

SETTLEMENT AGREEMENT

This Class Action Settlement Agreement (“Agreement”) is entered into between the Plaintiff and the Settlement Class, as defined below, on the one hand, and Defendant The Procter & Gamble Company (“P&G”) on the other, as defined herein.

I. RECITALS

1.1 On May 23, 2014, Anthony Belfiore filed a class action complaint (the “Complaint”) against P&G in the Supreme Court of the State of New York, County of Nassau, Case No. 602364//2014 (the “Action”). On July 1, 2014, P&G removed the Action to the United States District Court, Eastern District of New York, where it was assigned Case No. 2:14-cv-04090-JBW-RML. The Complaint discusses that P&G manufactures and markets pre-moistened personal hygiene wipes under the name Charmin Freshmates Flushable Wipes. Although the packaging on the wipes states that the wipes are “flushable,” “septic safe,” and “safe for sewer and septic systems,” the Complaint alleges that the wipes are not suitable for disposal by flushing down a toilet, are not regarded as flushable by municipal sewage system operators, do not disperse upon flushing, and routinely damage or clog plumbing pipes, septic systems, and sewage lines and pumps. Belfiore alleges in the Complaint that P&G is liable for violation of New York General Business Law § 349. P&G denies all of Belfiore’s allegations. P&G, to avoid the costs, disruption, and distraction of further litigation, and without admitting the truth of any allegations made in or related to the Action, or any liability with respect thereto, has concluded that it is desirable that the claims against it be settled and dismissed on the terms reflected in this Agreement.

1.2 On March 27, 2017, the Court in the Action granted Belfiore’s motion for class certification, certifying the following class: “All persons and entities who purchased

Charmin Freshmates in the State of New York between May 23, 2011 and March 1, 2017” (the “Class”). P&G filed an interlocutory appeal (the “Appeal”), and on May 14, 2019, the Court of Appeals for the Second Circuit remanded the Action to allow the parties to submit additional evidence sufficient to determine whether Plaintiff satisfied Rule 23(b)(3)’s predominance requirement and whether to decertify the damages classes or maintain the current certification orders. Following an evidentiary hearing, on October 25, 2019, the district court renewed its prior certification order.

1.3 Notice of the pendency of the Action has not yet been provided to members of the Class.

1.4 In connection with this settlement, Plaintiff seeks to represent a settlement class consisting of all Persons who purchased the Product in the State of New York between May 23, 2011 and the date of Preliminary Approval, excluding purchases made for purposes of resale (the “Settlement Class”).

1.5 P&G denies all of Plaintiff’s allegations and charges of wrongdoing or liability against it arising out of any of the conduct, statements, acts or omissions alleged, or that could have been alleged, in the Action. P&G also denies that any person has suffered damage or harm by reason of any alleged conduct, statement, act or omission of P&G. P&G further denies that the Action meets the requisites for certification as a class action under Rule 23 of the Federal Rules of Civil Procedure, except for purposes of settlement, or that the evidence is sufficient to support a finding of liability on the claim in the Action.

1.6 Before filing and while prosecuting the Action, Wolf Popper LLP (“Plaintiff’s Counsel”) conducted a thorough examination and investigation of the facts and law. In the Action, Plaintiff’s Counsel engaged in fact discovery, both formal and informal, including

reviewing thousands of pages of documents produced by P&G, deposing four 30(b)(6) witnesses, defending five fact and expert witnesses at their depositions, subpoenaing third parties, and presenting three witnesses during evidentiary hearings before the Court.

1.7 Plaintiff's Counsel has analyzed and evaluated the merits of Plaintiff's contentions and this Agreement as it affects members of the Settlement Class. Among the risks of continued litigation are the possibilities that the Court of Appeals for the Second Circuit will reverse the district court's class certification order; that summary judgment will be entered against Plaintiff; and/or that Plaintiff will be unable to prove liability, damages or entitlement to injunctive relief at trial on a classwide or individual basis.

1.8 Plaintiff and Plaintiff's Counsel, after taking into account the foregoing, along with the risks and costs of further litigation, are satisfied that the terms and conditions of this Agreement are fair, reasonable, adequate, and equitable, and that a settlement of the Action and the prompt provision of effective relief to the Settlement Class are in the best interests of the members of the Settlement Class.

1.9 P&G agrees that the settlement is fair and reasonable in light of the merits and risks of the case. While continuing to deny all allegations of wrongdoing and disclaiming any liability with respect to any and all claims, P&G considers it desirable to resolve the Action on the terms stated herein, in order to avoid further burden, expense, inconvenience, and interference with its ongoing business operations. Therefore, P&G has determined that settlement of the Action on the terms set forth herein is in its best interests.

1.10 This Agreement is contingent upon the issuance by the Court of both Preliminary Approval and Final Approval. Should the Court not issue Preliminary Approval and Final Approval, P&G does not waive, and instead expressly reserves, its rights to defend against

the claims in the Action, and Plaintiff expressly reserves his rights to prosecute the claims in the Action.

1.11 This Agreement reflects a compromise between Plaintiff and P&G (each a “Party” and collectively, the “Parties”), and shall in no event be construed as or be deemed an admission or concession by any Party of the truth, or lack thereof, of any allegation or the validity, or lack thereof, of any purported claim or defense asserted in any of the pleadings in the Action, or of any fault on the part of P&G, and all such allegations are expressly denied. Nothing in this Agreement shall constitute an admission of liability or be used as evidence of liability, by or against any Party hereto.

1.12 The Parties agree that the Action between Plaintiff and the Settlement Class, on the one hand, and P&G, on the other hand, shall be fully and finally compromised, settled and released on the terms and conditions set forth in this Agreement.

1.13 NOW, THEREFORE, in consideration of the covenants and agreements set forth herein, and of the releases and dismissals of claims described below, the Parties agree to this Agreement, subject to Court approval, under the following terms and conditions:

II. DEFINITIONS

Capitalized terms in this Agreement shall be defined as follows:

2.1 “Agreement” means this Settlement Agreement, including all exhibits hereto.

2.2 “Certified Class” means all persons and entities who purchased Charmin Freshmates in the State of New York between May 23, 2011 and March 1, 2017.

2.3 “Claim Administrator” means Heffler Claims Group or another third party administrator agreed to by the Parties and approved by the Court.

2.4 “Claim Filing Deadline” means thirty (30) days after Final Approval.

2.5 “Claim Form” means the form Settlement Class Members must submit to obtain the Settlement Benefits available through this settlement.

2.6 “Claim Period” means the period beginning on the Notice Date and continuing until the Claim Filing Deadline.

2.7 “Class Representative Payment” means any award sought by application to, and approval by, the Court that is payable to the Plaintiff to compensate him for efforts in bringing the Action and/or achieving the benefits of this settlement on behalf of the Settlement Class, as further discussed in section 7.2.

2.8 “Court” means the United States District Court for the Eastern District of New York.

2.9 “Defendant” means P&G.

2.10 “Effective Date” means the effective date of the settlement, as defined in Section 8.11.

2.11 “Excluded Persons” are (1) Honorable Pamela K. Chen, Honorable Jack B. Weinstein, Honorable Robert M. Levy and Honorable Steven M. Gold, and any member of their immediate families; (2) any government entity; (3) P&G; (4) any entity in which P&G has a controlling interest; (5) any of P&G’s subsidiaries, parents, affiliates, and officers, directors, employees, legal representatives, heirs, successors, or assigns; (6) any persons who timely opt out of the Settlement Class; and (7) any person or entity that purchased the Product for resale.

2.12 “Final Approval” means issuance of judgment, substantially in the form of Exhibit D, granting final approval of this Agreement as binding upon the Parties.

2.13 “GD4” means the Fourth Edition of the INDA Guidelines.

2.14 “Household” means all Persons residing at the same physical address.

2.15 “Action” means the action currently pending in the United States District Court, Eastern District of New York, styled as *Belfiore v. Procter & Gamble Company*, Case No. 2:14-cv-04090-JBW-RML.

2.16 “INDA Guidelines” means the Guidelines for Assessing the Flushability of Disposable Nonwoven Products published by the Association of the Nonwoven Fabrics Industry.

2.17 “Long Form Notice” means the Court-approved form of notice to Settlement Class Members in substantially the same form as Exhibit B1.

2.18 “Notice Date” means a date that is no later than fourteen (14) days after Preliminary Approval.

2.19 “Objection Deadline” means 28 days prior to the initially scheduled hearing on Final Approval.

2.20 “Online Advertisement Notices” means the Court-approved forms of notice to Settlement Class Members in substantially the same form as Exhibit B3.

2.21 “Opt Out Deadline” means 28 days prior to the initially scheduled hearing date on Final Approval.

2.22 “P&G’s Counsel” means Kramer Levin Naftalis & Frankel LLP.

2.23 “Parties” means Plaintiff and P&G, collectively.

2.24 “Party” means any one of Plaintiff or P&G.

2.25 “Person(s)” means, without limitation, any natural person, group of natural persons, firm, business, corporation, partnership, government agency or board, association, proprietorship, organization, or any other legal or business entity.

2.26 “Plaintiff” means Anthony Belfiore.

2.27 “Plaintiff’s Counsel,” “Class Counsel,” or “Settlement Class Counsel” mean the law firm of Wolf Popper LLP.

2.28 “Preliminary Approval” means issuance of an order, substantially in the form of Exhibit C, granting preliminary approval of the settlement described in this Agreement.

2.29 “Product” means Charmin Freshmates Flushable Wipes and any other pre-moistened wipes sold under the Charmin brand name bearing the word “flushable” on the package label.

2.30 “Proof of Purchase” means (i) either the actual label or bar code portion of the package of the Product (not a photocopy or digital image file); or (ii) an itemized sales receipt originally generated by a retailer seller, or a photocopy or digital image file thereof, showing the date and place of purchase, name of the product purchased, and the amount paid. The Product package and/or originally-generated receipt must be provided to and validated by the Claim Administrator to qualify as Proof of Purchase.

2.31 “Released Claims” means the claims released as set forth in Sections 9.1 and 9.2 of this Agreement.

2.32 “Released Parties” means P&G and each and all of its predecessors in interest, former, present and future direct and indirect subsidiaries, divisions, parents, successors, and affiliated companies and each and all of its present and former officers, directors, shareholders, successors, partners, employees, agents, representatives, suppliers, resellers, retailers, wholesalers, distributors, customers, insurers, assigns, servants, attorneys, assignees, heirs, and executors, whether specifically named and whether or not participating in the settlement by payment or otherwise.

2.33 “Settlement Benefit” means the benefits provided to Settlement Class Members as set forth in Section 4.1 of this Agreement.

2.34 “Settlement Class Period” means May 23, 2011 to the date of Preliminary Approval.

2.35 “Settlement Class” or “Settlement Class Members” means all Persons who purchased the Product in the State of New York between May 23, 2011 and the date of Preliminary Approval, excluding purchases made for purposes of resale.

2.36 “Settlement Website” means an internet website created and maintained by the Claim Administrator. The URL of the Settlement Website shall be [“www.BelfioreWipeSettlement.com”](http://www.BelfioreWipeSettlement.com).

2.37 “Valid Claim” means a claim submitted in compliance with Part IV of this Agreement, as further described in that Part.

III. CHANGED PRACTICES AND INJUNCTIVE RELIEF

3.1 P&G has ceased the manufacture of the Product in the formulation(s) that it used at the time the Action was commenced. Partly as a result of the Action, P&G has agreed that versions of the Product manufactured after January 2016 do not and will not contain synthetic bicomponent (polyester/polyolefin) fibers.

3.2 In a 49-state class settlement (all states excluding New York) approved in *Pettit v. Procter & Gamble Company*, 15-cv-2150 (RGS) (N.D. Cal.) (“*Pettit*”) involving a similar challenge to the Product, P&G agreed to the entry of a court order requiring, until two years after the effective date of the *Pettit* settlement, the below changed practices and injunctive relief. P&G agreed to do so and to continue to do so partly as a result of the Action. P&G agrees to extend this relief until two years after the Effective Date.

(a) Subject to paragraph 3.6, Product marketed by P&G does not contain bicomponent (polyester/polyolefin) fibers;

(b) P&G has modified the packaging of the Product to include a statement that “Your satisfaction is guaranteed. For details of our refund program go to our website at <https://www.charmin.com/en-us/about-us/flushable-wipes-guarantee>.” P&G provides details regarding the satisfaction guarantee on the Charmin website, including reasonable purchase price refunds to consumers who are dissatisfied with the Product;

(c) P&G has modified the packaging of the Product to include the statement: “Use only in well-maintained plumbing systems”;

(d) The Product will comply with current and future versions of the INDA Guidelines, including the slosh box test, provided P&G is a member of INDA and the organization maintains the same purpose and mission, with a similar membership composition, as of the date of the Agreement;

(e) Subject to paragraph 3.5, the Product marketed by P&G will comply with the May 2018 more stringent INDA GD4 test protocols, which (1) decrease the slosh box test duration from 180 minutes to 60 minutes, (2) increase the slosh box test pass-through percentage requirement from 25% to 60%, and (3) decrease the municipal pump test average power increase over baseline from 15% to 5%.

3.3 In addition, P&G agrees to the entry by the Court of an order requiring, until two years after the Effective Date, the following:

(a) On or before 90 days after the Effective Date, P&G will modify the packaging of the Product to exclude the statement “septic safe”;

(b) On or before 90 days after the Effective Date, P&G will modify the packaging of the Product to exclude the statement “safe for sewer and septic systems.”

3.4 P&G will provide Plaintiff’s Counsel with a draft version of the new Product packaging containing the disclosures required by section 3.3(a) and (b) prior to the hearing on Final Approval.

3.5 For clarity, to implement the labeling changes required by sections 3.3(a) and (b), P&G’s Product will contain those labeling changes on or before 90 days after the Effective Date.

3.6 For avoidance of doubt, the distribution or sales by P&G of residual Product manufactured prior to the implementation of the labeling changes described in sections 3.2(b) and (c) and 3.3(a) and (b), or the distribution or sales by third parties of residual Product manufactured prior to the implementation of the labeling changes described in sections 3.2(b) and (c) and 3.3(a) and (b), shall not constitute a violation of this Agreement or the injunction issued pursuant hereto.

3.7 Neither this Agreement nor the injunction issued pursuant hereto shall impose any limitations on P&G’s future marketing or sale of the Product except as expressly set forth in sections 3.2 and 3.3. Similarly, neither this Agreement nor the injunction issued pursuant hereto shall impose any limitations on the composition, manufacture, marketing, labeling, advertising, and/or sale of any product or products other than those falling within the definition of “Product” set forth in Part II.

3.8 Nothing in this Part III shall interfere with P&G’s obligations to comply with all applicable state and federal laws, including, without limitation, the Federal Trade

Commission Act, or to respond to any enforcement actions issued thereunder by the Federal Trade Commission.

IV. MONETARY SETTLEMENT BENEFITS AND CLAIM ADMINISTRATION

4.1 Every Settlement Class Member shall have the right to submit a claim for Settlement Benefits. A claim shall be a Valid Claim only if submitted on the Claim Form pursuant to, and in compliance with, the procedures set forth herein. Submission of a claim, regardless of whether it is determined to be a Valid Claim, shall confer no rights or obligations on any Party, any Settlement Class Member, or any other Person except as expressly provided herein.

4.2 At the election of the Settlement Class Member, a Claim Form may be submitted in paper via first class mail or online at the Settlement Website. Claim Forms must be mailed such that they are received by the Claims Administrator (not just postmarked) or submitted online no later than the Claim Filing Deadline. Claim Forms received or submitted online after that date will not be Valid Claims. The Claim Administrator will track Claim Forms with unique security identifiers or control numbers issued to Persons who seek to file a claim. For Claim Forms submitted online, the Settlement Class Member shall have the opportunity to upload Proof of Purchase image files (e.g., jpg, tif, pdf) if submitted pursuant to Section 2.30(ii) above, but Proof of Purchase in the form of actual labels or bar codes portion of the packages of the Product pursuant to Section 2.30(i) must be submitted by mail.

4.3 The Claim Administrator shall be responsible for designing the Claim Form and ensuring it requests sufficient information to determine the validity of submitted claims and to prevent the payment of invalid or fraudulent claims. On the Claim Form, the Settlement Class Member must certify the truth and accuracy of at least the following under the

penalty of perjury, including by signing the Claim Form physically or by e-signature, or the claim will not be considered a Valid Claim by the Claims Administrator:

- (a) The Settlement Class Member's name and physical address;
- (b) That all sections of the Claim form are completed truthfully, accurately, and completely;
- (c) The Settlement Class Member's email address, if the Settlement Class Member elects to provide the information;
- (d) The number of packages of the Product purchased during the Class Period; and
- (e) That the claimed purchases were not made for purposes of resale.

For avoidance of doubt, the Claim Administrator may require Settlement Class Members to provide additional information on the Claim Form to facilitate the identification of Valid Claims, as well as fraudulent or otherwise invalid claims.

4.4 Each Settlement Class Member who submits a Valid Claim without Proof of Purchase shall receive a refund of seventy cents (\$0.70) for each Product package purchased in New York during the Class Period, regardless of the price the Settlement Class Member paid for the package or the number of wipes contained in each package, subject to the following limitations: A maximum of six dollars and thirty cents (\$6.30) shall be paid on the combined claims submitted by any Household for claimed purchases that are not corroborated by Proof of Purchase. Each Settlement Class Member who submits a Valid Claim corroborated by Proof of Purchase shall receive a refund of one dollar and twenty cents (\$1.20) for the first Product package purchased in New York during the Class Period, and one dollar (\$1.00) for any additional Product packages purchased in New York during the Class Period, regardless of the

price the Settlement Class Member paid for the package or the number of wipes contained in each package, subject to the following limitation: A maximum of fifty dollars and twenty cents (\$50.20) shall be paid on the combined claims submitted by any Household for claimed purchases that are corroborated by Proof of Purchase. In no event shall (i) the maximum payment to any Household exceed fifty dollars and twenty cents (\$50.20), or (ii) a Settlement Class Member receive a payment for a purchase of the Product they did not affirmatively claim on the Claim Form.

4.5 The Claim Administrator shall be responsible for processing Claim Forms and administering the Settlement Website, opt-out process, and Settlement Benefit claims process described herein. The Claim Administrator shall use industry standard efforts to validate claims and supporting documentation. The Claim Administrator shall use adequate and customary procedures and standards to prevent the payment of fraudulent claims and pay only Valid Claims. The Claim Administrator will approve Valid Claims and issue payment based upon the terms and conditions of the Agreement and may reject claims that are invalid or evidence waste, fraud, or abuse. The determination of the validity of all claims shall occur within 60 days of the end of the Claim Period. The Claim Administrator shall approve or deny all claims, and its decision shall be final, binding, and non-appealable by either Party or the Settlement Class Members.

4.6 The Claim Administrator and the Parties shall have the right to audit claims, and the Claim Administrator may request additional information from claimants. If any claim is submitted by a Person with a physical, postal, or IP address outside New York, but who claims to have purchased the Product in New York, the Claim Administrator may, but is not required, to request additional information to validate that claim. The Claim Administrator shall

deny any claim for Products purchased outside New York, subject to the provisions of Section 4.7. Neither Plaintiff nor P&G, nor their respective counsel, shall have any liability whatsoever for any act or omission of the Claim Administrator.

4.7 As to claims that are denied, within thirty (30) days after the Effective Date, the Claim Administrator shall email all Settlement Class Members whose claims are denied to state the reasons for denial, at the email address (if any) provided by the Settlement Class Member on the Claim Form. If no email address is provided by the Settlement Class Member on the Claim Form, the Claim Administrator shall not have an obligation to provide the Settlement Class Member any notification of the reasons for denial of the claim. Plaintiff or P&G's choice not to audit the validity of any one or more Claim Forms shall not constitute or be construed as a waiver or relinquishment of any audit or other rights as to any other Claim Forms, individually or as a group, and similarly shall not be construed as a waiver or relinquishment by Plaintiff or P&G as to any of its audit and other rights under the Settlement Agreement. No Person shall have any claim against Plaintiff, P&G, Plaintiff's Counsel, P&G's Counsel, or the Claim Administrator based on any determination of a Valid Claim, distributions or awards made in accordance with this Agreement and the Exhibits hereto.

4.8 Valid Claims shall be paid by check to the Settlement Class Member and mailed to the address provided on the Claim Form, as updated in the National Change of Address Database. The Claim Administrator shall also have the right (but not the obligation) to allow Settlement Class Members to elect to receive their payments by direct bank deposit or electronic transfer (e.g. PayPal) and if such election is made, shall pay the Valid Claims of such Settlement Class Members through the method so elected. All Valid Claims shall be paid by the Claim Administrator within sixty (60) days after the Effective Date except that, in the event of an

appeal from Final Approval that challenges only the award of attorneys' fees, costs and expenses and/or the Class Representative Payment and does not challenge any other aspect of the settlement, all Valid Claims shall be paid within ninety (90) days after Final Approval, unless otherwise ordered by the Court.

4.9 All settlement checks shall be subject to a one hundred eighty (180) day void period, after which the checks shall no longer be negotiable. If a settlement check is not negotiated within this period, the Settlement Class Member shall not be entitled to any further payment under this Agreement. The amount of any settlement checks that are not negotiated shall revert to P&G.

4.10 No deductions for taxes will be taken from any Settlement Benefit at the time of distribution. Settlement Class Members are responsible for paying all taxes due on such Settlement Benefits. Under no circumstance shall P&G be held liable for any tax payments with respect to the Settlement Benefits, if any. All Settlement Benefit payments shall be deemed to be paid solely in the year in which such payments are actually issued. Neither Plaintiff's Counsel nor P&G's Counsel purport to provide legal advice on tax matters. To the extent this Agreement, or any of its exhibits or related materials, is interpreted to contain or constitute advice regarding any U.S. Federal or any state tax issue, such advice is not intended or written to be used, and cannot be used, by any Person or entity for the purpose of avoiding penalties under the Internal Revenue Code or any state's tax laws.

4.11 P&G shall bear all fees and expenses incurred by the Claim Administrator as well as the cost of paying Valid Claims.

V. NOTICE AND OPT OUTS

5.1 At least ten (10) business days prior to the Notice Date, the Claim Administrator shall establish the Settlement Website, which shall contain the Long Form Notice

in both downloadable PDF format and HTML format with a clickable table of contents; answers to frequently asked questions; a Contact Information page that includes the address for the Claim Administrator and addresses and telephone numbers for Plaintiff's Counsel; the Agreement; the signed order of Preliminary Approval; a downloadable and online version of the Claim Form; and a downloadable and online version of the form by which Settlement Class Members may opt out of the Settlement Class. While the Claim Administrator shall have final authority over the design and operation of the Settlement Website, it shall permit Class Counsel and P&G to test the operation of the Settlement Website and shall monitor, and if necessary update and modify, the Settlement Website to ensure that it performs reliably and consistent with the terms of this Agreement, when accessed from all major Internet browsers (desktop and mobile) operating on all major operating systems (including Windows, MacOS, Android, and iOS). The Claim Administrator shall add to the Settlement Website all other material filings by the Parties or the Court regarding the settlement, including Plaintiff's application for attorneys' fees, costs, expenses, and/or Class Representative Payment, the motion for final approval, and any orders with respect to such applications and motions.

5.2 The Settlement Website shall remain accessible until 180 days after all Settlement Benefits are distributed.

5.3 Notice shall be provided according to the Notice Plan attached hereto as Exhibit A, and substantially in the forms attached hereto as Exhibits B1 through B3, except as modified by the Court. The Claim Administrator shall provide a declaration under penalty of perjury to the Court that the notice provides sufficient reach and frequency to alert Settlement Class Members to the pendency of the Action and their rights thereunder.

5.4 The Claim Administrator shall provide notice as required by the Class Action Fairness Act, 28 U.S.C. § 1715.

5.5 Class Counsel and P&G shall supervise the Claim Administrator in the performance of the notice functions set forth in this Part V. P&G shall pay all costs of notice as set forth in this Part V.

5.6 At least fourteen (14) days prior to Final Approval, the Claim Administrator shall certify to the Court that it has complied with the notice requirements set forth herein.

VI. CONDITIONAL CERTIFICATION OF SETTLEMENT CLASS AND FILING OF STIPULATION OF DISMISSAL OF THE APPEAL

6.1 Solely for the purpose of effectuating the settlement set forth in this Agreement and subject to Court approval, the Parties stipulate that (1) a Settlement Class shall be certified in accordance with the definition of the Settlement Class set forth in this Agreement; (2) the Plaintiff shall represent the Settlement Class for settlement purposes; (3) Plaintiff's Counsel shall be appointed as the attorneys for the Settlement Class; and (4) P&G and Plaintiff will execute and file a Stipulation withdrawing the Appeal in the form annexed as Exhibit E within three (3) days of Preliminary Approval.

6.2 In the event that this Agreement (including the settlement provided for herein) is not finally approved, or is terminated or cancelled or fails to become effective for any reason whatsoever, the Action shall revert to its status as it existed prior to the date of this Agreement, and the Claim Administrator shall return to P&G any amounts P&G had already deposited that are not required to pay for notice and administration then-completed. In such event, neither this Agreement nor any document filed or created in connection with this settlement may be used as an admission or as evidence for any purpose.

VII. ATTORNEYS' FEES, EXPENSES AND CLASS REPRESENTATIVE PAYMENT

7.1 Plaintiff's Counsel may apply to the Court for an award from P&G of their attorneys' fees, costs, and expenses in a total amount not to exceed three million two hundred thousand dollars (\$3,200,000.00).

7.2 The Plaintiff may additionally apply to the Court for a Class Representative Payment as compensation for (a) the time and effort undertaken in and risks of pursuing the Actions including the risk of liability for the Parties' costs of suit, and (b) the general release set forth in Section 9.2. The Class Representative Payment to the Plaintiff shall not exceed \$10,000.

7.3 P&G agrees not to oppose or to submit any evidence or argument challenging or undermining Plaintiff's Counsel's application for attorneys' fees, costs, expenses, or the Class Representative Payment. P&G shall not be in violation of this term if its attorneys provide the Court with evidence, including evidence of their lodestars, that is specifically requested by the Court; however, no Party shall seek such a request. The attorneys' fees, costs, and expenses awarded by the Court as set forth under Section 7.1 shall be the total obligation of P&G to pay attorneys' fees, costs, and expenses of any kind to Plaintiff's Counsel in connection with the Action and this Agreement. Any Class Representative Payment awarded by the Court as set forth in Section 7.2 shall be the total obligation of P&G to pay money to the Plaintiff in connection with the Action and this Agreement, other than amounts due to the Plaintiff for any Valid Claims submitted pursuant to Part IV of this Agreement. Plaintiff's Counsel and the Plaintiff agree that the denial, downward modification or failure to grant the request for attorneys' fees, costs, or expenses, or Class Representative Payment, shall not constitute grounds for modification or termination of the Agreement.

7.4 Within ten (10) days of the Effective Date, P&G shall pay the amount of the awarded attorneys' fees, costs, expenses, and Class Representative Payment to Plaintiff's Counsel, not to exceed the limits set forth in Sections 7.1 and 7.2.

VIII. CLASS SETTLEMENT PROCEDURES

8.1 Settlement Approval. As soon as practicable after the execution of this Agreement, Plaintiff's Counsel shall move for a Preliminary Approval order, substantially in the form of Exhibit C, preliminarily approving this Agreement and this settlement as fair, reasonable and adequate; approving Class Notice to the Settlement Class Members as described in Part V above; and setting a hearing to consider Final Approval of the settlement and any objections thereto. P&G shall have no obligation to make separate filings in support of the motion. P&G shall appear at the hearing to confirm its agreement with the terms of the settlement as provided herein.

8.2 Final Approval Order and Judgment. No later than forty-two (42) days prior to the hearing on Final Approval, Plaintiff shall move for entry of an order of Final Approval, substantially in the form of Exhibit D, granting Final Approval of this Settlement and holding this Agreement to be final, fair, reasonable, adequate, and binding on all Settlement Class Members who have not excluded themselves as provided below, and ordering that the settlement relief be provided as set forth in this Agreement, ordering the releases as set forth in Part IX, below, and entering judgment in this case. P&G shall have no obligation to make separate filings in support of the motion. P&G shall appear at the hearing to confirm its agreement with the terms of the settlement as provided herein.

8.3 Opt-Outs and Objections. The Long Form Notice shall advise prospective Settlement Class Members of their rights to forego the benefits of this Settlement and pursue an

individual claim; to object to this Settlement individually or through counsel; and, if they object, to appear at the Final Approval hearing.

8.4 If any Settlement Class Member wishes to object to the settlement and/or to be heard, the Settlement Class Member must send a written notice of objection by the deadlines established by the Court to the Claim Administrator or counsel for the parties. Each such objection must comply with the instructions set forth in the Long Form Notice and must be received (not just postmarked) by the Objection Deadline or they shall not be valid. The Claim Administrator or counsel for the Parties will then file all objections, requests to appear, and supporting papers with the Court.

8.5 If any Settlement Class Member wishes to be excluded from this settlement, the Settlement Class Member may do so by completing the opt-out form at the Settlement Website; downloading and submitting to the Claim Administrator a completed opt-out form; or submitting a valid request to opt out, as described in the Long Form Notice, to the Claim Administrator. Requests to opt out must be submitted online or received (not just postmarked) by the Opt Out Deadline or they shall not be valid. A Settlement Class Member who elects to opt out of this settlement shall not be permitted to object to this settlement or to intervene.

8.6 The proposed Preliminary Approval order and Long Form Notice will provide that any Settlement Class Member wishing to object or opt out who fails to properly or timely file or serve any of the requested information and/or documents will be precluded from doing so.

8.7 No later than three (3) days after the Opt Out Deadline, the Claim Administrator shall prepare and deliver to the Parties a list of the names of the Persons who,

pursuant to the Long Form Notice, have excluded themselves from the Settlement Class in a valid and timely manner. Plaintiff's Counsel shall file that list with the Court no later than fourteen (14) days prior to Final Approval.

8.8 P&G shall have the unilateral right to terminate the Agreement in the event that more than 1,000 Persons exclude themselves from the Settlement Class, by providing notice of termination within five (5) business days of delivery by the Claim Administrator of the list of persons who made timely requests of exclusion, as set forth in Section 8.13.

8.9 If a Settlement Class Member submits both a Claim Form and an opt-out request, the Claim Form shall take precedence and be considered valid and binding, and the opt-out request shall be deemed to have been sent by mistake and rejected.

8.10 A Settlement Class Member who objects to the settlement may also submit a Claim Form on or before the Claim Filing Deadline, which shall be processed in the same way as all other Claim Forms. A Settlement Class Member shall not be entitled to an extension to the Claim Filing Deadline merely because the Settlement Class Member has also submitted an objection.

8.11 Effective Date. The settlement shall become final and effective upon the occurrence of all of the following ("Effective Date"):

(a) The settlement receives Final Approval by the Court as required by Rule 23(e) of the Federal Rules of Civil Procedure;

(b) As provided for in Section 8.2, entry is made of the order and final judgment, with prejudice, with respect to the Released Claims against P&G and the Released Parties; and

(c) If an appeal has been timely filed from a Final Approval, completion of such appeal(s) finally approving the settlement and any proceedings on remand from a decision of an appeals court, provided, however, that a modification or reversal on appeal of the amount of the fees, costs, and expenses awarded by the Court to Plaintiff's Counsel, or the amount of any Class Representative Payment, shall not prevent this settlement from becoming final and effective if all other aspects of the final judgment have been affirmed. If no appeal is filed from the Court's order finally approving the settlement under Rule 23(e) of the Federal Rules of Civil Procedure, the Effective Date shall be the date on which the time for any such appeals has lapsed.

8.12 Effect if Settlement Not Approved or Agreement is Terminated. This Agreement was entered into only for purposes of settlement. In the event that Preliminary or Final Approval of this settlement and this Agreement does not occur for any reason, or if Final Approval is reversed on appeal, then no term or condition of this Agreement, or any draft thereof, or discussion, negotiation, documentation, or other part or aspect of the Parties' settlement discussions shall have any effect, nor shall any such matter be admissible in evidence for any purpose in the Action, or in any other proceeding; and the Action shall continue as if the settlement had not occurred. Alternatively, in the event that the Court declines to enter the Preliminary Approval order or to grant Final Approval (or enters any order that increases the cost or burden of the settlement to P&G beyond what is set forth in this Agreement), the Parties may, but are not required to, modify this Agreement. Such a modification shall be binding only if it is in writing and executed by Plaintiff's Counsel and P&G's Counsel. The Parties agree that all drafts, discussions, negotiations, documentation or other information prepared in relation to this Agreement, and the Parties' settlement discussions, shall be treated as strictly confidential and

may not, absent a court order, be disclosed to any Person other than the Parties' counsel, and only for purposes of the Action.

8.13 Additional Procedures for Members of the Certified Class. The Long Form Notice shall advise members of the Certified Class that, if the settlement is not finally approved, or if the Effective Date does not occur for any other reason, then the Action will continue on behalf of the Certified Class. Members of the Certified Class who do not wish to be bound by a judgment in favor of or against the Certified Class must exclude themselves from the Certified Class. The Parties shall request that, in the order of Preliminary Approval, the Court order that the process and time limits for members of the Certified Class to exclude themselves are identical to those set forth with regard to the Settlement Class, except as follows. If the settlement is not finally approved or the Effective Date does not occur, members of the Certified Class who submitted timely objections to the settlement or timely claims under the settlement (whether or not such claims are deemed Valid Claims) shall have an additional forty-five (45) days from the date they are provided notice of the termination to exclude themselves from the Certified Class, and members of the Certified Class who submitted timely requests to exclude themselves from the settlement shall have an additional forty-five (45) days from the date they are provided notice of the termination to revoke their requests for exclusion and to rejoin the Certified Class. To effectuate this right, in the event of termination, notice shall be provided by email to all members of the Certified Class who submitted timely objections to the settlement or timely claims under the settlement (whether or not such claims are deemed Valid Claims) and who provided an email address in connection with their objections or claims, informing such Persons of an additional period to exclude themselves from the Certified Class and linking to an exclusion form on the Settlement Website. In addition, in the event that termination occurs,

notice shall be provided by email to all members of the Certified Class who submitted a timely request to exclude themselves from the Settlement Class and who provided an email address in connection with their request for exclusion, informing such persons of an additional period to revoke their request for exclusion and to rejoin the Certified Class for purposes of the continued litigation. Within ten (10) days of any event causing termination, the Parties shall meet and confer in good faith regarding the content of such notice and to obtain Court approval for distribution of the notice, and shall agree to an appropriate schedule to afford members of the Certified Class forty-five (45) days to respond to it; provided, however, that in the event of termination, neither P&G nor Plaintiff or Plaintiff's counsel agree to bear any expenses relating to the costs of providing the post-termination notice to, and administration of post-termination exclusion requests (and revocation of exclusion requests) for, the Certified Class, as described in this Section 8.13. Members of the Certified Class who did not file an objection by the Objection Deadline or a claim by the Claim Filing Deadline shall have no further right to exclude themselves from the Certified Class, even if the Settlement is not approved or the Effective Date does not occur.

IX. RELEASES

9.1 Plaintiff's Release of the Released Parties. Upon Final Approval, Plaintiff and his agents, assigns, attorneys, and members of his family on the one hand, and the Released Parties on the other hand, shall mutually release and forever discharge each other from and shall be forever barred from instituting, maintaining, or prosecuting:

(a) any and all claims, suits, debts, liens, demands, rights, actions, causes of action, obligations, controversies, damages, costs, expenses, attorneys' fees, or liabilities of any nature whatsoever, whether legal or equitable or otherwise, known or unknown, that actually were, or could have been, asserted in the Action, based upon any violation of any

state or federal statutory or common law or regulation, and any claim arising directly or indirectly out of, or in any way relating to, the claims that actually were, or could have been, asserted in the Action, that Plaintiff, on the one hand, and P&G, on the other hand, have had in the past, or now have, related in any manner to the Released Parties' products, services or business affairs;

(b) any and all other claims, suits, debts, liens, demands, rights, actions, causes of action, obligations, controversies, damages, costs, expenses, attorneys' fees, or liabilities of any nature whatsoever, whether legal or equitable or otherwise, known or unknown, that Plaintiff, on the one hand, and P&G, on the other hand, have had in the past or now have, related in any manner to any and all Released Parties' products, services or business affairs, or otherwise. Plaintiff and P&G expressly understand and acknowledge that it is possible that unknown losses or claims exist or that present losses may have been underestimated in amount or severity. Plaintiff and P&G explicitly took that into account in entering into this Agreement, and a portion of the consideration and the mutual covenants contained herein, having been bargained for between Plaintiff and P&G with the knowledge of the possibility of such unknown claims, were given in exchange for a full accord, satisfaction, and discharge of all such claims.

(c) Each and every term of this Section shall be binding upon, and inure to the benefit of Plaintiff and the Released Parties, and any of their successors and personal representatives, which Persons and entities are intended to be beneficiaries of this Section.

9.2 Settlement Class Members' Release of the Released Parties.

(a) Upon Final Approval, Settlement Class Members (except any such Person who has filed a proper and timely request for exclusion from the Settlement Class) shall release and forever discharge the Released Parties from any and all claims, suits, debts, liens,

demands, rights, actions, causes of action, obligations, controversies, damages, costs, expenses, attorneys' fees, or liabilities of any nature whatsoever, known or unknown, whether arising under any international, federal, state or local statute, ordinance, common law, regulation, principle of equity or otherwise, that were, or could have been, asserted in the Action regarding (i) the flushability or (ii) the safety for sewer and septic of the Product and statements concerning the Product's (i) flushability or (ii) safety for sewer and septic, except that there shall be no release of claims for personal injury or property damage allegedly caused by use of the Product.

(b) Each and every term of this Section shall be binding upon the Settlement Class Members and any of their successors and personal representatives, and inure to the benefit of the Released Parties, and any of their successors and personal representatives, which Persons and entities are intended to be beneficiaries of this Section.

(c) The Parties shall be deemed to have agreed that the release set forth herein will be and may be raised as a complete defense to and will preclude any action or proceeding based on the Released Claims.

(d) Nothing in this Section 9.2 shall operate to bar or release any claim for personal injury or property damage (for example, costs of plumbing repairs) arising out of the use of the Product, nor shall anything in this Section 9.2 operate to bar any defense, cross-claim or counter-claim in any action initiated by any of the Released Parties against any Settlement Class Member.

9.3 Satisfaction of Obligations. Plaintiff, on behalf of himself and all Settlement Class Members, agrees that the consideration provided under this Agreement, including the Injunctive Relief set forth in Part III of the Agreement, satisfies and resolves all

allegations in the Action relating to deceptive labeling and advertising of the Product during the Class Period as “flushable,” “safe for sewer and septic systems,” and “septic safe.”

9.4 Effectuation of Settlement. None of the above releases include releases of causes of action to enforce the terms of the Settlement.

9.5 No Admission of Liability. This Agreement reflects, among other things, the compromise and settlement of disputed claims among the Parties hereto, and neither this Agreement nor the releases given herein, nor any consideration therefor, nor any actions taken to carry out this Agreement are intended to be, nor may they be deemed or construed to be, an admission or concession of liability, or the validity of any claim, or defense, or of any point of fact or law (including but not limited to matters respecting class certification) on the part of any Party. P&G expressly denies the allegations of the Complaint in the Action. Neither this Agreement, nor the fact of settlement, nor the settlement proceedings, nor settlement negotiations, nor any related document, shall be used as an admission of any fault or omission by the Released Parties, or be offered or received in evidence as an admission, concession, presumption, or inference of any wrongdoing by the Released Parties in any proceeding, other than such proceedings as may be necessary to consummate, interpret, or enforce this Agreement. Similarly, neither this Agreement, nor the fact of settlement, nor the settlement proceedings, nor settlement negotiations, nor any related document, shall be used as an admission of any weakness or infirmity of any claim asserted in the Complaint by Plaintiff in any proceeding, other than such proceedings as may be necessary to consummate, interpret or enforce this Agreement.

X. ADDITIONAL PROVISIONS

10.1 Best Efforts. Subject to the limitations expressed herein, Plaintiff's Counsel and P&G's Counsel shall use their best efforts to cause the Court to give Preliminary

Approval to this Agreement and settlement as promptly as practicable, to take all steps contemplated by this Agreement to effectuate the settlement on the stated terms and conditions, and to obtain Final Approval of this Agreement.

10.2 Changes of Time Periods; Termination Rights. The time periods and/or dates described in this Agreement with respect to the giving of notices and hearings are subject to approval and change by the Court or by the written agreement of Plaintiff's Counsel and P&G's Counsel, without notice to Settlement Class Members except that the Claim Administrator shall ensure that such dates are posted on the Settlement Website. All other terms and limitations set forth in this Agreement and in the documents referred to or incorporated herein (including but not limited to the notice and notice plan, the preliminary approval order, the final approval order, and the claim form) shall be deemed material to the Parties' Agreement, and in the event any such other term is altered or amended by the Court, or any other court, any Party whose rights or obligations are affected by the alteration or amendment may terminate this Agreement upon written notice provided within ten (10) business days of the Court's order or five (5) business days of receipt of actual notice of the Court's order, whichever is later. In the event the Parties wish to negotiate a possible amendment to this Agreement in lieu of termination, the time period for such notice of termination may be extended pursuant to written consent of all the Parties.

10.3 Time for Compliance. If the date for performance of any act required by or under this Agreement falls on a Saturday, Sunday or court holiday, that act may be performed on the next business day with the same effect as if it had been performed on the day or within the period of time specified by or under this Agreement.

10.4 Governing Law. This Agreement is intended to and shall be governed by the laws of the State of New York, without regard to conflicts of law principles.

10.5 Entire Agreement. The terms and conditions set forth in this Agreement constitute the complete and exclusive statement of the agreement between the Parties hereto relating to the subject matter of this Agreement, superseding all previous negotiations and understandings, and may not be contradicted by evidence of any prior or contemporaneous agreement. The Parties further intend that this Agreement constitutes the complete and exclusive statement of its terms as between the Parties hereto, and that no extrinsic evidence whatsoever may be introduced in any agency or judicial proceeding, if any, involving this Agreement. Any amendment or modification of the Agreement must be in writing signed by each of the Parties and their counsel.

10.6 Advice of Counsel. The determination of the terms of, and the drafting of, this Agreement have been by mutual agreement after negotiation, with consideration by and participation of all Parties hereto and their counsel. Any presumption that uncertainties in a contract are interpreted against the party causing an uncertainty to exist is hereby waived by all Parties.

10.7 Binding Agreement. This Agreement shall be binding upon and inure to the benefit of the respective heirs, successors and assigns of the Parties hereto.

10.8 No Waiver. The waiver by any Party of any provision or breach of this Agreement shall not be deemed a waiver of any other provision or breach of this Agreement.

10.9 Execution in Counterparts. This Agreement shall become effective upon its execution by all of the undersigned. The Parties may execute this Agreement in counterparts

and/or by fax or electronic mail, and execution of counterparts shall have the same force and effect as if all Parties had signed the same instrument.

10.10 Captions. Captions and section numbers herein are inserted merely for the reader's convenience, and in no way define, limit, construe, or otherwise describe the scope or intent of the provisions of this Agreement.

10.11 Extensions of Time. The Parties reserve the right, by agreement and subject to the Court's approval, to grant any reasonable extension of time that might be needed to carry out any of the provisions of this Agreement.

10.12 Enforcement of this Agreement. The Court shall retain jurisdiction to enforce, interpret, and implement this Agreement.

10.13 Plaintiff to be Included in Settlement Class. Plaintiff hereby agrees not to request to opt out or otherwise be excluded from the Settlement Class. Any such request shall be void and of no force or effect.

10.14 Notices. All notices to the Parties or counsel required by this Agreement, shall be made in writing and communicated by mail and fax or email to the following addresses:

If to Plaintiff or Plaintiff's Counsel:

Chet B. Waldman
Matthew Insley-Pruitt, Esq.
Wolf Popper LLP
845 Third Avenue
New York NY 10022
Telephone: (212) 759-4600
Fax: (212) 486-2093
[Email: cwaldman@wolfpopper.com](mailto:cwaldman@wolfpopper.com)
and minsley-pruitt@wolfpopper.com

If to P&G's Counsel:

Harold P. Weinberger, Esq.
Eileen M. Patt, Esq.
Kramer Levin Naftalis & Frankel LLP
1177 Avenue of the Americas
New York, NY 10036
Telephone: (212) 715-9100
Fax: (212) 715-8000
[Email: hweinberger@kramerlevin.com](mailto:hweinberger@kramerlevin.com)
and epatt@kramerlevin.com

10.15 Publicity. To the extent Plaintiff, Plaintiff's Counsel, P&G, or P&G's Counsel make any public statements regarding the settlement of this litigation, any such statements shall be consistent with the Court-approved documents that comprise this Settlement Agreement or otherwise agreed on by the Parties in writing in advance.

IN WITNESS HEREOF the undersigned, being duly authorized, have caused this Agreement to be executed on the dates shown below and agree that it shall take effect on the last date it is executed by all of the undersigned.

APPROVED AS TO FORM:

DATED: February 6, 2020

WOLF POPPER LLP



Chet B. Waldman
Matthew Insley-Pruitt, Esq.
Attorneys for Plaintiff

DATED: February __, 2020

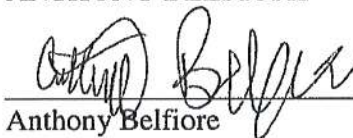
KRAMER LEVIN NAFTALIS & FRANKEL LLP

Harold P. Weinberger, Esq.
Eileen M. Patt, Esq.
Attorneys for P&G

APPROVED AND AGREED:

DATED: February 6, 2020

ANTHONY BELFIORE



Anthony Belfiore

DATED: February __, 2020

THE PROCTER & GAMBLE COMPANY

By: _____

Name: _____

Title: _____

IN WITNESS HEREOF the undersigned, being duly authorized, have caused this Agreement to be executed on the dates shown below and agree that it shall take effect on the last date it is executed by all of the undersigned.

APPROVED AS TO FORM:

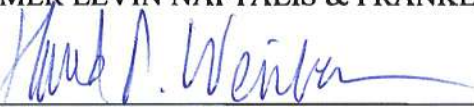
DATED: February __, 2020

WOLF POPPER LLP

Chet B. Waldman
Matthew Insley-Pruitt, Esq.
Attorneys for Plaintiff

DATED: February 10, 2020

KRAMER LEVIN NAFTALIS & FRANKEL LLP



Harold P. Weinberger, Esq.
Eileen M. Patt, Esq.
Attorneys for P&G

APPROVED AND AGREED:

DATED: February __, 2020

ANTHONY BELFIORE

Anthony Belfiore

DATED: February 10, 2020

THE PROCTER & GAMBLE COMPANY

By: 

Name: KEN PATEL

Title: VICE PRESIDENT AND CHIEF
ETHICS & COMPLIANCE OFFICER