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CLASS ACTION SETTLEMENT AGREEMENT

This Settlement Agreement and Release (the “Agreement”), effective upon the date of the signatories below, is made by and between Monsanto Company (“Monsanto”) and the Class (defined below) (collectively, the “Parties”), in the matters *Elisabeth Martin v. Monsanto Company*, originally case No. 5:16-cv-02168 (C.D. Cal.), later transferred and given case no. 4:17-cv-02300 (E.D. Mo) (“*Martin*”); and *Joshua Rawa v. Monsanto Company*, Case No. 4:17-cv-01252 (E.D. Mo.) (“*Rawa*”).

WHEREAS, Class Representative Elisabeth Martin commenced the *Martin* lawsuit for violations of the Magnuson-Moss Warranty Act and California law of unfair competition and false advertising against Monsanto in the United States District Court for the Central District of California on October 13, 2016.

WHEREAS, on March 24, 2017, the Honorable John F. Walter, District Judge for the United States District Court for the Central District of California granted Plaintiff Martin’s motion for certification of a class persons who, on or after October 13, 2012, purchased in California for personal or household use and not for resale or distribution, Roundup® Weed & Grass Killer Concentrate Plus, or Roundup® Weed & Grass Killer Super Concentrate, in packaging of certain sizes.

WHEREAS, putative Class Representative Joshua Rawa commenced the *Rawa* lawsuit for violations of Missouri law of unfair competition and false advertising against Monsanto in the United States District Court for the Eastern District of Missouri on April 5, 2017, on similar grounds. Rawa seeks to certify a class that includes all states except California. A class has not yet been certified in that case.

WHEREAS, the Parties sharply disagree on the merits and viability of the claims set forth in each Action’s complaint. Monsanto denies any and all liability or wrongdoing. Plaintiffs believe that all claims are viable and subject to class certification.

WHEREAS, the Parties have engaged in deposition, interrogatory and document discovery, have exchanged opening and rebuttal expert reports addressing issues related to the merits and class certification, and have briefed class certification in the *Martin* action.

WHEREAS, while discovery has continued, the Parties engaged in multiple mediation sessions before the Hon. James Holderman (Ret.), of JAMS, to determine if a settlement of the Actions could be reached. At the end of the mediation sessions, the Parties reached an agreement in principle.

WHEREAS, Plaintiffs have concluded that it is in the best interest of the Class to settle the Actions on the terms set forth in this Agreement in order to avoid further expense, inconvenience, delay, and based on other factors bearing on the merits of settlement.

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WHEREAS, Monsanto enters into this Agreement in order to avoid further expense, inconvenience, delay, interference with business operations, and to dispose of the Actions and to put to rest all controversy concerning the claims which have been or could be asserted.

WHEREAS, the Class (as defined below) and Monsanto wish to resolve, on a nationwide basis, any and all past, present, and future claims the Class has or may have against Monsanto of any nature whatsoever, as they relate to the allegations in the Actions. To that end, the Class and Monsanto intend that the United States District Court for the Eastern District of Missouri conditionally certify a Class for settlement, and that this Agreement will encompass and end all related pending, threatened, or possible litigation and/or claims by any parties against Monsanto. To effectuate this Agreement, the Parties agreed to jointly move to transfer the *Martin* case to the Eastern District of Missouri for the purpose of seeking approval of a nationwide settlement agreement. Such transfer was ordered by Judge Walter on August 23, 2017.

NOW, THEREFORE, the Parties for good and valuable consideration, the sufficiency of which is hereby acknowledged, understand and agree to the following terms and conditions:

A. Definitions

As used in this Agreement, the following terms enclosed within quotation marks have the meanings specified below:

1. “Actions” mean the matters *Elisabeth Martin v. Monsanto Company*, originally case No. 5:16-cv-02168 (C.D. Cal.), later transferred and given case no. 4:17-cv-02300 (E.D. Mo) (“*Martin*”); and *Joshua Rawa v. Monsanto Company*, Case No. 4:17-cv-01252 (E.D. Mo.) (“*Rawa*”), as amended to include the Related Cases on September 22, 2017 (collectively, the “Actions”).
2. “Agreement” means this Class Action Settlement Agreement.
3. “Approved Claim” means a claim approved by the Claims Administrator, according to the terms of this Agreement.
4. “Authorized Claimant” means any Claimant who has timely and completely submitted a Claim Form that has been reviewed and validated by the Claims Administrator.
5. “Claim” means a request for relief submitted by or on behalf of a Class Member on a Claim Form filed with the Claims Administrator in accordance with the terms of this Agreement.
6. “Claimant” means any Class Member who submits a claim for benefits as described in Section J of this Agreement.
7. “Claims Deadline” means the date by which all Claim Forms must be postmarked or received by the Claims Administrator to be considered timely. The Claims Deadline shall end 90 days after the Preliminary Approval Date.

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8. “Claim Form” means the document to be submitted by Claimants seeking benefits pursuant to this Agreement.

9. “Claims Administrator” means the independent company agreed by the Parties and approved by the Court to provide the Class Notice and to administer the claims process.

10. “Claims Administration Expenses” means the fees charged and expenses incurred by the Claims Administrator in completing the claims administration process set forth in this Agreement.

11. “Class” or “Class Member(s)” means all persons in the United States, who, during the Class Period, purchased in the United States, for personal or household use and not for resale or distribution, Roundup® Weed & Grass Killer Concentrate Plus (“Concentrate Plus”) or Roundup® Weed & Grass Killer Super Concentrate (“Super Concentrate,” collectively, the “Concentrates”), in packaging whose neck or shoulder label stated that the product “makes up to” a specified number of gallons as follows:

Roundup® Product	Label Statement
Super Concentrate 35.2 fl. oz.	“Makes Up to 23 Gallons”
Super Concentrate 53.7 oz. (0.42 gal.)	“Makes Up to 35 Gallons”
Super Concentrate 64 fl. oz. (1/2 gal.)	“Makes Up to 42 Gallons”
Super Concentrate 128 fl. oz. (1 gal.)	“Makes Up to 85 Gallons”
Concentrate Plus 32 oz. (1 qt.)	“Makes Up to 10 Gallons”
Concentrate Plus 36.8 oz.	“Makes Up to 12 Gallons”
Concentrate Plus 40 oz.	“Makes Up to 13 Gallons”
Concentrate Plus 64 oz. (1/2 gal.)	“Makes Up to 21 Gallons”

Members of the Class are limited to the products and issues listed above. Any person who received a full refund is excluded from the Class definition.

12. “Class Counsel” means the following attorneys of record for *Martin and Rawa*:

Jack Fitzgerald
The Law Office of Jack Fitzgerald PC
Hillcrest Professional Building
3636 Fourth Avenue Suite 202
San Diego, CA 92103
Phone: 619-692-3840
Facsimile: 619-362-9555
Emails: jack@jackfitzgeraldlaw.com

Sidney W. Jackson, III
Jackson and Foster LLC
75 St Michael Street
Mobile, AL 36602
Phone: 251-433-6699
Facsimile: 251-433-6127
Email: sid@jacksonfosterlaw.com

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and any attorneys at those firms assisting in the representation of the Class in this Action.

13. “Class Counsel’s Fees” means the amount awarded as attorneys’ fees to Class Counsel by the Court for prosecuting the Actions and implementing this Agreement.

14. “Class Notice” means collectively, the “Notice of Class Action Settlement” and the “Publication Notice,” substantially in the forms to be agreed upon by the Parties and that will be submitted to the Court in connection with the Motion for Preliminary Approval of Settlement.

15. “Class Period” shall mean and refer to a time period not to exceed the applicable statute of limitations for the false advertising law in the state where each Claimant is domiciled, triggered by the date the Complaint was filed in *Martin* for California residents (October 13, 2016), and by the date the Complaint was filed in *Rawa* for all other states’ residents (April 5, 2017). A full list of the applicable periods for each state, district, or territory included in this Agreement is appended here to as **Exhibit A**.

16. “Class Released Claims” means the claims released by the Class Members via this Agreement.

17. “Class Representatives” means named plaintiffs Elisabeth Martin and Joshua Rawa, as well as Robert Ravencamp, Amy Ward, Cynthia Davies, Christopher Abbott, Owen Olson, Jeannie Gilchrist, Zachary Sholar, Matthew Myers, John Beard Jr., and Michael Overstreet, who were added to the Amended Complaint in *Rawa* on September 22, 2017, and any other individuals who may be added as plaintiffs to any amended, consolidated pleading.

18. “Common Fund” means the 21.5 million dollars (\$21,500,000) set aside as part of the Settlement Consideration.

19. “Concentrates” means Roundup® Weed & Grass Killer Concentrate Plus (“Concentrate Plus”) or Roundup® Weed & Grass Killer Super Concentrate (“Super Concentrate”) in the eight sizes specified in the table within the definition of “Class,” above.

20. “Court” means the Eastern District of Missouri.

21. “Effective Date” means the date on which the Judgment approving this Agreement becomes final. For purposes of this definition, the Judgment shall become final at the latest date of the following options: (a) if no appeal from the Judgment is filed, the date of expiration of the time for filing or noticing any appeal from the Judgment; or (b) if an appeal from the Judgment is filed, and the Judgment is affirmed or the appeal dismissed, and the deadline to file a petition for certiorari has passed, the date of such affirmance or dismissal; or (c) if a petition for certiorari seeking review of the appellate judgment is filed and denied, the date the petition is denied; or (d) if a petition for writ of certiorari is filed and granted, the date of final affirmance or final dismissal of the review proceeding initiated by the petition for a writ of certiorari.

22. “Final Settlement Hearing” or “Final Approval Hearing” means the hearing to be conducted by the Court to determine whether to enter the Judgment.

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23. “Judgment” means the Court’s order approving the Agreement and dismissing the Actions with prejudice.

24. “Martin” means the plaintiff in the *Martin* action, Elisabeth Martin.

25. “Notice Period” means the notice period to potential Class Members. Class Notice shall run for a period of 60 days, and shall commence within 14 days after the Preliminary Approval Date.

26. “Notice Plan” means the plan for dissemination of the Class Notice to be agreed upon by the Parties and that will be submitted to the Court in connection with the Motion for Preliminary Approval of Settlement.

27. “Objection Deadline” means the first business day on or after ten (10) calendar days from the filing of the Motion for Final Approval of the Settlement and Application for Fees, or such other date as the Court may order in its Preliminary Approval Order. It is the date by which the Class Members must file with the Court and serve on all Parties (i) a written statement objecting to any terms of the Settlement or to Class Counsel’s fees or expenses and (ii) a written notice of intention to appear if they expect to present in person at the Final Approval Hearing objections to any terms of the Settlement or to Class Counsel’s fees or expenses.

28. “Opt-Out Deadline” means ninety (90) days after the Preliminary Approval Date (to be concurrent with the Claims Deadline), or such other date as the Court may order in its Preliminary Approval Order.

29. “Other Counsel” means any other attorney(s), representing any Class Member, who is not Class Counsel.

30. “Party” or “Parties” means Plaintiffs, to include the Class, and Monsanto.

31. “Person” means any individual, corporation, partnership, association, or any other type of legal entity.

32. “Plaintiffs” means Elisabeth Martin, Joshua Rawa, and the Class Members.

33. “Preliminary Approval Date” means the date of entry of the Court’s order granting preliminary approval of the Agreement substantially in the form of the Preliminary Approval Order that will be submitted in connection with the Motion for Preliminary Approval of Settlement.

34. “Rawa” means the plaintiff in the *Rawa* action, Joshua Rawa.

35. “Related Actions” include the following cases:

- a. *Robert Ravencamp v. Monsanto Company*, Case No. 1716-CV0336, Division 12 (Circuit Court of Jackson County, Missouri, at Independence)
- b. *Amy Ward v. Monsanto Company*, Case No. 1:17-cv-03335 (N.D. Ill.)
- c. *Christopher Abbott v. Monsanto Company*, Case No. 3:17-cv-00315 (W.D. Ky.)

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- d. *Owen Olson v. Monsanto Company*, Case No. 1:17-cv-01333 (D. Colo.)
- e. *Jeannie A. Gilchrist v. Monsanto Company*, Case No. 5:17-cv-266 (E.D.N.C.)
- f. *Zachary Sholar v. Monsanto Company*, Case No. 4:17-cv-00100 (S.D. Ind.)
- g. *Matthew Myers v. Monsanto Company*, Case No. 1:17-cv-02045 (N.D. Ga.)
- h. *John Beard et al v. Monsanto Company*, Case No. 1:17-cv-00171 (E.D. Tenn.)
- i. *Michael Overstreet v. Monsanto Company*, Case No. 2:17-cv-2740 (E.D. Penn.)

36. “Released Monsanto Persons” and “Released Scotts Persons” means, respectively, Monsanto or Scotts, and any current or future parent companies (including intermediate parents and ultimate parents) and subsidiaries, affiliates, predecessors, successors, and assigns, and each of their respective officers, directors, employees, agents, attorneys, insurers, stockholders, representatives, heirs, administrators, executors, successors and assigns, and any other person or entity acting on either Monsanto’s or Scotts’ behalf.

37. “Scotts” means The Scotts Company LLC, Monsanto's exclusive marketing and distribution agent for Roundup consumer products.

38. “Settlement Payment” means the amount to be paid to Authorized Claimants as described in Section F.

39. “Settlement Website” means a website maintained by the Claims Administrator to provide the Class with information relating to the Settlement.

B. Conditional Class Certification for Settlement Purposes Only

1. This Agreement is for settlement purposes only, and neither the fact of, nor any provision contained in this Agreement, nor any action taken hereunder, shall constitute, be construed as, or be admissible in evidence as an admission of: (1) the validity of any claim or allegation by Martin, Rawa, the plaintiff(s) in any Related Action, or any Class Member, or of any defense asserted by Monsanto in these or any other actions or proceedings; (2) any wrongdoing, fault, violation of law, or liability of any kind on the part of any Party, Released Party, Class Member or their respective counsel; or (3) the propriety of class certification in the Actions, Related Actions, or any other action or proceeding.

2. For the sole and limited purpose of settlement only, the Parties stipulate to and request that the Court conditionally certify the Class under Rule 23(b)(3), which stipulation is contingent upon the occurrence of the Effective Date. Should the Effective Date not occur, this Agreement shall be void and will not constitute, be construed as, or be admissible in evidence as, an admission of any kind or be used for any purpose in the Actions, Related Actions, or in any other pending or future action. In the event that the Agreement is terminated pursuant to its terms or the Final Settlement Hearing does not occur for any reason, the certification of the Class shall be vacated, and the Actions shall proceed as they existed prior to execution of this Agreement.

3. The Court’s certification of the Class shall not be deemed to be an adjudication of any fact or issue for any purpose other than the accomplishment of the provisions of this Agreement,

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and shall not be considered the law of the case, res judicata, or collateral estoppel in the Actions, Related Actions, or any other proceeding unless and until the Court enters a Judgment, and regardless of whether the Effective Date occurs, the Parties' agreement to class certification for settlement purposes only (and any statements or submissions made by the Parties in connection with seeking the Court's approval of this Agreement) shall not be deemed to be a stipulation as to the propriety of class certification, or any admission of fact or law regarding any request for class certification, in any other action or proceeding, whether or not involving the same or similar claims.

4. In the event the Court does not enter a Judgment, or the Effective Date does not occur, or the Agreement is otherwise terminated or rendered null and void, the Parties' agreement to certification of the Class for settlement purposes shall be null and void and the Court's certification order shall be vacated, and thereafter no new class or classes will remain certified; provided, however, that the class in *Martin* will remain, subject to any future motions, oppositions, or defenses by Monsanto on any available grounds.

5. Nothing in this Agreement shall be argued as support for, or admissible in, an effort to certify any new class in this Court or any other court if the Court does not enter a Judgment, or the Effective Date does not occur, nor shall anything herein be admissible in any proceeding to certify this or any other classes in any other court under any circumstances.

6. Subject to the Court's approval, and for settlement purposes only, Monsanto consents to the appointment of Elisabeth Martin, Joshua Rawa, Robert Ravencamp, Amy Ward, Cynthia Davies, Christopher Abbott, Owen Olson, Jeannie Gilchrist, Zachary Sholar, Matthew Myers, John Beard Jr., and Michael Overstreet as Class Representatives of the Class, and the appointment of Jack Fitzgerald, Sidney W. Jackson, III, and any attorneys at their firms assisting in the representation of the Class in this Action, as Class Counsel.

7. The Preliminary Approval Order shall contain a provision enjoining Class Members who have not opted-out of the Agreement from proceeding with any competing claims against the Released Monsanto Persons and/or Released Scotts Persons related or similar to those claims that are asserted in this Actions.

8. Upon final approval of the Agreement by the Court, a Judgment substantially in the form agreed by the Parties, will be entered by the Court, providing for the dismissal of the Actions with prejudice.

C. Benefits of the Agreement

Class Counsel and Class Representatives believe the Agreement confers substantial benefits upon the Class, particularly as weighed against the risk associated with the inherent uncertain nature of a litigated outcome; the complex nature of the Actions in which the Parties have produced large amounts of discovery, taken and defended depositions, served and pursued third-party subpoenas for documents, retained, disclosed and produced reports of several experts, and briefed class certification to a decision; and the length and expense of continued proceedings through additional fact depositions, expert depositions, third party document productions and depositions, summary judgment briefing, trial, and appeals. Based on their evaluation of such

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factors, Class Counsel and Class Representatives have determined that the Settlement, based on the following terms, is in the best interests of the Class.

D. Changes to Labels

1. Monsanto has unilaterally agreed to undertake to change the labels on the Concentrates to further clarify the dilution rates and mixing instructions. Monsanto agrees that Plaintiffs' lawsuit accelerated this action. Monsanto will consult with Class Counsel regarding potential label changes, provided however, that the ultimate timing and content of any label changes remain at the sole discretion of Monsanto.

2. After making a label change, Monsanto will have a reasonable period of time to exhaust existing inventories and remove products with the current "Makes up to" neck or shoulder label from the marketplace. Any products sold from Monsanto's inventory with the "Makes up to" neck or shoulder label, through the date Notice is first effected, are included in the Full Release described in this Agreement, and any consumer who purchases such products during the inventory removal period and prior to the date Notice is first effected shall be entitled to make a claim under the structure set forth herein.

E. Common Fund

1. Within seven (7) calendar days after the notice to putative class members commences following the Court's Preliminary Approval Order, Monsanto shall pay \$21.5 million into a "Qualified Settlement Fund" created and maintained by the Claims Administrator, with a separate tax identification number for purposes of this Agreement only (the "Common Fund").

2. The Common Fund shall cover all expenses associated with the Agreement as approved by the Court, including without limitation, Class Notice, Claims Administration Expenses, Class Member Claims, the Settlement Payment, Class Representative Incentive awards and Class Counsel's legal expenses and attorneys' fees. Interest on the Settlement Fund shall inure to the benefit of the Class.

3. All taxes on the income of the Settlement Fund, and any costs or expenses incurred in connection with the taxation of the Settlement Fund shall be paid out of the Settlement Fund, shall be considered to be a cost of administration, and shall be timely paid by the Claims Administrator without prior order of the Court. The Parties shall have no liability or responsibility for the payment of any such taxes.

4. In the event that requests for payment per unit (as set forth herein) are made in excess of the amounts available in the Common Fund after deducting all other expenses, then the payment per Claimant shall be reduced on a pro rata basis.

5. In no case shall Monsanto be required to contribute or pay additional funds to the Common Fund and/or the Settlement set forth herein, beyond the payments agreed hereto, including but not limited to any payments for attorneys' fees, or fees associated with notice and/or administration.

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F. Class Member Claims

1. For each unit of the Roundup® Product (as defined in Paragraph 11 of the Definitions) purchased during the Class Period, Claimants will receive a standardized payment of one-half the weighted average retail price (after rounding). The weighted average retail price per unit and the payment per unit are set forth below:

Roundup® Product	Weighted Average Retail Price	Payment Per Unit
Super Concentrate 35.2 fl. oz.	\$42.48	\$21
Super Concentrate 53.7 oz. (0.42 gal.)	\$62.88*	\$31
Super Concentrate - 64 fl. oz. (1/2 gal.)	\$72.64	\$36
Super Concentrate - 128 fl. oz. (1 gal.)	\$105.85	\$53
Concentrate Plus 32 oz. (1 qt.)	\$21.31	\$11
Concentrate Plus 36.8 oz.	\$22.97	\$11.50
Concentrate Plus 40 oz.	\$26.40*	\$13
Concentrate Plus 64 oz. (1/2 gal.)	\$44.54	\$22

* Because marketplace data was unavailable for the Super Concentrate 53.7 oz. and Concentrate Plus 40 oz. SKUs, these prices are calculated based on the weighted average price per ounce of the two SKU sizes closest to the unknown SKU (i.e., the average price of the 35.2 oz. and 64 oz. Super Concentrates were used to calculate the 53.7 oz. Super Concentrate price).

2. Any person who received a full refund directly from Monsanto and/or Scotts with respect to purchases of units included in the Class definition shall not be eligible for a payment as to those units.

G. Attorneys' Fees, Expenses, and Costs

1. Class Counsel and Class Representatives shall request attorneys' fees and costs, and incentive awards to be paid from the Common Fund. Monsanto may respond in any manner it chooses, including opposing or not responding to any such requests.

2. The Claims Administrator shall pay to Class Counsel from the Common Fund the amount of attorneys' fees and costs awarded by the Court within seven (7) calendar days of entry of Judgment, notwithstanding the filing of any appeals, or any other proceedings which may delay the effective date of the settlement or a final judgment in the case; provided, however, that in the event any fee award, either individually or in connection with the entire settlement is overturned, reduced, vacated, or otherwise modified, Class Counsel shall be obligated to return to the Common Fund any difference between the amount of the original award and any reduced award.

3. Costs for settlement, notice, claims administration, incentive fees, and any other fees, including attorneys' fees, will be paid from the Common Fund.

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H. Retention of Claims Administrator

The Parties agree to retain Dahl Administration as Class Administrator to effect Class Notice and Administration. The Claims Administrator shall assist with various administrative tasks, including, without limitation:

- i. Arranging for the dissemination of the Class Notice pursuant to the Notice Plan agreed to by the Parties and approved by the Court;
- ii. Handling returned mail not delivered to Class Members;
- iii. Making any additional mailings required under the terms of this Agreement or by law;
- iv. Answering written inquiries from Class Members and/or forwarding such inquires to Class Counsel;
- v. Receiving and maintaining forms of Class Members who wish to opt out of and be excluded from the Agreement;
- vi. Establishing a Settlement Website;
- vii. Establishing a toll-free informational telephone number for Class Members;
- viii. Receiving and processing Claims and distributing payments to Class Members; and
- ix. Otherwise assisting with administration of the Settlement.

I. Timing

All Claim Forms must be postmarked or received by the Claims Administrator by the Claims Deadline to be considered timely. The Claims Deadline shall be clearly set forth in the Preliminary Approval Order, the Class Notice, on the Settlement Website, and on the front of the Claim Form.

J. Procedure

1. Notice will include both direct individual notice to known purchasers, and nationwide digital publication.

2. All Claims must be submitted with a Claim Form and received by the Claims Administrator.

3. The Claim Form will be available on the Settlement Website. The Claim Form will be available to fill out and submit online, for download, or mailed to Class Members upon request by calling or writing to the Claims Administrator. Class Members may submit their completed and signed Claim Form to the Claims Administrator by mail or online, postmarked or submitted online, on or before the Claims Deadline.

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4. The Claim Form must include a reasonable proof of purchase, or must include an affirmation, under penalty of perjury, of the identity and quantity of the type of Concentrate Plus and/or Super Concentrate that was purchased. All Claim Forms must include:

- (a) Class Member name, address, and telephone number;
- (b) Identification of the quantity and type of Concentrate Plus and/or Super Concentrate that was purchased;
- (c) The retailer and location (city, state, and street name) of the retailer from which the Concentrate Plus and/or Super Concentrate was purchased; and
- (d) The approximate date(s) or date ranges on or during which the Concentrate Plus and/or Super Concentrate was purchased.

5. The Claims Administrator shall retain sole discretion in accepting or rejecting the Claim Form.

6. Each household shall be limited to twenty (20) units purchased during the applicable statutory period, based on the Claimant's state or territory or residence.

7. The Class Administrator shall pay out Approved Claims in accordance with the terms of this Agreement commencing ten (10) days after the Effective Date or as otherwise ordered by the Court.

8. Class Members who do not submit a claim or opt-out (i.e., do nothing), will be subject to this Settlement and all of its terms, including but not limited to the releases, and will receive no payment from the Common Fund.

K. Opt Out Procedures

1. Class Members who wish to opt out of and be excluded from the Agreement must download from the Settlement Website an opt out form, to be made at the discretion of the Claims Administrator, and Class Members must print, complete, and mail the form to the Claim Administrator, at his or her mailing address, postmarked no later than ten (10) days after the filing of the Motion for Final Approval of the Settlement and the Application For Fees or as otherwise ordered by the Court in its Preliminary Approval Order (the "Opt Out Deadline").

2. The Opt-Out Form must be personally completed and submitted by the Class Member, and so-called "mass" or "class" opt-outs shall not be permitted.

3. The Claims Administrator shall be responsible for processing opt-outs and objections, if any, including to promptly provide Class Counsel and counsel for Monsanto with copies of same.

L. Procedures for Objecting to the Settlement

Class Members have the right to appear and show cause why the Agreement should not be granted final approval, subject to each of the provisions of this paragraph:

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1. *Written Objection Required.* Any objection to the Agreement must be in writing, filed with the Court, with a copy served on Class Counsel and counsel for Monsanto at the addresses set forth in the Notice and below, by the Objection Deadline.

2. *Form of Written Objection.* Any objection regarding or related to the Agreement shall contain (i) a caption or title that clearly identifies the Action and that the document is an objection, (ii) information sufficient to identify and contact the objecting Class Member or his or her attorney, and (iii) a clear and concise statement of the Class Member's objection, as well as any facts and law supporting the objection (the "Objection").

3. *Authorization of Objections Filed by Attorneys Representing Objectors.* Class Members may object either on their own or through an attorney hired at their own expense, but a Class Member represented by an attorney must sign either the Objection itself, or execute a separate declaration stating that the Class Member authorizes the filing of the Objection.

4. *Effect of Both Opt-Out and Objection.* If a Class Member submits both an Opt-Out Form and Objection, the Class Member will be deemed to have opted out of the Agreement, and thus to be ineligible to object. However, any objecting Class Member who has not timely submitted a completed Opt Out Form for exclusion from the Agreement will be bound by the terms of the Agreement upon the Court's final approval of the Agreement.

M. Failure to Exhaust Funds

After payments have been made to Class Members, to Class Counsel for attorneys' fees, to Class Representatives for incentive awards, and all other costs associated with the administration of this settlement have been paid or placed in appropriate escrow, any remaining funds will be exhausted through a *cy pres* distribution to a charitable and tax-exempt organization to be mutually determined by the Parties. In the event that the Parties cannot reach an agreement on the *cy pres* organization(s), the Parties will timely present the issue to the Court for resolution.

N. Release of Monsanto, Scotts, and Related Persons

1. Upon the Effective Date, each of the Class Members will be deemed to have, and by operation of the Judgment will have, fully, finally, and forever released, relinquished, and discharged Monsanto and Scotts (including, without limitation, all current or former agents, employees, contractors, affiliates, heirs, attorneys, insurers, and assignees thereof) from any and all claims, demands, rights, suits, liabilities, injunctive and/or declaratory relief, and causes of action of every nature and description whatsoever, including costs, expenses, penalties, and attorneys' fees, whether known or unknown, matured or unmatured, at law or in equity, existing under federal or state law, that any Class Member has or may have against Monsanto arising out of or related in any way to the transactions, occurrences, events, behaviors, conduct, practices, and policies alleged in the Actions, which have been, or which could have been asserted in the Actions, and in connection with the conduct of the Actions, that have been brought, could have been brought, or are currently pending in any forum in the United States.

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This release and full resolution of all matters relating to the marketing, sale and distribution of the Concentrates during the Class Period, includes, but is not limited to, the marketing, sale and distribution of the Roundup® products as it relates to the allegations and substance of the Class Complaint that was or could have been alleged relating to the “Makes Up to” a certain number of gallons claims, the amount of product that the Roundup® Concentrate products makes, comparisons of the amount of product or active ingredient in Roundup® Concentrate products to Roundup® Ready-to-Use products, or any similar statements on any part of the bottle, label, packaging, instructions, or associated advertising, on any size bottle of the Roundup® Concentrates. The release does not release any alleged personal injury claims relating to the use of Roundup® Concentrates.

O. Release of Plaintiffs

Upon the Effective Date, Monsanto will be deemed to have, and by operation of the Judgment will have, fully, finally, and forever released, relinquished, and discharged Plaintiffs, the Class, and Class Counsel from any and all claims, demands, rights, suits, liabilities, and causes of action of every nature and description whatsoever, whether known or unknown, matured or unmatured, at law or in equity, existing under federal or state law, that Monsanto has or may have against any of them arising out of or related in any way to the transactions, occurrences, events, behaviors, conduct, practices, and policies alleged in the Actions, and in connection with the filing and conduct of the Actions, that have been brought, could have been brought, or are currently pending in any forum in the United States.

P. Section 1542 Waiver

All Parties acknowledge Section 1542 of the California Civil Code. Martin and California members of the Class expressly waive and relinquish any rights or benefits available to them under this statute. Cal. Civ. Code § 1542 provides:

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

Notwithstanding Cal. Civ. Code § 1542 or any other federal or state statute or rule of law of similar effect, this Agreement shall be given full force and effect according to each and all of its expressed terms and provisions, including those related to any unknown or unsuspected claims, liabilities, demands, or causes of action which are based on, arise from, or are in any way connected with the Action.

Q. Notice Under the Class Action Fairness Act

1. The Class Action Fairness Act of 2005 (“CAFA”) requires Monsanto to inform certain federal and state officials about this Agreement. *See* 28 U.S.C. § 1715.

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2. Under the provisions of CAFA, the Claims Administrator, on behalf of Monsanto, will serve notice upon the appropriate officials within ten (10) calendar days after the Parties file the proposed Agreement with the Court. See 28 U.S.C. § 1715(b).

3. The Parties agree that either the Claims Administrator or Monsanto is permitted to provide CAFA notice as required by law and that any such notice shall be done to effectuate the Agreement and shall not be considered a breach of this Agreement or any other agreement of the Parties.

4. If any of the notified federal or state officials takes any action adversely affecting the validity or enforceability of the Settlement or seeks to impose additional terms or liability on Monsanto for the matters resolved by the Class Released Claims, Monsanto may, at its option, suspend the implementation of the Agreement pending the outcome of the action initiated by the notified federal or state official or may elect to void the Agreement by written notice to Class Counsel.

R. Court Approval

1. Promptly after executing this Agreement, and no later than October 4, 2017, the Parties will submit to the Court the Agreement, together with its exhibits, and will request that the Court grant preliminary approval of the proposed Agreement, issue a Preliminary Approval Order, and schedule a Final Approval Hearing to determine whether the Agreement should be granted final approval, whether an application for attorneys' fees and costs should be granted, and whether an application for incentive awards should be granted. As part of the preliminary approval motion, the Parties will request the Court to provisionally certify the Class for settlement purposes, and to formally appoint Class Counsel. The Parties intend and acknowledge that any such certification and appointment would be for purposes of the Agreement only, and not effective in continuing litigation between the Parties, if any.

2. A Final Settlement Hearing to determine final approval of the Agreement shall be scheduled as soon as practicable, subject to the calendar of the Court, but no sooner than 90 days after the Preliminary Approval Date. Upon final approval of the Agreement by the Court at or after the Final Settlement Hearing, the Parties shall seek and obtain from the Court the Judgment.

3. Objecting Class Members may appear at the Final Approval Hearing and be heard. The Parties shall have the right, but not the obligation, either jointly or individually, to respond to any objection.

4. Plaintiffs in the Related Actions that have joined, or will join the *Rawa* action and this Agreement, shall file stipulations to dismiss their claims without prejudice in the respective courts in which they brought such claims.

5. If this Agreement is not given final approval by the Court, the Parties will seek in good faith to revise the Agreement as needed to obtain Court approval. Failing this, the Parties will be restored to their respective places in the litigation. In such event, the terms and provisions of this Agreement will have no further force and effect with respect to the Parties and will not be used in this or in any other proceeding for any purposes, and any Judgment or Order entered by the Court

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in accordance with the terms of this Agreement will be treated as vacated. Martin and Monsanto have agreed that, in the event of any such occurrence, the parties shall stipulate to transfer back to the Central District of California the *Martin* action for all further pre-trial and trial proceedings.

S. No Public Statements and Media or Public Inquiry Plan

1. The Parties will refrain (directly, or through counsel or third parties) from any public statements other than a mutually agreed upon written statement.

The Parties and their counsel agree that, in responding to any inquiries from the public media concerning the Action and/or the Agreement, the Parties and their counsel will limit their comments to the provision of factual information as is contained in the Notice, this Agreement, the pleadings, and/or any of the court orders in this Action, and may further state only to the effect that “the matter has been settled to the satisfaction of all Parties subject to Court approval.” Nothing in this paragraph shall limit Class Counsel’s ability to communicate privately with a Class Member concerning these Actions or the Agreement. Monsanto or the Claims Administrator may make such public disclosures about the Action and Agreement as any applicable laws require.

T. Miscellaneous Provisions

1. *Entire Agreement.* This Agreement shall constitute the entire Agreement among the Parties with regard to the subject matter of this Agreement and shall supersede any previous agreements, representations, communications, and understandings among the Parties with respect to the subject matter of this Agreement. The Parties acknowledge, stipulate, and agree that no covenant, obligation, condition, representation, warranty, inducement, negotiation, or undertaking concerning any part or all of the subject matter of the Agreement has been made or relied upon except as expressly set forth herein. This Agreement supersedes any prior agreement between the parties, including the Term Sheet executed by the Parties.

2. *Notices Under This Agreement.* All notices or mailings required by this Agreement to be provided to or approved by Class Counsel and Monsanto, or otherwise made pursuant to this agreement, shall be provided as follows:

<p><u>Class Counsel</u> Jack Fitzgerald jack@jackfitzgeraldlaw.com The Law Office of Jack Fitzgerald, PC Hillcrest Professional Building 3636 Fourth Avenue, Suite 202 San Diego, CA 92103</p> <p>Sidney W. Jackson, III sid@jacksonfosterlaw.com Jackson and Foster LLC 75 St Michael Street Mobile, AL 36602</p>	<p><u>Monsanto</u> John J. Rosenthal jrosenthal@winston.com Adam S. Nadelhaft anadelhaft@winston.com Winston & Strawn LLP 1700 K Street, N.W. Washington, D.C. 20006</p>
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3. *Good Faith.* The Parties acknowledge that each intends to implement the Agreement. The Parties have at all times acted in good faith and shall continue to, in good faith, cooperate and assist with and undertake all reasonable actions and steps in order to accomplish all required events on the schedule set by the Court, and shall use reasonable efforts to implement all terms and conditions of this Agreement.

4. *Binding on Successors.* This Agreement shall be binding upon and inure to the benefit of the heirs, successors, assigns, executors, and legal representatives of the Parties to the Agreement and the Released Parties.

5. *Arms-Length Negotiations.* The Agreement compromises claims that are contested, and the Parties agree that the consideration provided to the Class and other terms of the Agreement were negotiated in good faith and at arms' length by the Parties, and reflect an Agreement that was reached voluntarily, after consultation with competent legal counsel, and guided in part by the Parties' earlier private JAMS mediation sessions with the Honorable James Holderman (Ret.), former Chief Judge of the Northern District of Illinois, and an experienced mediator. The determination of the terms of, and the drafting of, this Agreement, has been by mutual agreement after negotiation, with consideration by and participation of all Parties hereto and their counsel. Accordingly, the rule of construction that any ambiguities are to be construed against the drafter shall have no application. All Parties agree that this Agreement was drafted by Class Counsel and Monsanto's Counsel at arms' length, and that no parol or other evidence may be offered to explain, construe, contradict, or clarify its terms, the intent of the Parties or their attorneys, or the circumstances under which the Agreement was negotiated, made, or executed.

6. *Waiver.* The waiver by one Party of any provision or breach of this Agreement shall not be deemed a waiver of any other provision or breach of this Agreement.

7. *Modification in Writing Only.* This Agreement and any and all parts of it may be amended, modified, changed, or waived only by an express instrument in writing signed by the Parties.

8. *Headings.* The descriptive headings of any paragraph or sections of this Agreement are inserted for convenience of reference only and do not constitute a part of this Agreement.

9. *Governing Law.* This Agreement shall be interpreted, construed and enforced according to the laws of the State of Missouri, without regard to conflicts of law.

10. *Continuing Jurisdiction.* After entry of the Judgment, the Court shall have continuing jurisdiction over the Action solely for purposes of (i) enforcing this Agreement, (ii) addressing settlement administration matters, and (iii) addressing such post-Judgment matters as may be appropriate under court rules or applicable law, including under the All Writs Act.

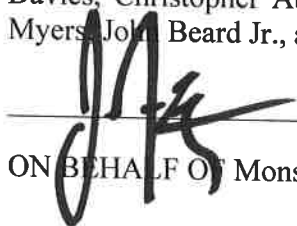
11. *Agreement Constitutes a Complete Defense.* To the extent permitted by law, this Agreement may be pleaded as a full and complete defense to, and may be used as the basis for an injunction against, any action, suit, or other proceeding that may be instituted, prosecuted, or attempted in breach of or contrary to this Agreement.

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12. *Execution.* This Agreement may be executed in one or more counterparts. All executed counterparts and each of them will be deemed to be one and the same instrument. Photocopies and electronic copies (e.g., PDF copies) shall be given the same force and effect as original signed documents.

IN WITNESS WHEREOF, each of 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 that date upon which it has been executed by all of the undersigned.

ON BEHALF OF Elisabeth Martin, Joshua Rawa, Robert Ravencamp, Amy Ward, Cynthia Davies, Christopher Abbott, Owen Olson, Jeannie Gilchrist, Zachary Sholar, Matthew Myers, John Beard Jr., and Michael Overstreet and the Proposed Settlement Class:



Date: October 4, 2017

ON BEHALF OF Monsanto Company:

John J. Rosenthal

Date: October 4, 2017