

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS**

IN RE
URETHANE ANTITRUST LITIGATION

MDL No. 1616

This document relates to:
The Polyether Polyol Cases

Civil No. 2:04-md-01616-JWL

SETTLEMENT AGREEMENT

This Settlement Agreement (“Settlement Agreement”) is made and entered into this ___ day of February, 2016 (the “Execution Date”), by and between defendant The Dow Chemical Company (“Dow”) and plaintiffs Seegott Holdings Inc., Quabaug Corporation, and Industrial Polymers, Inc. (collectively “Plaintiffs”), who have filed suit as representatives of a class of similarly situated direct purchasers, as more specifically defined below. Plaintiffs enter this Settlement Agreement both individually and on behalf of a class of all persons and entities who purchased the Products (defined below) directly from a Defendant at any time during the period from January 1, 1999 through December 31, 2003 in the United States and its territories and who have not timely elected to exclude themselves from the Class (excluding all governmental entities, any Defendants, their employees, and their respective parents, subsidiaries and affiliates).

WHEREAS, Plaintiffs are prosecuting the above-captioned actions (the “Class Actions”) on their own behalf and on behalf of the Class against Dow;

WHEREAS, Plaintiffs alleged, among other things, that Dow participated in an unlawful conspiracy to fix prices and allocate markets for the Products in violation of Section 1 of the Sherman Antitrust Act, 15 U.S.C. § 1 *et seq.*;

WHEREAS, on July 28, 2008, the Court certified a nationwide litigation class of direct purchasers of the Products from January 1, 1999 through December 31, 2004;

WHEREAS, a jury trial was held in the above-captioned action in January and February of 2013;

WHEREAS, on February 20, 2013, the jury returned a verdict of four hundred million, forty-nine thousand, thirty-nine dollars (\$400,049,039.00) against Dow;

WHEREAS, on May 15, 2013, pursuant to the verdict, the Court denied Dow's Motion to Decertify the Class and Dow's Post-Trial Motions and modified the class definition in the case to exclude purchases in 2004. Thus, the class definition was modified to cover direct purchasers of the products from January 1, 1999 through December 31, 2003.

WHEREAS, on May 15, 2013, pursuant to that verdict, the Court entered a judgment against Dow and in favor of the Plaintiffs and the Class, after trebling pursuant to 15 U.S.C. § 15, in the amount of one billion, two hundred million, one hundred forty-seven thousand, one hundred seventeen dollars (\$1,200,147,117.00);

WHEREAS, on July 26, 2013, pursuant to the verdict, the Court entered an amended judgment against Dow in the amount of one billion, sixty million, eight hundred forty-seven thousand, one hundred seventeen dollars (\$1,060,847,117.00) for purchases between November 24, 2000 and December 31, 2003, to account for settlements reached by the Class with other Defendants totaling one hundred thirty-nine million dollars (\$139,000,000.00);

WHEREAS, Dow appealed and on September 29, 2014, the United States Court of Appeals for the Tenth Circuit affirmed the Amended Judgment and on November 7, 2014 denied Dow's Petition for Rehearing *En Banc*;

WHEREAS, on March 9, 2015, Dow filed a Petition for a Writ of Certiorari with the Supreme Court of the United States;

WHEREAS, on April 8, 2015 and April 9, 2015, the Product Liability Advisory Council, Inc., the Washington Legal Foundation, the Chamber of Commerce of the United States of America, the National Association of Manufacturers, the American Tort Reform Association, the National Council of Farmer Cooperatives, the Business Roundtable, the Atlantic Legal Foundation, DRI - The Voice of the Defense Bar, and Professors Kevin M. Murphy, et al., filed amicus briefs in support of Dow's Petition for a Writ of Certiorari;

WHEREAS, on May 11, 2015, Plaintiffs filed a Brief in Opposition to Dow's Petition for a Writ of Certiorari;

WHEREAS, on May 22, 2015, Dow filed its Reply Brief in Support of its Petition for a Writ of Certiorari;

WHEREAS, on June 8, 2015, the Supreme Court granted certiorari in *Tyson Foods, Inc. v. Bouaphakeo*, Case No. 14-141146;

WHEREAS, Dow believes that it has compelling arguments to reverse, vacate, remand or otherwise overturn the Amended Judgment as well as defenses to the underlying claims asserted;

WHEREAS, Dow has concluded, despite its belief that it has meritorious arguments to reverse, vacate, remand or otherwise overturn the Amended Judgment and defenses to the underlying claims, that it will enter into this Settlement Agreement in order to avoid the further expense and risks attendant to the continued litigation;

WHEREAS, Plaintiffs have thoroughly analyzed the facts and the law regarding the Class Actions and have concluded, despite their belief that certiorari should be denied and the

Amended Judgment upheld, that a settlement with Dow according to the terms set forth below is in the best interest of Plaintiffs and the Class;

WHEREAS, arm's-length settlement negotiations have taken place between counsel for Plaintiffs and counsel for Dow, and this Settlement Agreement, which embodies all of the terms and conditions of the settlement between Dow and Plaintiffs, both individually and on behalf of the Class, has been reached as a result of the parties' negotiations, subject to approval of the Court;

WHEREAS, Plaintiffs, on behalf of themselves and the Class Members, and Dow agree that this Settlement Agreement shall not be deemed or construed to be an admission or evidence of the truth of any of Plaintiffs' claims or allegations in the above-captioned Actions or any other actions;

NOW, THEREFORE, in consideration of the covenants, agreements, and releases set forth herein and for other good and valuable consideration, it is hereby stipulated and agreed:

Definitions

The following terms, as used in this Settlement Agreement, have the following meanings:

1. "Amended Judgment" means the judgment entered against Dow by the District Court on July 26, 2013.
2. "Class" means all persons and entities who purchased the Products directly from a Defendant at any time from January 1, 1999 through December 31, 2003 in the United States and its territories, who have not timely elected to exclude themselves from the Class. Excluded from the Class are Defendants, their respective parents, employees, subsidiaries and affiliates, and all government entities.
3. "Class Actions" shall mean the above-captioned action and all cases consolidated therein.

4. “Class Counsel” shall refer to the law firms of Cohen Milstein Sellers & Toll PLLC; and Fine, Kaplan and Black, R.P.C.

5. “Class Member” means each member of the Class who has not timely elected to be excluded from the Class.

6. “Class Period” means the period from and including January 1, 1999 up to and including December 31, 2003.

7. “Class Representatives” or “Plaintiffs” means Seegott Holdings, Inc., Quabaug Corporation, and Industrial Polymers, Inc.

8. “Defendants” means Bayer AG, Bayer Corporation, Bayer MaterialScience AG, Bayer MaterialScience LLC (f/k/a Bayer Polymers LLC), BASF Corporation, BASF SE, The Dow Chemical Company, Huntsman International LLC, and Lyondell Chemical Company.

9. “Document” is defined to be synonymous in meaning and equal in scope to the usage of this term in Fed. R. Civ. P. 34(a), including, without limitation, electronic or computerized data compilations. A draft or non-identical copy is a separate document within the meaning of this term.

10. “Dow” means The Dow Chemical Company, and its respective past and present, direct and indirect, parents, subsidiaries, affiliates, officers, directors, employees, agents, attorneys, servants, and representatives (and the parents’, subsidiaries’, and affiliates’ past and present officers, directors, employees, agents, attorneys, servants, and representatives), and the predecessors, successors, heirs, executors, administrators, and assigns of each of the foregoing.

11. “Effective Date” shall mean the expiration of the time for appeal or to seek permission to appeal from the Court’s final approval of the Settlement Agreement and entry of the Final Judgment or, if an appeal from an approval and Final Judgment is taken, the affirmance

of such Final Judgment in its entirety, without modification, by the court of last resort to which an appeal of such Final Judgment may be taken.

12. “Escrow Account” shall mean an account that will be established for purposes of Dow depositing its settlement payment.

13. “Escrow Agreement” shall mean an agreement to establish and administer an escrow account that is mutually agreeable to the parties.

14. “Products” means propylene oxide based polyether polyols; monomeric or polymeric diphenylmethane diisocyanates (MMDI or PMDI – collectively, MDI); toluene diisocyanates (TDI); MDI-TDI blends; and/or propylene oxide based polyether polyol systems (except those that also contain polyester polyols).

15. “Released Claims” means those claims released pursuant to Paragraph 26 of this Settlement Agreement.

16. “Releasees” shall refer jointly and severally, individually and collectively to The Dow Chemical Company and its past and present, direct and indirect, parents, subsidiaries, affiliates, officers, directors, employees, agents, attorneys, servants, and representatives (and the parents’, subsidiaries’, and affiliates’ past and present officers, directors, employees, agents, attorneys, servants, and representatives), and the predecessors, successors, heirs, executors, administrators, and assigns of each of the foregoing.

17. “Releasers” shall refer jointly and severally, individually and collectively to Plaintiffs, the Class Members, and their respective past and present, direct and indirect, parents, subsidiaries, affiliates, officers, directors, employees, agents, attorneys, servants, and representatives (and the parents’, subsidiaries’, and affiliates’ past and present officers, directors,

employees, agents, attorneys, servants, and representatives), and the predecessors, successors, heirs, executors, administrators, and assigns of each of the foregoing.

18. “Settlement Amount” means the amount set forth in Paragraph 27 below.

19. “Settlement Fund” shall mean the Settlement Amount and any interest earned on that amount.

Procedure for Obtaining Court Approval of this Settlement Agreement, Resolution of the Appeal and Dismissal of Claims

20. Plaintiffs and Dow shall use their best efforts to effectuate this Settlement Agreement, and shall cooperate to promptly seek and obtain the Court’s preliminary and final approvals of this Settlement Agreement (including providing class notice under Federal Rule of Civil Procedure 23(c) and (e)) and to secure the prompt, complete and final dismissal with prejudice of the Class Actions as to Dow consistent with the procedures set forth herein.

21. The Parties will promptly notify the Supreme Court of the United States of this Settlement Agreement (which is subject to approval by the District Court as described below) and will request that proceedings before the Supreme Court be stayed so that the parties can attempt to implement the Settlement Agreement.

22. Within twenty (20) business days after execution of this Settlement Agreement, Plaintiffs shall submit to the Court and Dow shall not object to a motion requesting entry of an Order preliminarily approving the Settlement Agreement and authorizing dissemination of notice to the Class (the “Motion”), as well as a stay of all proceedings by the Class against Dow except those proceedings provided for or required by this Settlement Agreement. The Motion shall include the proposed form of, method for, and timetable for dissemination of notice to the Class.

23. Subject to Dow's review and approval, which shall not be unreasonably withheld, Plaintiffs shall seek and Dow shall not object to entry of a final judgment order:

a. approving finally this Settlement Agreement and its terms as being a fair, reasonable, and adequate settlement as to the Class Members within the meaning of Rule 23 of the Federal Rules of Civil Procedure and directing its consummation according to its terms;

b. directing that, as to Dow, the Class Actions be dismissed with prejudice and, except as provided for in this Settlement Agreement, without costs;

c. reserving exclusive jurisdiction over the settlement and this Settlement Agreement, including the administration and consummation of this settlement; and

d. finding under Federal Rule of Civil Procedure 54(b) that there is no just reason for delay and directing that the judgment of dismissal as to Dow shall be final and entered forthwith.

24. This Settlement Agreement shall become final only upon: (a) the entry by the Court of a final order approving the Settlement Agreement under Rule 23(e) of the Federal Rules of Civil Procedure together with entry of a final judgment dismissing the Class Actions and all claims therein against Dow on the merits with prejudice as to all Class Members (the "Final Judgment"), and (b) the expiration of the time for appeal or to seek permission to appeal from the Court's approval of the Settlement Agreement and entry of the Final Judgment or, if an appeal from an approval and Final Judgment is taken, the affirmance of such Final Judgment in its entirety, without modification, by the court of last resort to which an appeal of such Final Judgment may be taken. It is agreed that neither the provisions of Rule 60 of the Federal Rules of Civil Procedure nor the All Writs Act, 28 U.S.C. § 1651, shall be taken into account in determining the above-stated times.

25. The Supersedeas Bond that Dow filed on October 14, 2013 shall remain in place until it makes its settlement payment into the Escrow Account pursuant to Paragraph 27.

Release and Discharge

26. In addition to the effect of any final judgment entered in accordance with this Settlement Agreement, upon the occurrence of the Effective Date and in consideration of payment of the Settlement Amount specified in Paragraph 27 of this Settlement Agreement, the Releasees shall be completely released, acquitted, and forever discharged from any and all claims, demands, actions, suits, and causes of action, whether class, individual, or otherwise in nature, damages whenever incurred, liabilities of any nature whatsoever, including costs, expenses, penalties, and attorneys' fees, known or unknown, suspected or unsuspected, asserted or unasserted, in law or equity, that Releasors, or any one of them, whether directly, representatively, derivatively, or in any other capacity, ever had, now have, or hereafter can, shall, or may have against the Releasees, relating in any way to any conduct by Releasees and/or any joint and several liability arising from the conduct of any of the Defendants in the Class Actions from the beginning of time until the Effective Date concerning the pricing, purchase, selling, discounting, marketing, manufacturing, offering and/or distributing of the Products in the United States and its territories or for delivery in the United States and its territories (the "Released Claims"). The Released Claims also include, but are not limited to, all claims asserted or which could have been asserted in the Class Actions relating to or arising out of the facts, occurrences, transactions, or other matters alleged or otherwise raised during the proceedings by Plaintiffs and/or Dow in the above-captioned actions. However, nothing herein shall be construed to release any claims relative to any product defect, breach of contract, or similar claim between the parties relating to the Products. The Releasors covenant and agree that they, and each of them, shall not, after the Effective Date of this Settlement Agreement, assert any

claim or commence or continue any proceeding seeking to recover against any of the Releasees for any of the Released Claims.

Payment

27. Subject to the provisions hereof, and in full, complete, and final settlement of the Class Actions as provided herein, Dow agrees to pay the Plaintiffs, on behalf of the Class Members, the Settlement Amount of Eight Hundred and Thirty-Five Million Dollars (\$835,000,000.00). Within ten (10) business days after the Court's preliminary approval of the Settlement Agreement, Dow shall pay the Settlement Amount into the Escrow Account, which amount shall be available immediately thereafter for reimbursement of such costs, fees, and expenses associated with the provision of notice to the members of the Class pursuant to Paragraph 29 hereof as may be approved by the Court.

The Settlement Fund

28. Each Class Member shall look solely to the Settlement Fund for settlement and satisfaction, as provided herein, of all claims released by the Releasers pursuant to Paragraph 26 herein. Except as provided by order of the Court, no Class Member shall have any interest in the Settlement Fund or any portion thereof.

29. Before the Effective Date, disbursements for expenses associated with providing notice of the settlement to the Class, expenses associated with administering the settlement, and any payments and expenses incurred in connection with taxation matters relating to the settlement and this Settlement Agreement may be made from the Settlement Fund, and such amounts shall not be refundable to Dow in the event the Settlement Agreement is disapproved, rescinded, or otherwise fails to become effective.

30. This Settlement Fund shall be invested in United States Government Treasury obligations or United States Treasury Money Market funds, provided, however, that such portions of the Settlement Fund as may reasonably be needed to pay current expenses associated with providing notice to the Class and administering the Settlement Fund may be deposited in a federally insured bank account. All interest earned by the Settlement Fund shall become and remain part of the Settlement Fund.

31. Dow shall not have any responsibility, financial obligation, or liability whatsoever with respect to the investment, distribution, use, or administration of the Settlement Fund, including, but not limited to, the costs and expenses of such investment, distribution, or administration, except as otherwise provided in this Settlement Agreement.

32. After the Effective Date, the Settlement Fund shall be distributed in accordance with a plan that Class Counsel shall submit at the appropriate time for approval by the Court and as approved by the Court.

33. Plaintiffs and Class Counsel shall be reimbursed and paid solely out of the Settlement Fund for all expenses including, but not limited to, attorneys' fees; past, current, or future litigation expenses (including, but not limited to, experts' and consultants' fees and expenses); the costs of giving notice of this settlement to the Class; and any incentive awards to the Class Representatives, subject to application to and approval of the Court.

34. Dow agrees to take no position with respect to any application to the Court by Class Counsel for an award of attorneys' fees, and reimbursement of costs and expenses incurred in the prosecution of these Class Actions, or for any application to the Court for approval of incentive awards to the Class Representatives, or for the allocation or distribution of the Settlement Amount.

35. Apart from the Dow payment described in Paragraph 27 of this Settlement Agreement, Dow shall have no responsibility whatsoever for the allocation or distribution of the Settlement Amount and shall not be responsible or otherwise liable for any disputes relating to the amount, allocation, or distribution of any fees, costs, or awards. Further, apart from the Dow payment described in Paragraph 27 of this Settlement Agreement, Dow shall not be liable for any additional payments to the Class Members or Class Counsel pursuant to this Settlement Agreement.

36. Dow agrees not to object, subject to any Order of the Court, to any motion seeking the payment to Class Counsel of approved attorneys' fees, costs, and expenses within ten (10) business days after entry of the Final Judgment (as defined in Paragraph 24 herein) and any order awarding attorneys' fees, costs, and expenses. Disbursement of such fees, costs, and expenses shall not be delayed by reason of any appeal of the Final Judgment; provided, however, if the Court's award of fees, costs, and expenses is vacated, reversed, or reduced as a result of an appeal, Class Counsel shall within ten (10) business days after receiving written notice from the Court or from Dow of such vacatur, reversal, or reduction, make a refund to the Escrow Account in the amount of such vacatur, reversal, or reduction with interest, and further provided that if Plaintiffs and/or Dow elect to rescind the Settlement Agreement as described in Paragraph 37 below, Class Counsel shall within ten (10) business days after giving notice to or receiving notice from Dow of such rescission, make a refund to the Escrow Account in the amount of any such fees, costs, and expenses with interest. The interest rate applicable to any refund made to the Escrow Account pursuant to this Paragraph shall be the same interest rate earned by the United States Government Treasury obligations or United States Treasury Money Market funds

during the period between the payment of approved attorneys' fees, costs, and expenses and any such refund.

Rescission if the Settlement Agreement is Not Finally Approved

37. If the Court declines, preliminarily or otherwise, to approve this Settlement Agreement or any part hereof, or if such approval is materially modified or set aside on appeal, or if the Court does not enter the Final Judgment, or if the Court enters the Final Judgment and order and appellate review is sought and, on such review, such Final Judgment is not affirmed, then Dow and the Plaintiffs shall each, in their respective sole discretion, have the option to rescind this Settlement Agreement, and any and all amounts constituting the Settlement Fund (including, but not limited to, any fees, costs, and/or expenses advanced to Class Counsel pursuant to Paragraph 36 above) shall be returned forthwith to Dow, except for any disbursements made or incurred in accordance with Paragraph 29 of this Settlement Agreement. The Escrow Agent shall disburse the Settlement Fund to Dow in accordance with this Paragraph within fifteen (15) business days after receipt of either (i) written notice signed by counsel for Dow and Class Counsel stating that this Settlement Agreement has been canceled or terminated, or (ii) any order of the Court so directing. If the Settlement Agreement is rescinded, canceled, or terminated pursuant to this Paragraph, any obligations pursuant to this Settlement Agreement (other than disbursement of the Settlement Fund to Dow as set forth above) shall cease immediately. A modification or reversal on appeal of any amount of Class Counsel's fees and expenses awarded by the Court from the Settlement Fund or any plan of allocation or distribution of the Settlement Fund shall not be deemed a modification of all or part of the terms of this Settlement Agreement or the Final Judgment.

38. The parties agree that this Settlement Agreement, whether or not it shall become final, and any and all negotiations, documents, and discussions associated with it, shall not be deemed or construed to be an admission or evidence of any violation of any statute or law or of any liability or wrongdoing by Dow or of the truth of any of the claims or allegations made in the Class Actions, and evidence thereof shall not be admissible, discoverable or used directly or indirectly in any way in the Class Actions or in any other action or proceeding (except an action to enforce or interpret the terms of the Settlement Agreement). The parties expressly reserve all of their rights if the settlement does not become final in accordance with the terms of this Settlement Agreement.

Taxes

39. Class Counsel shall be solely responsible for directing the Claims Administrator to file all informational and other tax returns necessary to report any taxable and/or net taxable income earned by the Settlement Fund. Further, Class Counsel shall be solely responsible for directing the Escrow Agent to take out of the Settlement Fund, as and when legally required, any tax payments, including interest and penalties due on income earned by the Settlement Fund. Dow shall have no responsibility to make any filings relating to the Settlement Fund and shall have no responsibility to pay tax on any income earned by the Settlement Fund or to pay any taxes on the Settlement Fund unless the settlement is not consummated and the Settlement Fund is returned to Dow. Other than as specifically set forth herein, Dow shall have no responsibility for the payment of taxes or tax expenses. If for any reason, for any period of time, Dow is required to pay taxes on income earned by the Escrow Account, the Escrow Agent shall, upon written instructions from Dow with notice to Class Counsel, timely pay to Dow sufficient funds to enable it to pay all taxes (state, federal, or other) on income earned by the Escrow Account.

40. For the purpose of § 468B of the Internal Revenue Code of 1986, as amended, and the regulations promulgated thereunder, the “Administrator” of the Escrow Account shall be the Claims Administrator, who shall timely and properly file or cause to be filed on a timely basis, all tax returns necessary or advisable with respect to the Escrow Account (including without limitation all income tax returns, all informational returns, and all returns described in Treas. Reg. § 1.468B-2(1)).

41. The parties to this Settlement Agreement and their counsel shall treat, and shall cause the Claims Administrator to treat, the Escrow Account as being at all times a “qualified settlement fund” within the meaning of Treas. Reg. § 1.468B-1. The parties, their counsel, the Claims Administrator, and the Escrow Agent agree that they will not ask the Court to take any action inconsistent with the treatment of the Escrow Account in such manner. In addition, the Claims Administrator and, as required, the parties shall timely make such elections as necessary or advisable to carry out the provisions of this Paragraph, including the “relation-back election” (as defined in Treas. Reg. § 1.468B-1(j)) back to the earliest permitted date. Such elections shall be made in compliance with the procedures and requirements contained in such regulations. It shall be the responsibility of the Claims Administrator timely and properly to prepare and deliver the necessary documentation for signature by all necessary parties and thereafter to cause the appropriate filing to occur. All provisions of this Settlement Agreement shall be interpreted in a manner that is consistent with the Escrow Account being a “qualified settlement fund” within the meaning of Treas. Reg. § 1.468B-1.

Miscellaneous

42. This Settlement Agreement does not settle or compromise any claim other than the Released Claims against the Releasees. All rights of any Class Member against any person

or entity other than the Releasees for sales made by Dow are specifically reserved by Plaintiffs and the Class Members.

43. Plaintiffs waive California Civil Code Section 1542 and similar provisions in other states. Plaintiffs certify that they are aware of and have read and reviewed the following provisions of California Civil Code Section 1542 (“Section 1542”): “A general release does not extend to claims which the creditor does not know or suspect to exist in his favor at the time of executing the release, which if known by him must have materially affected his settlement with the debtor.” The provisions of the release set forth above shall apply according to their terms, regardless of provisions of Section 1542 or any equivalent, similar, or comparable present or future law or principle of law of any jurisdiction. Plaintiffs hereby expressly waive and relinquish any and all rights and benefits existing under (i) Section 1542 or any equivalent, similar, or comparable present or future law or principle of law of any jurisdiction and (ii) any law or principle of law of any jurisdiction that would limit or restrict the effect or scope of the provisions of the release set forth above.

44. This Settlement Agreement constitutes the entire, complete and integrated agreement among Plaintiffs and Dow pertaining to the settlement of the Class Actions against Dow only and supersedes any and all prior and contemporaneous undertakings of Plaintiffs and Dow in connection therewith. This Settlement Agreement may be modified or amended only by a writing executed by Class Counsel and Dow’s counsel and approved by the Court.

45. All terms of this Settlement Agreement shall be governed by and interpreted according to the substantive laws of New York without regard to its choice of law or conflict of law principles.

46. The United States District Court for the District of Kansas retains exclusive jurisdiction over all matters relating to the implementation and enforcement of the Settlement Agreement.

47. This Settlement Agreement may be executed in counterparts by Plaintiffs and Dow, and a facsimile signature or a tangible communication from one authorized to sign indicating that a signature has been affixed shall be deemed an original signature for purposes of executing this Settlement Agreement.

48. Each of the undersigned attorneys represents that he is fully authorized to enter into the terms and conditions of, and to execute, this Settlement Agreement on behalf of his respective clients, subject to Court approval.

49. All notices made under this Settlement Agreement shall be in writing. Each such notice shall be given by (a) hand delivery; (b) registered or certified mail, return receipt requested, postage pre-paid; or (c) Federal Express, UPS, or similar overnight courier, and shall be addressed to counsel listed below or to their partners or successors, as appropriate. Copies of all notices under this Settlement Agreement shall also be transmitted by e-mail to those same counsel.

50. Dow agrees to file in the United States Supreme Court on or before February 26, 2015, a Joint Motion to Hold Petition in Abeyance ("Joint Motion"). The Settlement Agreement is contingent on the Supreme Court granting the Joint Motion. If the Joint Motion is denied, this Settlement Agreement shall be void and have no further force or effect. In addition, regardless of the previously listed contingency, if the Supreme Court issues an order or opinion granting, denying, or dismissing Dow's petition for a writ of certiorari in the above-captioned action (in whole or in part) or disposing of that action in any other manner, summarily or

otherwise (including by affirming, modifying, reversing, vacating, or remanding any judgment or order in the action) prior to the Settlement Agreement becoming final pursuant to Paragraph 24 hereof, other than with respect to the granting of the Joint Motion or the relief requested in the Joint Motion, this Settlement Agreement shall be void and have no further force or effect.

IN WITNESS WHEREOF, the parties hereto, through their fully authorized representatives (subject to the limitations described above), have agreed to this Settlement Agreement as of the date first herein written above.

By: _____

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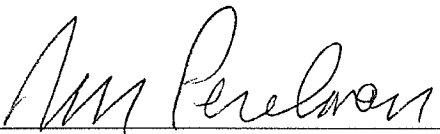
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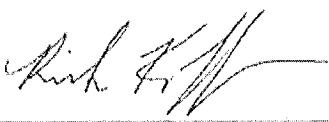
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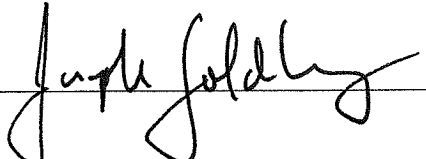
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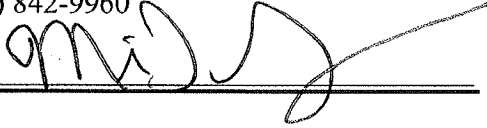
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