

NEW JERSEY DEPARTMENT OF ENVIRONMENTAL PROTECTION; THE COMMISSIONER OF THE NEW JERSEY DEPARTMENT OF ENVIRONMENTAL PROTECTION; and THE ADMINISTRATOR OF THE NEW JERSEY SPILL COMPENSATION FUND,

Plaintiffs,

v.

SOLVAY SPECIALTY POLYMERS USA, LLC; ARKEMA INC.; and “ABC CORPORATIONS” 1-10 (Names Fictitious),

Defendants.

SUPERIOR COURT OF NEW JERSEY  
Law Division - Gloucester County

DOCKET NO. GLO-L-001239-20

CIVIL ACTION

JUDICIAL CONSENT ORDER

This matter was opened to the Court by Plaintiffs New Jersey Department of Environmental Protection, the Commissioner of the Department, and the Administrator of the New Jersey Spill Compensation Fund (collectively, “Plaintiffs”) against Defendants Solvay Specialty Polymers USA, LLC (“Solvay”) and Arkema Inc. (“Arkema”) (collectively, “Defendants”). Plaintiffs and Defendant Solvay (the “Parties”) have amicably and in good faith resolved their dispute without a trial, subject to entry of this Judicial Consent Order (“JCO”).

## **I. BACKGROUND**

A. Plaintiffs initiated this action on November 10, 2020 by filing a complaint against Solvay and Arkema, pursuant to the Spill Compensation and Control Act, N.J.S.A. 58:10-23.11 to -23.24 (the “Spill Act”); the Water Pollution Control Act, N.J.S.A. 58:10A-1 to -20 (“WPCA”); the Air Pollution Control Act, N.J.S.A. 26:2C-1 to -57 (“APCA”); the Solid Waste Management Act, N.J.S.A. 13:1E-1 to -230 (“SWMA”); the Brownfield and Contaminated Site Remediation Act, N.J.S.A. 58:10B-1 to -31 (the “Brownfield Act”); and the common law of New Jersey.

B. Plaintiffs, in their Complaint, seek to require Defendants to fully investigate and delineate all of the pollutants and hazardous substances, including PFAS compounds, that allegedly were and continue to be discharged, released, and/or emitted from the Site, wherever they came to be located, or, in the alternative, seek all costs necessary to conduct such activities. In addition, Plaintiffs seek an order requiring Defendants to cease all unpermitted discharges, emissions, and disposals of all pollutants, hazardous substances, and solid wastes, including PFAS compounds, that allegedly continue to be discharged, emitted, and/or disposed from the Site. In addition, Plaintiffs seek an order that would require Defendants to remediate, assess, and restore the Site and all of the off-site areas and natural resources in New Jersey that allegedly have been contaminated from the Site, or the costs necessary to conduct such activities.

C. In addition, Plaintiffs, in their Complaint, seek to require Defendants to pay past direct and indirect costs, damages for injuries to all natural resources, indirect costs, property damages, economic damages, restitution, disgorgement of any ill-gotten profits, assessment against Defendants of the actual amount of any economic benefit accrued from violating applicable laws, lost income, lost taxes, punitive damages, prejudgment and post-judgment interest, litigation fees and costs, and other damages and equitable relief as a result of any discharges of pollutants and hazardous substances.

D. Solvay filed responsive pleadings in which it denied liability and asserted various defenses to the allegations contained in the Complaint.

E. On December 14, 2022, the Court entered an Order reserving Plaintiffs' Delaware River Claims, as defined herein. *See New Jersey Department of Environmental Protection, et al. v. Solvay Specialty Polymers USA, LLC*, GLO-L-001239-20, LCV20224269023 (Super. Ct. N.J. Dec. 14, 2022) (appended as Exhibit 1).

F. By entering into this JCO, Solvay does not admit any fact or liability arising from the transactions or occurrences that Plaintiffs allege in the Complaint filed in this Lawsuit.

G. The Parties to this JCO recognize and agree, and this Court by entering this JCO finds, that the Parties to this JCO have negotiated this JCO in good faith; that the implementation of this JCO will allow the Parties to avoid continued, prolonged, and complicated litigation, including appeals; and that this JCO is fair, reasonable, in the public interest, and consistent with statutory goals.

**THEREFORE**, with the consent of the Parties to this JCO, it is hereby **ORDERED and ADJUDGED**:

**II. JURISDICTION AND VENUE**

1. The Court has jurisdiction over the subject matter of this action pursuant to the Spill Act, the WPCA, the APCA, the SWMA, the Brownfield Act, and the common law of New Jersey. The Court also has personal jurisdiction over the Parties for the purposes of implementing this JCO and resolving the underlying Lawsuit. Venue is appropriate in Gloucester County, as this action arises out of alleged acts or omissions that occurred at the Site located in West Deptford, Gloucester County, New Jersey.

**III. PARTIES BOUND**

2. This JCO applies to, and is binding on, each of the Parties to this JCO, as defined herein.

**IV. DEFINITIONS**

3. Unless otherwise expressly provided, terms used in this JCO that are defined in the Spill Act, the WPCA, the APCA, the SWMA, the Brownfield Act, or in the regulations promulgated under those statutes shall have their statutory or regulatory meaning. To the extent there exist any conflicts between any provisions of this JCO and any provisions in the foregoing

statutes and regulations, including the Administrative Requirements for the Remediation of Contaminated Sites (N.J.A.C. 7:26C), the Technical Requirements for Site Remediation (N.J.A.C. 7:26E), and/or the guidance thereto, the terms of this JCO shall control. Whenever the terms listed below are used in this JCO, the following definitions shall apply:

a. “Alternative PFAS” shall mean any or all of the following products used by Solvay and the constituents therein: CAS No. 220207-15-8, CAS No. 330809-92-2, CAS No. 220182-27-4, and CAS No. 69991-62-4;

b. “Assigned Case Manager” shall mean the Department employee who is acting as the primary contact for Solvay and for Solvay’s LSRP for remediation purposes;

c. “Bifunctional Surfactants” or “BFS” shall mean the following product used by Solvay: CAS No. 69991-62-4;

d. “BFS Groundwater Standard” shall mean 2 parts per trillion (“ppt”) until such time as the Department issues an Interim Specific Groundwater Standard for BFS in accordance with N.J.A.C. 7:9C. The BFS Groundwater Standard shall apply to aggregate congener detections of the congeners that comprise BFS;

e. “cC6O4” or “C6O4” shall mean Acetic acid, 2,2-difluoro-2-((2,2,4,5-tetrafluoro-5-(trifluoromethoxy)-1,3-dioxolan-4-yl)oxy)-, ammonium salt (1:1) (CAS No. 1190931-27-1);

f. “CIPFPECA” shall mean chloroperfluoropolyether carboxylate and chloroperfluoropolyether carboxylic acid;

g. “Day” shall mean a calendar day;

h. “Delaware River” shall mean “the river channel and water column, sediments, and other natural resources contained therein” as described in the Court’s December 14, 2022 Order, appended as Exhibit 1;

i. “Delaware River Claims” shall mean any claims or actions for remediation and/or Natural Resource Damages for injuries to or contamination of the Delaware River caused by Discharges;

j. “Department” or “DEP” shall mean the New Jersey Department of Environmental Protection and its Commissioner;

k. “Discharge” or “Discharges” shall mean “discharge,” including any emissions to the environment, at or from the Site prior to the Effective Date or for which Solvay may be in any way responsible in relation to the Site, including a discharge for which Solvay may be in any way responsible at or from locations where waste from the Site or the Gloucester County Utilities Authority (“GCUA”) or any other off-site location came to be located prior to the Effective Date;

l. “Effective Date” shall mean the date the Court enters this JCO;

m. “Expanded Area Thresholds” shall mean any or all of the following circumstances: (i) PFNA is detected above 13 ppt; (ii) MFS is detected above the MFS Groundwater Standard; (iii) BFS is detected above the BFS Groundwater Standard; and/or (iv) PFOA is detected above 14 ppt but only if that detection is also accompanied by a detection of PFNA above 6.5 ppt<sup>1</sup> or by a detection of MFS and/or BFS above detection limits;

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<sup>1</sup> 6.5 ppt represents half of the value of the State drinking water standard for PFNA as of the Effective Date. If a new State drinking water standard is finalized for PFNA, half the value of the new standard will replace 6.5 ppt in this definition.

- n. “ISRA” shall mean the New Jersey “Industrial Site Recovery Act,” N.J.S.A. 13:1K-6 *et seq.*;
- o. “Judicial Consent Order” or “JCO” shall mean this document;
- p. “Lawsuit” shall mean the action filed in the Superior Court of New Jersey, captioned *New Jersey Department of Environmental Protection, et al. v. Solvay Specialty Polymers USA, LLC, et al.*, Docket No. GLO-L-001239-20 (Super. Ct. N.J.);
- q. “Little Mantua Creek” means the surface water body directly abutting the Site on its western side and colloquially referred to as Little Mantua Creek, as described in Plaintiffs’ Complaint dated November 10, 2020, but not including any part of the Delaware River;
- r. “LSRP” shall mean “Licensed Site Remediation Professional” as such term is defined in N.J.S.A. 58:10C-2;
- s. “Main Ditch” means the surface water body directly abutting the Site on its eastern side and colloquially referred to as Main Ditch, as described in Plaintiffs’ Complaint dated November 10, 2020, but not including any part of the Delaware River;
- t. “MFS Groundwater Standard” shall refer to the Interim Specific Groundwater Standard for MFS of 2 ppt established by the Department in January 2022 in accordance with N.J.A.C. 7:9C. The MFS Groundwater Standard shall apply to aggregate congener detections of the congeners that comprise MFS as defined herein;
- u. “Monofunctional Surfactants” or “MFS” shall mean any or all of the following products used by Solvay: CAS No. 220207-15-8, CAS No. 330809-92-2, and CAS No. 220182-27-4. Specifically, the CIPFPECA congeners acknowledged by Solvay to be used in Solvay’s MFS products include analytes MFS-N2 (C8O4F14Cl), MFS-M3

(C10O5F18C1), MFS-N3 (C11O5F20C1), MFS-M4 (C13O6F24C1), MFS-N4 (C14O6F26C1), and MFS-N5 (C17O7F32C1);

v. “Natural Resource Damages” shall mean all claims arising from Discharges prior to the Effective Date that are recoverable by the Department as natural resource damages for injuries to natural resources under the Spill Act, the WPCA, the APCA, the SWMA, the Brownfield Act, or any other State or federal common law, statute, or regulation, and include: (i) the costs of assessing injury to natural resources; (ii) the Department’s Office of Natural Resource Restoration’s costs, attorneys’ fees, consultants’ and experts’ fees, other litigation costs, and interest, incurred prior to the Effective Date; and (iii) compensation for the lost value of, injury to, or destruction of natural resources. “Natural Resource Damages” do not include: (i) compliance with any statutory or regulatory requirement that is not within the definition of “Natural Resource Damages”; (ii) any applicable requirements to remediate a contaminated site, including the Administrative Requirements for the Remediation of Contaminated Sites (N.J.A.C. 7:26C), the Technical Requirements for Site Remediation (N.J.A.C. 7:26E), and any remediation requirements imposed by the State or the USEPA; or (iii) Solvay’s continuing obligations to pay the Department’s fees and oversight costs determined pursuant to N.J.A.C. 7:26C-4, incurred after the Effective Date;

w. “Paragraph” shall mean a portion of this JCO identified by an Arabic numeral or an upper case letter;

x. “PFAS” shall mean per- and polyfluoroalkyl substances;

y. “PFNA” shall mean perfluorononanoate (CAS No. 72007-68-2); perfluorononanoic acid (CAS No. 375-95-1); and/or perfluorononanoic acid, salts, and esters<sup>2</sup>;

z. “PFOA” shall mean perfluorooctanoate (CAS No. 45285-51-6); perfluorooctanoic acid (CAS No. 335-67-1); and/or perfluorooctanoic acid, salts, and esters<sup>3</sup>;

aa. “Public Supply Well” shall mean each individual supply well utilized by community water systems, public non-transient non-community water systems, and public transient non-community water systems as defined in N.J.A.C. 7:10-1.3, but not including any such well located at a site that qualifies as a Significant Industrial User as defined in 40 C.F.R. § 403.3, or that is operated for mineral extraction, chemical manufacturing or processing, scrap metal processing or recycling, or power generation, or that is operated as a refinery or a fuel storage facility;

bb. “Remediation Activities” shall refer to all investigation, remediation, or other required tasks outlined in Section VI of the JCO;

cc. “Remedial Projects” shall refer to the projects described in Paragraph 26, for which Solvay has agreed to pay funds to the Department in order to assist the Department’s response to PFAS contamination;

dd. “Remediation Funding Source” or “RFS” shall have the meaning ascribed to it in N.J.S.A. 7:26C-5.1;

ee. “RFS Amount” shall have the meaning ascribed to it in Paragraph 6;

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<sup>2</sup> Notwithstanding this definition, Solvay shall use analytical methods as provided in the Quality Assurance Project Plan approved by the Department for Solvay’s remediation of the Site to sample environmental media for PFNA.

<sup>3</sup> Notwithstanding this definition, Solvay shall use analytical methods as provided in the Quality Assurance Project Plan approved by the Department for Solvay’s remediation of the Site to sample environmental media for PFOA.



ff. “Section” shall mean a portion of this JCO identified by a Roman numeral;

gg. “Settlement Payment” shall have the meaning ascribed to it in Paragraph 4;

hh. “Site” means the Solvay Specialty Polymers USA, LLC manufacturing facility located at 10 Leonard Lane, West Deptford, Gloucester County;

ii. “Solvay” shall mean Solvay Specialty Polymers USA, LLC, with a principal place of business at 4500 McGinnis Ferry Road in Alpharetta, Georgia, and also includes Solvay Solexis, Inc., which was previously named Ausimont U.S.A., Inc.;

jj. “State” shall mean the State of New Jersey;

kk. “USEPA” shall mean the United States Environmental Protection Agency;

ll. “Well” or “well” shall mean a potable water well that is not abandoned, inactive, or out of use, so long as such well is not abandoned, inactive, or out of use based in whole or in part on the presence or threatened presence of PFNA, PFOA, or Alternative PFAS associated with the Site, but not including any such well located at a site that qualifies as a Significant Industrial User as defined in 40 C.F.R. § 403.3, or that is operated for mineral extraction, chemical manufacturing or processing, scrap metal processing or recycling, or power generation, or that is operated as a refinery or a fuel storage facility;

and

mm. “West Deptford Thresholds” shall mean any or all of the following circumstances: (i) PFNA is detected above 13 ppt; (ii) MFS is detected above the MFS Groundwater Standard; (iii) BFS is detected above the BFS Groundwater Standard; and/or (iv) PFOA is detected above 14 ppt but only if that detection is also accompanied by a detection of PFNA above detection limits or by a detection of MFS and/or BFS above detection limits.

**V. SETTLEMENT PAYMENTS AND REMEDIATION FUNDING SOURCE**

4. Within 45 Days after the Effective Date, Solvay shall pay Plaintiffs One Hundred Seventy-Eight Million Seven Hundred Eighty-One Thousand Nine Hundred Sixty-Three Dollars and Sixty-Nine Cents (\$178,781,963.69) by wire transfer to an escrow account (the “Escrow Account”) with a mutually agreed upon bank (the “Settlement Payment”). The Settlement Payment shall include payment for the following:

a. Three Million Seven Hundred Eighty-One Thousand Nine Hundred Sixty-Three Dollars and Sixty-Nine Cents (\$3,781,963.69) for all costs, including direct and indirect costs, the Department incurred on or before the Effective Date to remediate natural resources allegedly affected by purported Discharges emanating from the Site;

b. Seventy-Five Million Dollars and Zero Cents (\$75,000,000.00) for all claims for Natural Resource Damages; and

c. One Hundred Million Dollars and Zero Cents (\$100,000,000.00) to fund Remedial Projects.

5. Until this JCO becomes final and non-appealable, the settlement funds in the Escrow Account shall earn interest and may not be used by the State of New Jersey for any purpose. In the event that the approval of this JCO is overturned, remanded, vacated, or modified on appeal such that the JCO is void and of no effect, the settlement funds placed into the Escrow Account by Solvay shall be returned to Solvay within 10 Days, with any interest.

6. To ensure adequate funding exists for the completion of all Remediation Activities, within 45 Days after the Effective Date, Solvay shall establish Remediation Funding Sources in the total amount of Two Hundred Fourteen Million Dollars and Zero Cents (\$214,000,000.00) (the “RFS Amount”).

7. Solvay shall fund 50% of the RFS Amount using any one or combination of the following financial mechanisms provided for in N.J.A.C. 7:26C-5 or the Brownfield Act to pay for the Remediation Activities:

- a. a remediation trust fund in accordance with N.J.A.C. 7:26C-5.4;
- b. a letter of credit in accordance with N.J.A.C. 7:26C-5.7; and/or
- c. a surety (payment) bond satisfactory to the Department.

8. Solvay shall fund the other 50% of the RFS Amount using any one or combination of the following financial mechanisms provided for in N.J.A.C. 7:26C-5:

- a. a remediation trust fund in accordance with N.J.A.C. 7:26C-5.4;
- b. a line of credit in accordance with N.J.A.C. 7:26C-5.6;
- c. a letter of credit in accordance with N.J.A.C. 7:26C-5.7;
- d. a loan or a grant in accordance with N.J.A.C. 7:26C-11 and -12; and/or
- e. a self-guarantee by Solvay or a direct or indirect parent of Solvay in accordance with N.J.A.C. 7:26C-5.8.

9. The Department, through entry of this JCO, agrees to the RFS Amount at the time of the Effective Date. Thereafter, Solvay will continue to be obligated to submit an annual cost review every 365 days from the Effective Date pursuant to N.J.A.C. 7:26C-5.10. The total amount of the RFS in subsequent annual cost reviews may increase or decrease in accordance with N.J.A.C. 7:26C-5.10, but Solvay shall be required to fund the total amount of the RFS in accordance with the percentages and financial mechanisms established by Paragraphs 7 and 8 for as long as Solvay is required to maintain an RFS.

## **VI. SOLVAY'S PFAS REMEDIATION OBLIGATIONS**

10. Solvay shall undertake the Remediation Activities set forth in Paragraphs 13 through 16 and 21 pursuant to the terms of the JCO, subject to Solvay's ability to obtain access

under N.J.A.C. 7:26C-8.2 to property not owned by Solvay, and consistent with the Department's Administrative Requirements for the Remediation of Contaminated Sites (N.J.A.C. 7:26C), the Technical Requirements for Site Remediation (N.J.A.C. 7:26E), and the guidance thereto. To the extent there exist any conflicts between the provisions of the JCO and any provisions in the Department's Administrative Requirements for the Remediation of Contaminated Sites (N.J.A.C. 7:26C), the Technical Requirements for Site Remediation (N.J.A.C. 7:26E), and/or the guidance thereto, the terms of the JCO shall control.

11. With respect to Alternative PFAS analytical standards, Solvay shall:

a. submit to the Department for approval a contract to obtain third-party validation of the analytical reference standards for BFS within 30 days of the Effective Date—if, based on a committed good faith effort, it is able to find a lab that will perform third-party validation of the analytical reference standards—and make those standards publicly available within the State within 30 days of validation; and

b. continue to work, based on a committed good faith effort, with an independent laboratory to perform an analytical method assessment, provide the Department with the results thereof and with any analytical reference standards validated in accordance with Paragraph 11(a), and cooperate to support the Department's certification of analytical method(s) for Solvay's MFS and BFS within 12 months of the Effective Date.

12. If Solvay is unable to obtain a contract to validate analytical reference standards for BFS within 30 days of the Effective Date, or otherwise obtain analytical reference standards for BFS within 12 months of the Effective Date, the Parties agree that Solvay's inability to perform the activities set forth in Paragraphs 11(a) and 11(b) shall not constitute a breach of the JCO.

Instead, the Parties agree that, if third-party validated BFS analytical reference standards are not available, in all provisions herein requiring sampling, delineation, and treatment resulting from detections of BFS, Solvay will use unvalidated analytical reference standards for BFS of similar validity to those previously provided to Eurofins by Solvay.

13. With respect to delineation of PFNA, PFOA, and Alternative PFAS, Solvay shall conduct on-site and off-site delineation and additional sampling for all potentially impacted media from the on-site laydown and materials storage area, stormwater discharges, and on-site sumps and trenches on the Site, which activities shall consist of:

a. the delineation of all groundwater with PFNA detections above 13 ppt, PFOA detections above 14 ppt, MFS detections above the MFS Groundwater Standard, and BFS detections above the BFS Groundwater Standard, in compliance with N.J.A.C. 7:26E-4.3, based upon a complete direct groundwater pathway from the Site;

b. the delineation of all soil with PFNA, PFOA, and/or Alternative PFAS detections above the Department's Interim Soil Remediation Standards, in compliance with N.J.A.C. 7:26E-4.2(b), by proceeding outward from the impacted soils on the Site, and as further provided as follows: Solvay shall delineate soil impacts using the PFNA and PFOA Interim Soil Remediation Standards issued in September 2022, and in the process analyze the soil samples gathered for MFS and BFS detections, until the Department establishes soil remediation standards for MFS and/or BFS pursuant to N.J.A.C. 7:26D-4 or N.J.A.C. 7:26D-6.2. Other than Solvay's obligation to delineate soil impacts using the PFNA and PFOA Interim Soil Remediation Standards issued in September 2022, and in the process test such samples for MFS and BFS, Solvay shall have no obligation to delineate soil for Alternative PFAS until soil remediation standards for MFS and BFS are

established. When soil remediation standards for MFS and BFS are established, Solvay shall complete delineation for MFS and BFS, if not already established by the prior sampling results;

c. the delineation of all surface water, sediment, and porewater for PFNA, PFOA, and Alternative PFAS either above detection limits, or, once promulgated, above any applicable standards or screening values adopted by the Department or the USEPA, within (i) Main Ditch and its tributaries and (ii) Little Mantua Creek and its tributaries;

d. an investigation of ecological receptors within a 2,500-foot radius of the Site property boundaries within the State in compliance with N.J.A.C. 7:26E-4.8; and

e. the establishment of a Classification Exception Area using monitoring wells to establish a boundary of where PFNA exceeds 13 ppt, PFOA exceeds 14 ppt, MFS exceeds the MFS Groundwater Standard, and/or BFS exceeds the BFS Groundwater Standard, as determined by the delineation required by Paragraph 13(a).

14. With respect to PFNA, PFOA, and Alternative PFAS clean-up, Solvay shall:

a. remediate groundwater identified during the delineation and sampling described in Paragraph 13(a), to the extent required, in accordance with the terms of the JCO and sufficient to meet the requirements of the Department's Administrative Requirements for the Remediation of Contaminated Sites (N.J.A.C. 7:26C), the Technical Requirements for Site Remediation (N.J.A.C. 7:26E), and the guidance thereto;

b. remediate soil identified during the delineation and sampling described in Paragraph 13(b), to the extent required, in accordance with the terms of the JCO and sufficient to meet the requirements of the Department's Administrative Requirements for

the Remediation of Contaminated Sites (N.J.A.C. 7:26C), the Technical Requirements for Site Remediation (N.J.A.C. 7:26E), and the guidance thereto;

c. remediate surface water, sediment, and porewater identified during the delineation and sampling described in Paragraph 13(c), to the extent required, in accordance with the terms of the JCO and sufficient to meet the requirements of the Department's Administrative Requirements for the Remediation of Contaminated Sites (N.J.A.C. 7:26C), the Technical Requirements for Site Remediation (N.J.A.C. 7:26E), and the guidance thereto, except that Solvay will not be required to remediate any surface water, sediment, or porewater within the Delaware River until such time as the Department initiates a future lawsuit or administrative action as set forth in Paragraph 46(a);

d. remediate environmentally sensitive natural resources in accordance with Paragraph 13(d), to the extent required, in accordance with the terms of the JCO and sufficient to meet the requirements of the Department's Administrative Requirements for the Remediation of Contaminated Sites (N.J.A.C. 7:26C), the Technical Requirements for Site Remediation (N.J.A.C. 7:26E), and the guidance thereto; and

e. complete a receptor evaluation for Alternative PFAS, PFNA, and PFOA in accordance with the terms of the JCO and consistent with the Administrative Requirements for the Remediation of Contaminated Sites (N.J.A.C. 7:26C), the Technical Requirements for Site Remediation (N.J.A.C. 7:26E), and the guidance thereto.

15. With respect to investigation and treatment of PFNA, PFOA, and Alternative PFAS in drinking water, Solvay shall:

a. offer—in the form of a letter to be mutually agreed to by the Parties<sup>4</sup>—to conduct sampling for PFNA, PFOA, and Alternative PFAS at all private potable wells and all Public Supply Wells within West Deptford listed in Appendix A or identified through the well search conducted pursuant to Paragraph 15(d);

b. when an offer to test a well pursuant to Paragraph 15(a) has been accepted and an exceedance of one or more of the West Deptford Thresholds is detected in a private potable well or a Public Supply Well in West Deptford sampled pursuant to Paragraph 15(a), conduct step-out sampling from that well in accordance with the Administrative Requirements for the Remediation of Contaminated Sites (N.J.A.C. 7:26C), the Technical Requirements for Site Remediation (N.J.A.C. 7:26E), and the guidance thereto;

c. when an offer to test a well pursuant to Paragraph 15(a) has been accepted and an exceedance of one or more of the West Deptford Thresholds is observed during the sampling described in Paragraph 15(a) or the step-out sampling described in Paragraph 15(b), offer—in the form of a letter to be mutually agreed to by the Parties—to provide treatment—consisting of installation of Point of Entry Treatment Systems (“POETs”) and operation and maintenance costs for such POETs for 30 years—for any such private potable well, transient non-community water system, or non-transient non-community water system sufficient to reduce the concentration of PFNA to 13 ppt, PFOA to 14 ppt, MFS to the MFS Groundwater Standard, and BFS to the BFS Groundwater Standard;

d. coordinate with the Department to conduct a well search to identify wells not already identified in Appendix A that are within 1,000 feet of a well in which there is

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<sup>4</sup> If the Parties cannot agree on the form of any letter referenced in Paragraphs 15, 16, and 21 that is required to be sent to well owners in accordance with this JCO, the Parties shall submit the dispute to the Court for resolution.



an exceedance of one or more of the West Deptford Thresholds identified during the sampling described in Paragraph 15(a) as follows:

- (i) first, Solvay shall search for private wells in West Deptford within 1,000 feet of a well in which there is an exceedance of one or more of the West Deptford Thresholds identified during the sampling described in Paragraph 15(a), which search shall be limited to conducting a file search of all available public documents in central state, municipal, and local repositories related to the permitting or maintenance of private wells; and
  - (ii) second, after receiving the results of Solvay's file search, the Department may, at its sole option, contact any property owner within one year after receiving such results who is within 1,000 feet of a well in which there is an exceedance of one or more of the West Deptford Thresholds identified during the sampling described in Paragraph 15(a) to identify any additional private wells in West Deptford not identified through Solvay's file search and provide a list of any such wells to Solvay; and
- e. coordinate with West Deptford to provide sufficient funding, by a date to be determined in coordination with West Deptford, to ensure that all wells located within West Deptford that supply a community water system located within West Deptford, which are identified during the sampling described in Paragraph 15(a) and where an exceedance of one or more of the West Deptford Thresholds is also observed during said sampling, provide water sufficient to reduce the concentration of PFNA to 13 ppt, PFOA to 14 ppt, MFS to the MFS Groundwater Standard, and BFS to the BFS Groundwater Standard. Solvay has previously installed a treatment system on West Deptford Well 8, is working

with West Deptford to develop a treatment system or alternative for West Deptford Well 3, and will work with West Deptford as necessary regarding West Deptford Wells 4, 5, 6, and 7.

16. With respect to the investigation and treatment of PFNA, PFOA, and Alternative PFAS at wells identified in Appendix B, further identified in accordance with Paragraph 16(b), and not otherwise sampled or treated in accordance with Paragraph 15 above, Solvay shall:

a. offer—in the form of a letter to be mutually agreed to by the Parties—to sample each private potable well identified in Appendix B or through the well search described in Paragraph 16(b) for PFNA, PFOA, and Alternative PFAS, and offer—in the form of a letter to be mutually agreed to by the Parties—to provide treatment—consisting of installation of POETs and operation and maintenance costs of such POETs for 30 years—for any private potable well where an exceedance of one or more of the Expanded Area Thresholds is observed during said sampling sufficient to reduce the concentration of PFNA to 13 ppt, PFOA to 14 ppt, MFS to the MFS Groundwater Standard, and BFS to the BFS Groundwater Standard;

b. coordinate with the Department to conduct a well search to identify private wells that are within 1,000 feet of a private well identified in Appendix B at which there is an exceedance of one or more of the Expanded Area Thresholds identified during the sampling described in Paragraph 16(a) as follows:

(i) first, Solvay shall search for private wells within 1,000 feet of a well in which there is an exceedance of one or more of the Expanded Area Thresholds identified during the sampling described in Paragraph 16(a), which search shall be limited to conducting a file search of all available

public documents in central state, municipal, and local repositories related to the permitting or maintenance of private wells; and

(ii) second, after receiving the results of Solvay's file search, the Department may, at its sole option, contact any property owner within one year after receiving such results who is within 1,000 feet of a well in which there is an exceedance of one or more of the Expanded Area Thresholds identified during the sampling described in Paragraph 16(a) to identify any additional private wells that meet the criteria of being within 1,000 feet of a well in which there is an exceedance of one or more of the Expanded Area Thresholds, not identified through Solvay's file search and provide a list of any such wells to Solvay; and

c. in the event that MFS are detected above the MFS Groundwater Standard and/or BFS are detected above the BFS Groundwater Standard in any of the private potable wells sampled pursuant to Paragraph 16(a):

(i) identify—through a well search consistent with the first and second steps of the well searches described in Paragraphs 15(d) and 16(b)—every private potable well and Public Supply Well within 1,250 feet of the well at which MFS was detected above the MFS Groundwater Standard and/or BFS was detected above the BFS Groundwater Standard;

(ii) offer—in the form of a letter to be mutually agreed to by the Parties—to sample every private potable well within 1,250 feet of the well at which MFS were detected above the MFS Groundwater Standard and/or BFS were detected above the BFS Groundwater Standard for Alternative PFAS, and

offer to provide treatment—consisting of installation of Point of Entry Treatment Systems and operation and maintenance costs for 30 years—for any private potable well where MFS is detected above the MFS Groundwater Standard and/or BFS is detected above the BFS Groundwater Standard sufficient to reduce the concentration of MFS to the MFS Groundwater Standard and to reduce the concentration of BFS to the BFS Groundwater Standard;

(iii) offer—in the form of a letter to be mutually agreed to by the Parties—to provide treatment for any Public Supply Well where MFS is detected above the MFS Groundwater Standard and/or BFS is detected above the BFS Groundwater Standard sufficient to reduce the concentration of MFS to the MFS Groundwater Standard and to reduce the concentration of BFS to the BFS Groundwater Standard; and

(iv) Continue to identify and offer to sample every well within 1,250 feet of each additional well at which MFS is detected above the MFS Groundwater Standard and/or BFS is detected above the BFS Groundwater Standard, consistent with Paragraphs 16(c)(i), 16(c)(ii), and 16(c)(iii), and continue to offer to provide treatment for each such well where MFS is detected above the MFS Groundwater Standard and/or BFS is detected above the BFS Groundwater Standard in those additional wells.

17. Solvay shall provide the Department with regular reports of its activities conducted pursuant to Paragraphs 15 and 16 no less than twice per year. In the event that the owner or operator of a well identified in Appendices A and B or through the well searches described in

Paragraphs 15(d), 16(b), and 16(c)(i) does not respond to or declines Solvay's offer to sample or provide treatment for a well eligible for sampling or treatment pursuant to Paragraphs 15 and 16, Solvay shall so inform the Department in its next report. The Department may, in its sole discretion, and within one year of Solvay's report, contact such owner or operator who has failed to respond to or who has declined Solvay's offer to confirm that the owner or operator is aware of the opportunity for sampling and/or treatment pursuant to the JCO. If the owner or operator who was previously non-responsive or had declined sampling or treatment consents to sampling and/or treatment in response to the Department's communication, Solvay shall sample and/or provide treatment for such well consistent with Paragraphs 15 and 16.

18. With respect to the remediation and drinking water investigation and treatment obligations set forth in Paragraphs 13 through 16, Solvay may commence such activities prior to the Effective Date. In the event that Solvay already has commenced or commences such activities prior to the Effective Date, such activities will continue to be implemented following the Effective Date until completion consistent with the terms of the JCO.

19. To the extent that Solvay believes that, during the course of conducting its step-out testing obligations pursuant to Paragraphs 15(b), 15(c), 16(c)(ii), 16(c)(iii), and 16(c)(iv), it has identified a well that is already or will be receiving treatment for PFAS as a result of action taken by or to be taken by a third party that is potentially responsible for such PFAS, Solvay may bring this to the Department's attention, and the Department shall review the circumstances surrounding the treatment of such well. The Department's good faith review shall consider whether Solvay's obligation under this JCO will result in duplicative remediation of the well, and, in such case, the Department shall determine, in its sole discretion, whether Solvay shall have no further obligation to remediate the well or wells.

20. To the extent that the Parties identify additional sources of MFS and/or BFS, the Parties agree to review in good faith Solvay's step-out testing obligations for Alternative PFAS in Paragraphs 15(b), 15(c), 16(c)(ii), 16(c)(iii), and 16(c)(iv), to the extent such step-out testing is necessitated by initial testing contemplated under this JCO. Notwithstanding the Parties' agreement to review Solvay's step-out testing obligations for Alternative PFAS in Paragraphs 15(b), 15(c), 16(c)(ii), 16(c)(iii), and 16(c)(iv) in good faith, such step-out obligations shall continue unless and until the Department, in its sole discretion, agrees to alter such obligations.

21. Solvay has represented to the Department that it used small amounts of cC6O4 at the Site for research and development purposes only. The Parties agree that Solvay's delineation, as set forth in Paragraph 13, should also include cC6O4 to determine if it is present in the environment. If cC6O4 is detected in the environment, and if cC6O4 is not otherwise remediated as a result of the PFNA, PFOA, and Alternative PFAS clean-up and drinking water treatment activities set forth in Paragraphs 14 through 16, the Department may determine that further remediation is necessary to protect public health, safety, and the environment, in accordance with this Paragraph, as follows:

- a. With respect to cC6O4 analytical methods and standards, Solvay shall submit to the Department an analytical method assessment performed by an independent laboratory and third-party validated analytical reference standards for cC6O4 within 45 days of the Effective Date, and cooperate to support the Department's certification of analytical method(s) for cC6O4 within 12 months of the Effective Date;
- b. With respect to the delineation of cC6O4 in environmental media, Solvay shall delineate cC6O4 in (i) groundwater; (ii) soil; and (iii) surface water, sediment, and porewater within (1) Main Ditch and its tributaries and (2) Little Mantua Creek and

- its tributaries, consistent with Paragraph 13, to the reporting levels, or once promulgated, to any applicable standards or screening values issued or adopted by the Department or the USEPA;
- c. To the extent that cC6O4 is identified in the environment as a result of the delineation performed in accordance with Paragraph 21(b), Solvay's LSRP shall provide the Department with a report that evaluates whether the PFNA, PFOA, and Alternative PFAS clean-up and drinking water treatment activities required by Paragraphs 14 through 16 will result in the clean-up of cC6O4;
  - d. The Department may promulgate a standard that would require the remediation of cC6O4 at its sole discretion;
  - e. In the event that (i) cC6O4 is identified in the environment as a result of the delineation performed in accordance with Paragraph 21(b), (ii) the Department determines that cC6O4 has not been sufficiently remediated as a result of the PFNA, PFOA, and Alternative PFAS clean-up performed in accordance with Paragraph 14, and (iii) the Department promulgates a remediation standard for cC6O4, then Solvay shall remediate the environmental media identified during the delineation described in Paragraph 13 in accordance with the terms of the JCO and sufficient to meet the requirements of the Department's Administrative Requirements for the Remediation of Contaminated Sites (N.J.A.C. 7:26C), the Technical Requirements for Site Remediation (N.J.A.C. 7:26E), and the guidance thereto; and
  - f. For any well that is sampled in accordance with Paragraph 15 or 16, Solvay shall sample for cC6O4 as part of that sampling. If (i) the Department has promulgated a remediation standard for cC6O4 in accordance with Paragraph 21(d), (ii) cC6O4 is

detected above a remediation standard, and (iii) the well is not otherwise receiving treatment in accordance with this JCO, then Solvay shall offer—in the form of a letter to be mutually agreed to by the Parties—to provide treatment for the well sufficient to reduce the concentration of cC6O4 to the remediation standard; and

- g. Except as set forth in Paragraph 21, Solvay shall have no obligation to conduct sampling with respect to cC6O4 pursuant to this JCO.

## **VII. PFNA, PFOA, ALTERNATIVE PFAS & cC6O4 REMEDIATION STANDARDS**

22. If within six years of the Effective Date a State drinking water standard (N.J.A.C. 7:10), a State ground water quality standard (N.J.A.C. 7:9C) (including an interim standard), or a State remediation standard (N.J.A.C. 7:26D) (including an interim standard) is finalized for PFNA, PFOA, any of the Alternative PFAS, and/or cC6O4 that is not set forth in or that is more stringent than the standard set forth for such constituent in this JCO, Solvay shall be required to remediate the relevant environmental media and treat drinking water as required in this JCO consistent with the new and/or more stringent standard(s) upon its promulgation, provided, however, that if past sampling results collected by Solvay in connection with the work to be performed pursuant to Paragraphs 13 through 16 or Paragraph 21 under a prior remediation standard show that relevant environmental media or drinking water wells do not exceed the new standard or show non-detectable results for the applicable PFNA, PFOA, Alternative PFAS and/or cC6O4, Solvay shall not be required to retest such media or potable wells or conduct any step-out testing for such media or potable wells. Following the expiration of this six-year period, Solvay shall only be required to remediate environmental media or treat drinking water to any subsequent new standard if such standard is an order of magnitude (meaning at least 10 times) more stringent than the standard applicable at the time the six-year period expires.



23. If a State drinking water standard (N.J.A.C. 7:10), a State ground water quality standard (N.J.A.C. 7:9C) (including an interim standard), or a State remediation standard (N.J.A.C. 7:26D) (including an interim standard) is finalized for PFNA, PFOA, and/or any of the Alternative PFAS that is less stringent than the standard set forth for such constituent in this JCO, Solvay shall be required to remediate the relevant environmental media and treat drinking water as required in this JCO consistent with the new standard upon its promulgation, unless such Remediation Activities have already been completed.

24. Notwithstanding the definitions of MFS Groundwater Standard and BFS Groundwater Standard, the standard contained within each such definition is subject to modification consistent with Paragraphs 22 and 23 of the JCO.

#### **VIII. SOLVAY'S NON-PFAS REMEDIATION OBLIGATIONS**

25. With respect to non-PFAS hazardous substances, Solvay shall continue to remediate all non-PFAS hazardous substances that Solvay is currently remediating under ISRA Case Number RPC 140001 in accordance with all State and federal requirements, including ISRA, the Site Remediation Reform Act ("SRRA"), N.J.S.A. 58:10C-1 *et seq.*, the Brownfield Act, and their implementing regulations. Nothing in this JCO shall be construed to alter, in any way, Solvay's obligations to conduct such remediation of such non-PFAS hazardous substances or pollutants in accordance with applicable laws and regulations, consistent with the Department's remediation standards as to such non-PFAS hazardous substances or pollutants, except to the extent that Solvay's remediation of PFAS also remediates such non-PFAS hazardous substances or pollutants.

#### **IX. REMEDIAL PROJECTS**

26. Pursuant to Paragraph 4(c), Solvay shall provide the Department with One Hundred Million Dollars and Zero Cents (\$100,000,000.00) to fund Remedial Projects, which may include:

a. Funding the cost of a consultant to be engaged by the Department to assist the Department in carrying out its oversight rights and obligations pursuant to this JCO;

b. Providing treatment, operation, and maintenance of treatment for all Public Supply Wells listed in Appendix C sufficient to reduce the concentration of PFNA to 13 ppt, PFOA to 14 ppt, MFS to the MFS Groundwater Standard, and BFS to the BFS Groundwater Standard;

c. Paying Spill Fund claims listed in Appendix D;

d. Funding the costs and maintenance referenced in the Department's East Greenwich Public Supply Well #3 Directive and Notice to Insurers, dated February 24, 2021, by paying the costs to treat and maintain that well, thus satisfying this directive as to Solvay. As a result, once Solvay makes the Settlement Payment, the Department shall withdraw the East Greenwich Public Supply Well #3 Directive as to Solvay;

e. Providing treatment for the wells identified by the Department in the Statewide PFAS Directive, Information Request and Notice to Insurers, dated March 25, 2019 ("2019 Directive"), and the additional private potable wells treated by the Department following its issuance of the 2019 Directive, as listed in Appendix E (which excludes any well that was identified in the 2019 Directive where operation and maintenance of a water treatment system has already been claimed or assigned to another potentially responsible party), thus satisfying the 2019 Directive as to Solvay. As a result, once Solvay makes the Settlement Payment, the Department shall withdraw the 2019 Directive as to Solvay;

f. Conducting remedial investigations and remedial actions with respect to any Discharges attributable to Solvay, if any, at or from the GCUA;

g. Conducting remedial investigations and remedial actions with respect to Discharges attributable to Solvay, if any, for which Solvay may be in any way responsible, resulting from off-site placement or disposal of PFAS-containing waste from the Site;

h. Developing certified analytical reference standards for any additional CIPFPECA congeners detected in connection with Solvay's Alternative PFAS other than those identified in Paragraph 3(u);

i. Developing analytical reference standards for any additional PFAS detected in non-targeted analysis, including but not limited to any PFAS derived from the vinylidene fluoride monomer during the process of polyvinylidene fluoride manufacture that might have been detected in the USEPA Office of Research and Development's non-targeted analysis; and

j. Funding the costs and administrative overhead of conducting toxicology, bioaccumulation, and/or bioavailability studies of CIPFPECAs, perfluoropolyether dicarboxylates (*i.e.*, CAS No. 69991-62-4), and/or PFNA.

27. Nothing in this Section shall alter the Department's sole discretion to use the funds paid pursuant to Paragraph 4(c) as it determines to be appropriate and necessary to address matters related to the environment.

28. For the avoidance of doubt, to the extent Solvay's payment made pursuant to Paragraph 4(c) to fund the Remedial Projects includes payment of funds for an action that would otherwise be required by the Remediation Activities, Solvay's payment made pursuant to Paragraph 4(c) satisfies any obligation to complete such action.

#### **X. ADJUSTED DIRECT OVERSIGHT**

29. Immediately following the Effective Date, the Department shall adjust the Direct Oversight requirements for the Site, and Solvay shall conduct the remediation described in the

JCO under the oversight of an LSRP in accordance with the terms of this JCO, as well as SRRA, the Brownfield Act, and their implementing regulations. Solvay may proceed with work pursuant to and as provided by this JCO under conditions and in a manner consistent with the Department's oversight obligations, including prior Department approval of documents described herein, as required by N.J.S.A. 58:10C-27(c)(1) and consistent with the USEPA's requirements under the Resource Conservation and Recovery Act ("RCRA") with respect to the Government Performance and Results Act ("GPRA") facilities.

30. Solvay shall ensure that all submissions prepared by its LSRP concerning the Remediation Activities required by this JCO comply with N.J.S.A. 58:10C-27(c)(6) and N.J.A.C. 7:26C-14.2(b)(7).

31. Solvay shall conduct all sampling pursuant to the previously approved February 2023 Field Sampling Plan unless amended and approved by the LSRP based upon field conditions that are currently unknown but are discovered in the future.

32. Solvay shall complete each of the requirements of Paragraph 11 by the deadlines specified in that Section.

33. To the extent not already completed by the Effective Date, the LSRP shall submit the following documents to the Department for review and approval pursuant to the following schedule:

a. Revised Public Participation Plan in accordance with N.J.S.A. 58:10C-27(c)(7) and N.J.A.C. 7:26C-14.2(b)(2)(iii) within 60 days of the Effective Date;

b. Proof that Solvay has established and maintains one or more Remediation Funding Sources consistent with the form of Remediation Funding Sources required by Paragraphs 6 through 9 of this JCO by 45 days following the Effective Date;

c. Annual Remediation Cost Review for Remediation Funding Sources on an annual basis every 365 days from the Effective Date, for such time as required by N.J.A.C. 7:26C-5.10, and at longer intervals thereafter as required by N.J.A.C. 7:26C-5.10;

d. Receptor evaluation for PFNA, PFOA, and Alternative PFAS pursuant to Paragraph 14(e) within 120 days of the Effective Date. The deadline for submission of a receptor evaluation for BFS shall be the later of (i) 120 days after the Effective Date or (ii) 120 days after the establishment of remediation or delineation standards for BFS;

e. Revised Remedial Investigation Work Plan for potable wells pursuant to Paragraphs 15 and 16 within 90 days of the Effective Date. The Department's Assigned Case Manager may request that documents pertaining to MFS and BFS continue to be submitted separately from documents pertaining to PFOA and PFNA. If the Assigned Case Manager makes such a request, the deadlines specified in this Section still apply to all documents;

f. Remedial Investigation Report for Groundwater pursuant to Paragraph 13(a) within 180 days after determination that the Remedial Investigation is complete by the Department or the LSRP;

g. Remedial Investigation Report for Soils pursuant to Paragraph 13(b) within 180 days after determination that the Remedial Investigation is complete by the Department or the LSRP;

h. Remedial Investigation Report for Surface Water, Sediments, and Porewater pursuant to Paragraph 13(c) within 180 days after determination that the Remedial Investigation is complete by the Department or the LSRP;

- i. Remedial Investigation Report for Drainage Swales within 180 days after determination that the Remedial Investigation is complete by the Department or the LSRP;
- j. Remedial Investigation Report for potable wells pursuant to Paragraphs 15 and 16 within 180 days after determination that the Remedial Investigation is complete by the Department or the LSRP;
- k. Remedial Action Work Plan for Groundwater pursuant to Paragraph 14(a) within 150 days after receiving the Department's approval of the Remedial Investigation Report for Groundwater;
- l. Remedial Action Work Plan for Soils pursuant to Paragraph 14(b) within 150 days after receiving the Department's approval of the Remedial Investigation Report for Soils;
- m. Remedial Action Work Plan for Surface Water, Sediments, and Porewater pursuant to Paragraph 14(c) within 150 days after receiving the Department's approval of the Remedial Investigation Report for Surface Water, Sediments, and Porewater;
- n. Remedial Action Work Plan for Drainage Swales by 150 days after receiving the Department's approval of the Remedial Investigation Report for Drainage Swales;
- o. Remedial Action Work Plan for potable well treatment pursuant to Paragraphs 15 and 16 within 150 days after receiving the Department's approval of the Remedial Investigation Report for potable wells;
- p. Remedial Action Report for the Remediation Activities according to a schedule to be agreed upon between Solvay and the Department;

q. An application for a Remedial Action Permit in accordance with the schedule established by N.J.A.C. 7:26C-7.6; and

r. Final Remediation Document according to a schedule to be agreed upon between Solvay and the Department.

34. The Department shall make good faith efforts to provide comments to Solvay's LSRP on the documents specified in Paragraph 33 or to approve such documents (in accordance with its statutory and regulatory obligations) within 120 days of receipt by the Department.

35. If Solvay's LSRP timely submits each of the documents required by Paragraph 33:

a. Solvay must still pay oversight costs by the due date printed on the invoice in accordance with N.J.A.C. 7:26C-4.7 and N.J.A.C. 7:26C-4.9;

b. Solvay must still pay the annual one percent remediation funding source surcharge pursuant to N.J.A.C. 7:26C-5.9 by the due date printed on the invoice;

c. Solvay's LSRP need not submit a direct oversight remediation summary report ordinarily required by N.J.A.C. 7:26C-14.2(b)(2)(v);

d. Solvay's LSRP need not submit a feasibility study to the Department for approval as ordinarily required by N.J.S.A. 58:10C-27(c)(2) and N.J.A.C. 7:26C-14.2(b)(3); and

e. Notwithstanding the provisions of N.J.S.A. 58:10C-27(c)(3), Solvay's LSRP may select the remedial action to be implemented at the Site.

36. Solvay, its LSRP, and the Department shall meet at least once per quarter to discuss progress and any specific concerns about the protection of public health, safety, or the environment, which requirement can be satisfied by any meeting during a given quarter at which Solvay and its LSRP discuss the remediation of the Site with the Assigned Case Manager.

37. Solvay and its LSRP shall provide information and documents related to the Remediation Activities described in this JCO when requested by the Department, which information and/or documents shall be submitted to the Department by the later of (i) 14 days prior to the date of the next quarterly meeting scheduled pursuant to Paragraph 36 or (ii) 28 days after the request for such information and documents is made, unless an extension of time is provided by the Department, which extension shall not be unreasonably withheld.

38. In the event that Solvay or its LSRP fails to comply with any deadline for Remedial Investigation Work Plans, Remedial Investigation Reports, Remedial Action Work Plans, and Remedial Action Reports set by Paragraph 33, and no extension has otherwise been granted by the Department or the deadline has not otherwise been tolled pursuant to Paragraph 40 or 43, Solvay shall be in violation of this JCO and shall pay, as a stipulated penalty, the following amounts: for the first 14 days, a penalty of \$1,000.00 per day; for the next 14 days, a penalty of \$3,000.00 per day; thereafter, a penalty of \$5,000.00 per day. Penalties shall accrue only after the Department has notified Solvay and its LSRP of the violation and has provided Solvay and its LSRP with a 20-day grace period from that notice to cure the purported violation of the JCO. Penalties shall continue to accrue through the earlier of (i) the final day of correction of the noncompliance or (ii) completion of the activity that triggered the penalty. No penalties shall accrue if the failure of Solvay or its LSRP to comply with a deadline is the result of Solvay's inability to obtain access to property not owned by Solvay to conduct Remediation Activities, in accordance with Paragraph 40. Payments of penalties made under this Paragraph shall be in addition to any other remedies or sanctions available to the Department by virtue of Solvay's failure to comply with the requirements of this JCO. Any disputes relating to this provision (Paragraph 38), including whether there has



been a failure to comply with the stated deadlines, shall be resolved pursuant to the dispute resolution process described in Paragraph 74.

39. In the event that Solvay or its LSRP fails to comply with more than three of the deadlines for Remedial Investigation Work Plans, Remedial Investigation Reports, Remedial Action Work Plans, and Remedial Action Reports set by Paragraph 33, and no extension has otherwise been granted by the Department or the deadline has not otherwise been tolled pursuant to Paragraph 40 or 43, Solvay shall be required to comply with each of the requirements of N.J.S.A. 58:10C-27(c), except for N.J.S.A. 58:10C-27(c)(4) and (c)(5), and with each of the requirements of N.J.A.C. 7:26C-14.2(b), except for N.J.A.C. 7:26C-14.2(b)(2)(ii) and (b)(6). Solvay shall not be required to comply with the requirements of N.J.S.A. 58:10C-27(c) if the failure of Solvay or its LSRP to comply with a deadline is the result of Solvay's inability to obtain access to property not owned by Solvay to conduct Remediation Activities, in accordance with Paragraph 40. Solvay shall be required to comply with these requirements unless and until the Department notifies Solvay in writing that it may discontinue implementing any of the requirements, which notification shall not be unreasonably withheld. Any disputes relating to purported failures to comply with such deadlines shall be resolved pursuant to the dispute resolution process described in Paragraph 74.

40. Solvay shall copy the Department on any written request for access to property not owned by Solvay to conduct Remediation Activities that is sent to the owner of a property under N.J.A.C. 7:26C-8.2(b) and (c). Solvay's initiation of an action consistent with N.J.A.C. 7:26C-8.2(d) to obtain access to property not owned by Solvay to conduct Remediation Activities shall automatically toll any deadlines for any Remedial Investigation Work Plans, Remedial Investigation Reports, Remedial Action Work Plans, and Remedial Action Reports set by

Paragraph 33 where such Plan or Report cannot be completed until such time as the access restriction is resolved. In addition, the Department shall use good faith efforts to assist Solvay with obtaining access to properties not owned by Solvay to conduct Remediation Activities. Notwithstanding any other provision of this Paragraph, the Department may, in its sole discretion, determine at any time that it is not necessary for Solvay to obtain access to property not owned by Solvay to satisfy its obligations to conduct any of the Remediation Activities.

41. In the event that Solvay or its LSRP fails to provide information or documents requested by the Department pursuant to Paragraph 37 on more than three occasions, Solvay shall be required to comply with each of the requirements of N.J.S.A. 58:10C-27(c), except for N.J.S.A. 58:10C-27(c)(4) and (c)(5), and with each of the requirements of N.J.A.C. 7:26C-14.2(b), except for N.J.A.C. 7:26C-14.2(b)(2)(ii) and (b)(6). Solvay shall be required to comply with these requirements unless and until the Department notifies Solvay in writing that it may discontinue implementing any of these requirements, which notification shall not be unreasonably withheld. Any disputes relating to purported failures to comply with these information and document requests shall be resolved pursuant to the dispute resolution process described in Paragraph 74.

42. In the event that (i) Solvay fails to perform any of the Remediation Activities and no extension has otherwise been granted by the Department or the deadline has not otherwise been tolled pursuant to Paragraph 40 or 43, and (ii) the Department determines that such failure poses an imminent and substantial endangerment to human health, safety, or the environment, the Department, pursuant to N.J.A.C. 7:26C-5.13, shall have the right to avail itself of the funds in the RFS and perform (or retain a contractor to perform) the Remediation Activities that Solvay failed to perform, but only after the Department has notified Solvay and its LSRP of its failure to perform and has provided Solvay and its LSRP with 10 days to cure any purported failure to perform. To

the extent the Department avails itself of the funds in the RFS, such use shall be limited to what is necessary to address the imminent and substantial endangerment to human health, safety, or the environment identified by the Department. If the Department avails itself of funds in the RFS pursuant to this Paragraph, Solvay shall adjust the form of the RFS within 30 days so that the total amount of the remaining RFS complies with Paragraphs 7 and 8.

43. Solvay or its LSRP may request an extension of any of the deadlines required by Paragraph 33 or 37 by submitting to the Department through the Assigned Case Manager a written request no later than 14 days prior to the deadline. The written request must state the deadline for which the extension is being requested, the amount of time beyond the deadline needed to complete the required work, a description of the cause(s) for the extra time needed to complete the work, and the steps taken to minimize the extra time needed to complete the work. Solvay and its LSRP must also provide any other information needed to make a determination on the request for an extension, if such additional information is requested by the Department. Pending the Department's decision on any request for an extension, the deadline will be tolled. If the Department denies the request for an extension, the deadline will be tolled for 10 days following the denial of the extension request, unless the Department denies the request more than 10 days prior to the original deadline, in which case the original deadline shall remain in effect. Solvay shall not seek to extend a deadline unreasonably, and the Department shall not withhold consent for an extension unreasonably.

**XI. THE DEPARTMENT'S RELEASES AND COVENANTS NOT TO SUE**

44. After Plaintiffs receive all payments as required in Paragraph 4, and after Solvay posts an RFS as required by Paragraphs 6 through 8, Plaintiffs shall promptly file a Stipulation of Dismissal with Prejudice in the Lawsuit.

45. Except as provided in Paragraph 46, Plaintiffs—acting in all of their capacities, including in the Department’s capacity as *parens patriae*, as trustee of the State’s natural resources, as an entity with interests in real property in the State, and in its regulatory capacity—fully and forever release, covenant not to sue, and agree not to otherwise take administrative or civil action against Solvay and its respective current and former corporate officers, directors, employees, agents, predecessors, parents, successors, affiliates, and subsidiaries, for any and all causes of actions for Natural Resource Damages arising from Discharges, or any other causes of action that were brought or could have been brought, arising out of any allegations in Plaintiffs’ Complaint in the Lawsuit, including but not limited to alternative or additional theories of liability, in any way arising out of or relating to the Discharges. For the avoidance of doubt, this Paragraph only applies to Discharges that occurred prior to the Effective Date.

## **XII. RESERVATIONS AND FUTURE LITIGATION**

46. Delaware River Claims. The Department agrees that it shall not bring any future lawsuit or administrative action against Solvay for Delaware River Claims except in accordance with this Paragraph.

a. All Delaware River Claims: Any future lawsuit or administrative action for Delaware River Claims for remediation and/or Natural Resource Damages against Solvay shall involve multiple sites from which hazardous substances have been allegedly discharged, as well as other potentially responsible parties in addition to any past, present, or future owners and/or operators of the Site. The Department shall have discretion to identify the direct defendants against whom it brings claims in any future lawsuit or administrative action for the Delaware River Claims without prejudice to Solvay’s ability to bring additional third-party claims against any additional parties not named by the Department in the future lawsuit or administrative action. The intent of the Parties is that

Solvay will not be the sole defendant in any future lawsuit or administrative action for the Delaware River Claims nor will such a lawsuit or administrative or civil action focus solely upon the Site. To that end, prior to initiating any lawsuit or administrative action with respect to the Delaware River Claims, the Department agrees to work in good faith to identify other potentially responsible parties it believes could be responsible for contamination of the Delaware River and to include such parties in any such action.

b. Delaware River Claims for Natural Resource Damages: The Department further agrees that it shall not bring any future lawsuit for Delaware River Claims for Natural Resource Damages against Solvay until a Natural Resources Damages Assessment (“NRDA”) that includes miles 79 through 105 of the Delaware River has been completed by one or more of the applicable trustees under applicable Federal or State law or regulation and the trustee(s)’ determination of Solvay’s potential liability for Natural Resource Damages has been made pursuant to a procedure that allows for participation (*e.g.*, comment) by Solvay.

47. Solvay specifically waives any defenses to the Department refiling the Delaware River Claims based on any statute of limitation or repose, laches, estoppel, waiver, entire controversy doctrine, or other equitable defenses based upon the running or expiration of any time period. In any subsequent administrative or judicial proceeding initiated by Plaintiffs for injunctive relief, recovery of costs and/or damages, or other relief concerning the Site, to the extent such proceeding is not barred and/or foreclosed by this JCO, Solvay shall not assert, and may not maintain, any defense or claim based upon the principles of waiver, res judicata, collateral estoppel, issue preclusion, claim-splitting, the entire controversy doctrine, or other defenses based on any contention that the claims Plaintiffs raise in the subsequent proceeding were or should have

been brought in this case. Nothing in this Paragraph, however, affects the enforceability of the covenants set forth in this JCO.

48. Solvay understands and agrees that it will not pursue any claim against any State or local governmental entities or any State or local quasi-governmental entities for contribution for the payments made in Paragraph 4 and the work to be performed pursuant to the required Remediation Activities, except where Solvay is named as a defendant or third-party defendant in an action that includes any such State or local governmental entity or any such State or local quasi-governmental entity, in which case Solvay may assert a cross-claim or counter-claim against such entity.

49. Plaintiffs reserve, and this JCO is without prejudice to, all rights against Solvay concerning all matters not addressed in this JCO, including but not limited to applicable State and federal laws and regulatory requirements, including permitting.

50. Nothing in this JCO shall be construed as precluding Plaintiffs from taking any action they deem necessary or appropriate to protect public health and safety and the environment, and to enforce the environmental laws of the State, to the extent those actions are not inconsistent with this JCO, or any resolution of liability effected hereby.

51. Nothing in the JCO shall limit the Department's right or ability to seek to have Solvay take any action consistent with the Department's powers and authorities to evaluate, minimize, control, or eliminate PFAS releases that occur after the Effective Date. The Department acknowledges that the Remediation Activities that Solvay will undertake and the Remedial Projects that it will fund pursuant to the JCO may also remediate releases that occur after the Effective Date and agrees to consider same in seeking to require that Solvay take action to address any releases after the Effective Date.

52. Solvay reserves, and this JCO is without prejudice to, all rights against Plaintiffs and defenses to actions brought by Plaintiffs against Solvay concerning all matters not addressed in this JCO.

53. Except as otherwise set forth in this JCO, nothing in this JCO shall waive or impair any rights or defenses that Solvay or Plaintiffs may have.

54. Solvay understands and agrees that the resolution of its remediation obligations in this JCO is contingent on the completion of the Remediation Activities described in the JCO. Solvay's failure to comply with its remediation obligations may give rise to additional liability to the extent that such noncompliance violates the JCO.

### **XIII. CONTRIBUTION PROTECTION**

55. Upon entry by the Court, this JCO shall constitute a judicially approved settlement within the meaning of N.J.S.A. 58:10-23.11f.a(2)(b) and 42 U.S.C. § 9613(f)(2) for purposes of providing protection from contribution actions addressing State trustee-settled Natural Resource Damages. The Parties agree, and the Court by entering this JCO so intends, that once Solvay makes the payment required by Paragraph 4(b), Solvay will have resolved its liability for Natural Resource Damages to the State's natural resource trustee. Solvay shall not be liable for claims for contribution for Natural Resource Damages to the fullest extent permitted under law, including but not limited to third-party contribution actions under N.J.S.A. 58:10-23.11f.a(2)(a), 42 U.S.C. § 9613(f), and 42 U.S.C. § 9622(h)(4).

56. As set forth in Paragraph 62, Plaintiffs acknowledge that Solvay's agreement to complete the Remediation Activities, establish an RFS sufficient to complete all of the Remediation Activities, together with its making the payments set forth in Paragraphs 4(a) and 4(b) of this JCO, including funding the Remedial Projects, satisfies fully Solvay's remediation obligations, including liability to the State of New Jersey for remediation costs, for Discharges.

As a result, upon entry by the Court, this JCO shall constitute a judicially approved settlement within the meaning of N.J.S.A. 58:10-23.11f.a(2)(b) and 42 U.S.C. § 9613(f)(2) for purposes of providing protection from contribution actions or contribution claims related to the Discharges, and from contribution actions or contribution claims related to any of the Remediation Activities or Remedial Projects, all to the fullest extent provided for in N.J.S.A. 58:10-23.11f.a(2)(b) and 42 U.S.C. § 9613(f)(2) (collectively, the “Contribution Claims”), except as previously addressed in Paragraph 46. Solvay shall not be liable for any Contribution Claims to the fullest extent permitted under law, including but not limited to third-party contribution actions or contribution claims under N.J.S.A. 58:10-23.11f.a(2)(a), 42 U.S.C. § 9613(f), and 42 U.S.C. § 9622(h)(4). Notwithstanding the preceding, however, the Parties agree, and the Court by entering this JCO so intends, that this JCO should not limit or provide protection from claims (a) for personal injury damages, private party property damage, or medical monitoring, except with respect to costs to test and treat water from a well eligible for testing and/or treatment under Paragraph 15 or 16 of this JCO; and (b) for relief sought in *Borough of National Park v. Solvay Specialty Polymers, USA, LLC, et al.*, Docket No. 1:21-cv-9725 (D.N.J.).

57. Nothing in this JCO shall be construed to create any rights in, or grant any cause of action to, any person not a party to this JCO.

58. Nothing in this JCO shall be construed to release Solvay from any liability it may have to third parties, except as specifically provided herein.

59. Nothing in this JCO shall be construed to, nor is intended by the Parties to, limit in any way the liability of any third party, except with respect to Solvay’s current and former corporate officers, directors, employees, agents, predecessors, parents, successors, affiliates, and subsidiaries as provided for in Paragraph 45.



#### **XIV. NO ADMISSIONS OF LIABILITY**

60. This JCO shall not be used as evidence in any other litigation or future proceedings other than in a proceeding to enforce the terms hereof, any other proceeding involving the contribution protections provided by this JCO, or any contribution action brought by Solvay.

61. No part of this JCO, nor the JCO as a whole, nor any activity taken by Solvay pursuant to this JCO, shall constitute, nor shall be interpreted or used as, an admission of fault, liability, law, or fact, nor shall this JCO or any Section or Paragraph thereof be admissible in any proceeding or hearing as an admission, except to the extent necessary for Solvay or Plaintiffs to enforce the provisions of this JCO or to establish the scope of the release or contribution protection provisions of this JCO.

#### **XV. EFFECT OF SETTLEMENT**

62. Plaintiffs acknowledge and agree that Solvay's Remediation Activities and establishment of an RFS sufficient to complete all of the Remediation Activities, together with its making the payments set forth in Paragraph 4 of this JCO, including funding the Remedial Projects, compensates the public for at least Solvay's fair share of any and all Natural Resource Damages, except to the Delaware River, caused by any Discharge, and satisfies fully Solvay's remediation obligations related to such Discharges, except with respect to the Delaware River Claims. Plaintiffs therefore find and agree that the compensation and commitments provided in the JCO constitute at least Solvay's fair share of Natural Resource Damages and remediation obligations with respect to Discharges, except with respect to the Delaware River.

63. The Parties acknowledge and agree that Solvay's Remediation Activities, together with Solvay's payment for the Remedial Projects pursuant to Paragraph 4(c), will result in remediation of certain Discharges by the Site's prior owner. The Parties acknowledge and agree that Solvay's Remediation Activities and establishment of an RFS sufficient to complete the

Remediation Activities, together with Solvay's payments set forth in Paragraph 4 of this JCO, including funding the Remedial Projects, are not intended to and do not extinguish Plaintiffs' claims against Arkema Inc. for Natural Resource Damages and remediation obligations. The Parties further agree that nothing herein is intended to modify Arkema Inc.'s potential joint and several liability for any and all causes of action in any way arising out of or relating to the Discharges, including but not limited to claims for Natural Resource Damages and remediation.

#### **XVI. JUDICIAL CONSENT ORDER PROCESS**

64. This Judicial Consent Order has been subject to public notice and comment as required by Paragraphs 65 through 67 below.

65. In accordance with N.J.S.A. 58:10-23.11e2, Plaintiffs published notice of this JCO (*i.e.*, proposed Judicial Consent Order) in the *New Jersey Register*, published a copy of the proposed JCO on the Department's website, and arranged for notice, as described in Paragraphs 65 through 67, to other potentially responsible parties. The following information was included in such notice:

- a. The name and location of the Site;
- b. the caption of this case;
- c. the name of the Settling Party;
- d. a summary of the terms of this JCO;
- e. that a copy of the proposed JCO was available on the Department's website;

and

- f. that there were sixty (60) days to comment on the proposed JCO.

66. The Department arranged for written notice of this JCO to all other potentially responsible parties of whom the Department had notice as of the date that the notice was published in the *New Jersey Register*.

67. In fulfillment of N.J.S.A. 58:10-23.11e2, the Parties have provided written notice of this JCO to all other parties in the Lawsuit and to other potentially responsible parties by:

a. The settling Defendant (*i.e.*, Solvay) publishing notice in the following newspapers:

- i. *Burlington County Times*;
- ii. *Courier Post*;
- iii. *The Haddonfield Sun*; and
- iv. *South Jersey Times* (NJ.com);

and

b. Plaintiffs distributing a copy of the *New Jersey Register* Notice via the Site Remediation Program's and the Office of Natural Resource Restoration's websites, which the public can access at <http://www.nj.gov/dep/srp/legal/> and <http://www.nj.gov/dep/nrr/settlements/index.html>, respectively.

68. This notice is deemed compliant with the notice requirement of N.J.S.A. 58:10-23.11e2.

69. Upon conclusion of the 60-day comment period set forth in Paragraph 65(f), the Department notified Solvay that:

a. the Department received no comments that disclosed facts or considerations that indicated to the Department, in its sole discretion, that this JCO was inappropriate, improper, or inadequate; or

b. the Department received comments that disclosed facts or considerations that indicated to the Department, in its sole discretion, that this JCO required amendment or was inappropriate.

70. If, as set forth in Paragraph 69(b), the Department notified Solvay that it believed this JCO required amendment or should be voided, the Department provided Solvay with the specifics of those draft amendments and provided Solvay with a revised version of this JCO incorporating the amendments or with a notification that the Department had determined preliminarily that this JCO should be voided. Solvay had an opportunity to respond to the Department's revised version of this JCO incorporating the amendments or to the Department's preliminary determination that this JCO should be voided, and the Department gave consideration to Solvay's response with respect to the amended JCO or objections to the Department's preliminary determination that this JCO should be voided. The Department did not make any final decision that this JCO should be voided until the Department worked in good faith with Solvay to address the public comments that the Department received.

#### **XVII. GENERAL PROVISIONS**

71. This JCO will constitute the final, complete, and exclusive agreement and understanding between Plaintiffs and Solvay with respect to the settlement embodied in this JCO. Plaintiffs and Solvay acknowledge that there are no representations, agreements, or understandings relating to the settlement other than those that are expressly contained in this JCO.

72. This JCO shall be governed and interpreted under the laws of the State of New Jersey.

73. This JCO shall be binding on Solvay, its successors, assignees and any trustee in bankruptcy or receiver appointed pursuant to a proceeding in law or equity. Solvay represents to the Department that an expected restructuring of its direct and indirect parents is expected in 2023 that will not include a change in the direct ownership of the Site. No change in the ownership or corporate status of Solvay, or the ownership of the Site, shall alter Solvay's responsibilities under this JCO. The Parties agree that (i) this JCO may be attached to Solvay's Remediation

Certification to meet the requirements of N.J.A.C. 7:26B-3.3(c)(1), (c)(2)(iii), (c)(2)(v), (c)(2)(vi), (c)(3), and (c)(4), to the extent such requirements apply; and (ii) Solvay's establishment and maintenance of an RFS pursuant to Paragraphs 6 through 9 satisfies Solvay's RFS requirements of N.J.A.C. 7:26B-3.4. An amended Remediation Certification will be submitted by Solvay if this JCO does not become final and unappealable.

74. Dispute Resolution: Any dispute between the Parties regarding, related to, or arising out of this JCO shall be submitted to mediation on an expedited basis before a retired judge of a New Jersey State or New Jersey Federal Court to be mutually agreed upon by the Parties. If such mediation is unsuccessful within 90 days, the dispute will be submitted to a court of competent jurisdiction. In such an event, the terms of this JCO shall be interpreted in accordance with the standards governing the interpretation of contracts, and each of the Department's remediation determinations not otherwise agreed to in this JCO shall be reviewed under the arbitrary, capricious, or unreasonable standard ordinarily applied during judicial review of such determinations in other contexts.

75. Solvay and Plaintiffs agree to cooperate, in good faith, to effectuate the terms of the JCO, including in Solvay's performance of the Remediation Activities, assisting with the administration of the JCO, and aiding in any public notice requirements as set forth in Paragraphs 65 through 67.

76. The Parties to this JCO agree, upon entry, not to contest the terms or conditions described in this JCO, except that the Parties do not waive their rights to contest the interpretation or application of such terms and conditions in an action or proceeding brought to enforce this JCO pursuant to the dispute resolution process provided for in Paragraph 74 of this JCO.

**XVIII. SOLVAY'S RESPONSE TO THE  
DEPARTMENT'S INFORMATION REQUESTS**

77. The Department requested, and Solvay provided, the following documents and information:

a. Documents in Solvay's possession, custody, or control sufficient to estimate the amounts of all legacy and Alternative PFAS released from the Site since 1990;

b. A report summarizing, to the best of Solvay's knowledge, the locations of off-site placement or disposal of all PFAS-containing waste from the Site, including residuals from wastewater treatment;

c. Documents in Solvay's possession, custody, or control sufficient to show all legacy and Alternative PFAS products used at the Site over time and documents sufficient to show the chemical composition of the lots of Alternative PFAS used at the Site over time, and a list of the processes run using those products at the Site over time; and

d. Documents sufficient to show the analyses on which the biomonitoring and health effects results described in letter from Solvay to USEPA, dated December 23, 2019, were based.

78. Solvay has taken significant steps to reduce its impacts from PFAS at and from ongoing Site operations (if any), including but not limited to ceasing the use of all PFAS as process aids at the Site and installing treatment systems to treat PFAS on each of its wastewater effluent streams. In its continuing efforts to mitigate PFAS impacts from ongoing Site operations (if any), except with respect to discharges permitted pursuant to NJPDES Permit No. NJ0005185, Solvay agrees to undertake an evaluation, including without limitation the collection of data (to the extent reasonably feasible), of the continued presence and discharge (including emissions) of PFAS

within and from its ongoing Site operations and report the results to the Department within 12 months of the Effective Date, after which Solvay and the Department will meet to discuss any additional measures that may or may not be appropriate to mitigate PFAS releases that occur after the Effective Date (if any) provided that such discussion consider, among other issues, the significance of such PFAS impacts from ongoing Site operations (if any), the steps already taken and to be taken under this JCO by Solvay to mitigate such PFAS impacts from ongoing Site operations, and the economic feasibility of such steps.

79. Solvay shall provide the Department with at least 50 grams of each remaining lot of Surflon® in Solvay's possession, custody, or control within 60 days of the Department's request for such samples. Concurrent with Solvay's delivery of the samples, Solvay shall also provide the Department with the lot number and certificate of analysis for each lot of Surflon® it provides, to the extent such certificates of analysis are available.

80. Solvay shall make good faith efforts to provide the Department or the Department's contractor(s) retained to perform the studies set forth in Paragraph 26(j) with at least 60 grams of MFS and at least 60 grams of BFS to conduct such studies within 60 days of the Department's request(s) for such MFS and BFS samples. Concurrent with Solvay's delivery of the samples, Solvay shall also provide the Department with the lot number, product name, and certificate of analysis for each lot of MFS and/or BFS that it provides, to the extent such certificates of analysis are available.

#### **XIX. RETENTION OF JURISDICTION**

81. This Court retains jurisdiction over both the subject matter of this JCO and the Parties for the duration of the performance of the terms and provisions of this JCO for the purpose of enabling any of the Parties to apply to the Court at any time for such further order, direction, and relief as may be necessary or appropriate to effectuate or enforce compliance with its terms.

**XX. MODIFICATION**

82. No modification or waiver of this JCO shall be valid except by written amendment, duly executed by both Solvay and the Department and approved by the Court.

**XXI. ENTRY OF THIS JCO**

83. Solvay has consented to the entry of this JCO without further notice after the comment period specified in Paragraph 65(f).

84. Upon conclusion of Plaintiffs' review of any public comments received as a result of the notice described in Paragraphs 65 through 67 above, Plaintiffs shall promptly submit this JCO to the Court for entry.

85. If for any reason the Court should decline to approve this JCO in the form presented, this agreement is voidable at the sole discretion of any Party and the terms of the agreement may not be used as evidence in any litigation among the Parties or third parties.



**XXII. SIGNATORIES/SERVICE**

86. Each undersigned representative of each Party certifies that he or she is authorized to enter into the terms and conditions of this JCO, and to execute and legally bind such Party to this JCO.

87. This JCO may be signed and dated in any number of counterparts, each of which shall be an original, and such counterparts shall together be one and the same JCO.

88. The Parties agree that this JCO was negotiated fairly between the Parties at arm's length and that the final terms of this JCO shall be deemed to have been jointly and equally drafted by them, and that the provisions of this JCO therefore should not be construed against either Party on the grounds that the Party drafted, or was more responsible for drafting, the provision(s).

SO ORDERED this \_\_ day of \_\_\_\_\_:

\_\_\_\_\_  
The Honorable Robert G. Malestein, J.S.C.

THE NEW JERSEY DEPARTMENT OF ENVIRONMENTAL PROTECTION CONSENTS  
TO THE FORM AND ENTRY OF THIS ORDER

By: \_\_\_\_\_

Dated: \_\_\_\_\_

THE COMMISSIONER OF THE NEW JERSEY DEPARTMENT OF ENVIRONMENTAL PROTECTION CONSENTS TO THE FORM AND ENTRY OF THIS ORDER

By: \_\_\_\_\_

Dated: \_\_\_\_\_

THE ADMINISTRATOR OF THE NEW JERSEY SPILL COMPENSATION FUND  
CONSENTS TO THE FORM AND ENTRY OF THIS ORDER

By: \_\_\_\_\_

Dated: \_\_\_\_\_

SOLVAY SPECIALTY POLYMERS, USA, LLC CONSENTS TO THE FORM AND ENTRY OF THIS ORDER

By: \_\_\_\_\_

Dated: \_\_\_\_\_