminary Settlement Fund as set forth in the Settlement.

SETTLEMENT OF CLAIM OF INFANT, INCOMPETENT, AND DECEASED CLASS MEMBERS

40. Plaintiff Emily Marpe is acting in this Action in her capacity as parent and natural guardian G.Y and E.Y, both of whom are minors. Plaintiff Marpe will apply to the Court for approval of the Settlement on behalf of the Minor class representatives and all absent Minor Settlement Class Members. This Order provides authority pursuant to CPLR 1201 for parents and guardians of all named Minor absent Settlement Class Members, and for legal representatives of absent incompetent Settlement Class Members, to sign Claim Forms and releases on behalf of the Settlement Class Members they represent. An Order from this Court finally approving the Settlement shall effectuate a settlement under CPLR 1207 for all named Minor Plaintiffs, absent Minor Settlement Class Members, and absent incompetent Settlement Class Members.

41. The legal representatives of deceased absent Settlement Class Members shall have authority to sign Claim Forms and releases on behalf of the absent Settlement Class Members they represent. Where a legal representative of a deceased absent Settlement Class Member submits a Claim Form on that Settlement Class Member's behalf, that legal representative shall attest to their authority to act for the deceased absent Settlement Class Member.

PROCEDURES FOR REQUESTING EXCLUSION FROM OR OBJECTING TO THE SETTLEMENT

42. A Settlement Class Member may request exclusion from the Settlement at any time prior to the Opt Out Deadline, provided an opt-out notice is sent to the General Administrator in accordance with the procedures set forth in the Settlement Agreement. Any Settlement Class Member who elects to opt out of the Settlement shall not be entitled to receive any benefits conferred by the Settlement but also shall not be bound by the terms of the Settlement. Conversely, any Settlement Class Member who does not timely and validly request to opt out shall be bound by the terms of the Settlement, including the Release, regardless of whether such person chooses to file a Claim Form to participate in the Settlement. If a real property that is encompassed by one of the Property Settlement Classes has more than one legal owner and one of those owners excludes themselves from the relevant Settlement Class, then all owners of that real property shall be deemed to have opted out of the Settlement, and no owner of the real property shall be entitled to a payment under the Settlement.

43. Objections to the Settlement, to the application of attorneys' fees and costs, and/or to the Service Award must be served on the Parties in accordance with the Settlement. Class Counsel and/or Defendant may conduct limited discovery on any objector or objector's counsel consistent with New York law.

44. Except for Settlement Class Members who have timely asserted an objection to the Settlement, all Settlement Class Members shall be deemed to have waived all objections and opposition to the fairness, reasonableness, and adequacy of the Settlement.

MOTIONS FOR FINAL APPROVAL, FEES, EXPENSES, AND SERVICE AWARDS

45. Plaintiffs shall file their Motion for Final Approval of the Settlement, application for attorneys' fees and costs, for a Service Award to the Plaintiffs, and for all Settlement

Administration Costs, no later than 150 days after this Order is entered. At the Final Approval Hearing, the Court will hear argument on Plaintiffs' Motion for Final Approval of the Settlement, and on Class Counsel's application for attorneys' fees and expenses, for the Service Award for the Plaintiffs, and for all Settlement Administration Costs.

FINAL APPROVAL HEARING

46. The Court will hold a Final Approval Hearing on _____ at _____, at the Rensselaer County Supreme Court, 80 Second Street, Troy, New York 12180, or by videoconference or teleconference if determined by separate order, to assist the Court in determining whether to grant Final Approval to the Settlement, enter the Final Approval Order and Judgment, and grant any motions for fees, expenses, and the Service Award.

OTHER PROVISIONS

47. Class Counsel and Defendant's counsel are authorized to take, without further approval of the Court, all necessary and appropriate steps to implement the Settlement according to its terms, including implementing the Notice Program.

48. Pending determination whether the Settlement Agreement should be granted Final Approval, further proceedings against Defendant are stayed in this Action, other than proceedings necessary to carry out or enforce the terms of the Settlement.

49. Without further orders of the Court, the Parties may agree to make non-material modifications to the Settlement Agreement (including the exhibits thereto) in implementing the Settlement that are not inconsistent with this Order, including making minor changes to the Settlement Agreement, to the form or content of the Notice Form, or to any other exhibits that the Parties jointly agree in writing are reasonable or necessary.

50. The Court shall retain jurisdiction over the Settlement Agreement and shall

consider all further matters arising out of or connected with the Settlement.

SCHEDULE OF DEADLINES

51. The Court sets the following deadlines:

Event	Date
Deadline for Defendant to pay \$200,000 Preliminary Settlement Fund Payment in cash to the Escrow Account	No later than 20 days from the date of this Order
Deadline for General Administrator to commence Notice Program	No later than 30 days from the date of this Order
Commencement of the Enrollment Period	30 days from the date of this Order
Opt Out Deadline	105 days from the date of the Notice Date
Objection Deadline	105 days from the date of the Notice Date
Deadline for filing a Motion for Final Approval and any petition for an award of attorneys' fees, costs, and Service Award	No later than 150 days from the date of this Order
Final Approval Hearing	_____ (approximately 180 days from the date of this Order)

SO ORDERED.

Date _____
Troy, New York

Patrick J. McGrath
Justice of the Supreme Court