

SCIO TOWNSHIP

SETTLEMENT AGREEMENT

This Settlement Agreement (“Settlement Agreement” or “Agreement”) is made and entered into this ____ day of _____, 2020, between Scio Township, a Michigan municipal corporation, with offices at 827 N. Zeeb Road, Ann Arbor, MI, 48103 and Gelman Sciences, Inc., a Michigan Corporation, with offices at 642 South Wagner Road, Ann Arbor, Michigan, 48103.

I. GENERAL PROVISIONS

- A. Compromise of Claims/Consideration. Except as otherwise expressly provided herein, the Township and Gelman (collectively, the “Parties”) acknowledge that this Settlement Agreement is a compromise, among other things, of all Claims made by the Township, including Claims for Intervention, in *Attorney General v. Gelman Sciences*, Case No. 88-34734-CE (Washtenaw Cty. Cir. Ct.) (the “State Enforcement Action”) and that these compromises, the Order of Dismissal and the Continuing Rights provided therein, and other valuable consideration, and the commitments reflected herein, provide the consideration for the Parties’ entry into this Settlement Agreement.
- B. Effect of Settlement. The Parties recognize that this Settlement Agreement is a compromise of disputed Claims and defenses. By entering into this Settlement Agreement, neither Party admits any fault or liability under any statutory or common law, and does not waive any rights, claims, or defenses with respect to any person except as otherwise provided herein. By entering into this Settlement Agreement, neither Party admits the validity or factual basis of any of the positions or defenses asserted by the other Party. The Settlement Agreement and the compromises reflected herein shall have no *res judicata* effect and shall not be admissible as evidence in any other proceeding, except in a proceeding between the Parties seeking enforcement of this Agreement.

C. Parties Bound. This Settlement Agreement applies to and is binding upon and inures to the benefit of the Township, Gelman, and their successors and assigns. This Settlement Agreement shall inure to the benefit of and be binding upon the successors and assigns, if any, of Gelman to its obligations and rights under the Fourth Amended and Restated Consent Judgment entered into in the State Enforcement Action (as may be amended)(the “Consent Judgment”).

II. DEFINITIONS

The following terms, when capitalized in this Agreement, shall have the meanings specified in this Section II.

A. 2014 NPDES Permit means Gelman’s National Pollutant Discharge Elimination System Permit No. MI 0048453 dated October 1, 2014.

B. Claims means any claim, allegation, demand, order, directive, action, suit, cause of action, counterclaim, cross-claim, third-party action, administrative proceeding, arbitration or mediation demand, or demand for Intervention, whether at law or in equity, and whether sounding in tort, equity, nuisance, trespass, negligence, contract, third-party beneficiary, strict liability, statutory, regulatory, administrative, judicial court rule, or common law, cause of action of any sort, asserted and unasserted, known and unknown, anticipated and unanticipated, past, present, and future of any nature whatsoever, including, without limitation, any and all claims for statutory, injunctive, declaratory, or administrative relief, contribution, indemnification, reimbursement, Response Costs, Response Activity Costs, loss in the value of property, damages, expenses, penalties, costs, liens, or attorney/expert fees.

C. Consent Judgment means the Fourth Amended and Restated Consent Judgment, as may be amended, entered in the State Enforcement Action.

D. Gelman means Gelman Sciences, Inc., a Michigan Corporation with offices at 642 South

Wagner Road, Ann Arbor, Michigan, 48103, its successors and assigns, including the successors and assigns, if any, to Gelman's obligations and rights under the Consent Judgment.

- E. Gelman Property has the same meaning as the definition of that term in Section III.I of the Consent Judgment.
- F. Gelman Remediation means the Remedial Action described in the Consent Judgment, associated court orders, and EGLE-approved work plans.
- G. Hazardous Substances has the same definition as that term in Section 20101(1)(x) of NREPA, MCL 324.20101(1)(x), but does not for purposes of this Settlement Agreement include Perfluorononanoic Acid (PFNA), Perfluorooctanoic Acid (PFOA), Perfluorooctanoic Sulfonic Acid (PFOS), Perfluorohexane Sulfonic Acid (PFHxS), Hexafluoropropylene Oxide Dimer Acid (HFPO-DA), Perfluorobutane Sulfonic Acid (PFBS), and Perfluorohexanoic Acid (PFHxA).
- H. Intervention means Claims seeking to intervene as a party or participant in an existing lawsuit, judicial or administrative proceeding, or arbitration, including without limitation, Claims under MCR 2.209(A) or (B), MCL 324.20137(8), Federal Rule of Civil Procedure 24, or 42 U.S.C. § 9613(i).
- I. Order of Dismissal means the Stipulated Order attached as Exhibit 1.
- J. Release has the same meaning as the definition of that term in Section 20101(1)(pp) of NREPA, MCL 324.20101(1)(pp).
- K. Remedial Action has the same meaning as the definition of that term in Section 20101(1)(qq) of NREPA, MCL 324.20101(1)(qq).
- L. Response Activity(ies) has the same meaning as the definition of that term in Section 20101(1)(vv) of NREPA, MCL 324.20101(1)(vv).

- M. Response Activity Costs has the same meaning as the definition of that term in Section 20101(1)(ww) of NREPA, MCL 324.20101(1)(ww).
- N. Response Costs has the same meaning as the definition of that term in 42 U.S.C. § 9607(a).
- O. Township means, collectively, Scio Township, a Michigan municipal corporation, with offices at 827 N. Zeeb Road, Ann Arbor, MI, 48103, its departments, including the Utility Department, its Manager, acting in his official capacity, its Trustees acting in their official capacity, Boards, and Commissions.
- P. USEPA means the United States Environmental Protection Agency.

III. DISMISSAL OF INTERVENTION; ENTRY OF CONSENT JUDGMENT

- A. Dismissal of Intervention. Upon execution of this Agreement, the Township and Gelman shall promptly execute the Order of Dismissal. Each Party shall, at its own expense, take appropriate actions on its behalf to seek entry of the Order of Dismissal.
- B. Entry of Consent Judgment. Upon execution of this Agreement, the Township and Gelman shall each at its expense, and in coordination with EGLE, take appropriate actions on its behalf to seek entry of the Consent Judgment.

IV. RELEASE OF CLAIMS

- A. Township Release. Except as provided in Paragraph IV.B, below, the Township hereby irrevocably and unconditionally forever waives, releases, relinquishes, acquits, covenants not to sue, and discharges, Gelman, its predecessors, its parent corporation, Pall Corporation and its parent corporation, their subsidiaries and affiliates, and their respective current and former partners, venturers, stockholders, directors, managers, officers, legal representatives, agents, employees, successors, and assigns (collectively, the “Released Parties”) from any and all Claims that it may now or in the future have against the Released Parties in connection with the Covered Matters. Covered Matters are defined as:

1. All Claims arising directly or indirectly from Hazardous Substances, including but not limited to 1,4-Dioxane, in soil, groundwater, air, and surface water present at or emanating or migrating from the Gelman Property at any concentration now or in the future that was originally Released, disposed or discharged to and/or from the Gelman Property prior to the Effective Date of this Agreement and any future Releases or discharges of any Hazardous Substances, including without limitation 1,4-Dioxane, pursuant to and in compliance with any NPDES permit issued to Gelman (collectively “Contamination”), including, without limitation, all Claims that were or could have been raised or asserted in the State Enforcement Action.
 2. Subject to the Township’s “Continuing Rights” under the Order of Dismissal, all Claims for Intervention in connection with Contamination.
 3. Subject to the Township’s “Continuing Rights” under the Order of Dismissal, all Claims past, present and future, for civil fines, penalties and costs arising directly or indirectly from Hazardous Substances Released before the Effective Date of this Agreement and any future discharges of any Hazardous Substances, including without limitation 1,4-Dioxane, pursuant to and in compliance with any NPDES permit issued to Gelman.
- B. Exceptions and Reservation of Rights. Notwithstanding Paragraph IV.A, above, the Township reserves, and this Agreement is without prejudice to, its right to petition, sue, or otherwise proceed against Gelman, with respect to enforcement of this Agreement and the Order of Dismissal.

V. COOPERATION AND COORDINATION

- A. Access to Information/Records. Upon written request from Gelman and in accordance with its rules and procedures, the Township shall promptly provide Gelman with information and

records in its possession or control that are necessary to assist Gelman's preparation of specifically identified and described work plans, reports, and engineering plans in connection with EGLE-approved Response Activities related to the Consent Judgment, including without limitation, the Municipal Water Connection Contingency Plans, and the Downgradient Investigation described in Consent Judgment Sections V.A.2.j, V.B.3.e, and V.A.5.f, respectively. Such records include, but may not be limited to, studies and other data related to the elevations and hydraulic capacity of water mains, drains, and storm and sanitary sewers, and digital drawings of utilities/infrastructure including water and sewer mains and connections. If they are available, the format of such digital drawings shall be AutoCad compatible. If AutoCad files are not available, the requested drawings shall be provided as PDF files. If no digital files are available, Gelman shall be provided physical access to hardcopies of drawings and the ability to copy those drawings or documents. The Township may require Gelman and/or its representatives to execute and comply with appropriate confidentiality agreements as a condition to providing records and information exempted from disclosure under Section 13(1)(y) of the Michigan Freedom of Information Act (MCL 15.243(1)(y)), and Gelman agrees to comply with, and agrees to require its agents and contractors to comply with, the terms of said confidentiality agreements.

- B. Cooperation with Gelman Remediation. Consistent with, subject to, and without diminishing the Township's Continuing Rights under the Order of Dismissal, the Township shall cooperate with the Gelman Remediation and Gelman's implementation of the Consent Judgment, including the institutional control-based remedy for the Eastern Area and the non-expansion objective for the Western Area described in Consent Judgment Sections V.A.2 and V.B.1, respectively, and all related EGLE-approved plans. The Township's cooperation shall include not soliciting USEPA and/or the Governor to ask USEPA to take a role with

regard to the Gelman Sciences Site and/or to have the Site listed on the National Priorities List. The June 14, 2016 “Scio Township Board of Trustees Resolution supporting a Petition to USEPA for the Gelman Sciences, Inc. site to be Designated as a USEPA Superfund Site” (the “Resolution”) is rescinded and superseded by the provisions of this Agreement and Gelman may present this Agreement as evidence of the Township’s rescission of the previously-adopted Resolution.

- C. Future Wetlands and NPDES Permits. The Township’s entry into this Settlement Agreement shall constitute evidence of its approval of and support for EGLE’s issuance of wetlands permit(s), NPDES permits, and the renewal of the 2014 NPDES Permit, as reasonably necessary to implement the Gelman Remediation, provided that Gelman satisfies all legal requirements for such permits. Gelman may present this Settlement Agreement to EGLE as evidence of the Township’s support for the above-described permit(s).
- D. Township Wetlands Permit. In accordance with Chapter 16, Article V of the Township Code of Ordinances, as may be amended, the Township shall process any wetlands permit application Gelman is required to submit in connection with the Gelman Remediation, including the phytoremediation described in Consent Judgment Section VI.C.3. The Township shall not require wetlands mitigation as a condition of granting such a permit provided that Gelman is otherwise in compliance with Chapter 16, Article V of the Township Code of Ordinances, as may be amended, and the Consent Judgment.
- E. Township Water Connection Costs. If Gelman is required to provide a Township water connection under Consent Judgment Section V.B.4.e.vi, Gelman shall be responsible for the costs of connecting the property(ies) to the existing Township water main system and the cost of extending a water main and other necessary associated infrastructure improvements large enough to provide the property(ies) required to be connected with the volume of water

required for potable uses if such a main is not already available to the property(ies). Gelman shall not be responsible for the costs associated with infrastructure improvements that are not necessary to provide said property(ies) with the volume of water required for potable uses. Gelman shall consult with the Township and consider in good faith its comments and concerns regarding the size of the water main extension and the properties to be connected to the Township water main system. The cost of water supplied to the property(ies) after connection to the Township water system shall be billed to the owner of the relevant property(ies), not Gelman, in accordance with the Township's normal billing practices. To the extent Gelman is required under Section V.B.4.e.vi of the Consent Judgment to provide a long-term alternative water supply and a non-Township water connection option is selected, Gelman shall be responsible for the entire cost of the selected long-term alternative water supply. Such alternatives include, a community well, the installation of a new drinking water well, a point of use treatment system, or other option approved by EGLE.

VI. MISCELLANEOUS

- A. Severability. The provisions of this Agreement shall be severable. Should any provision be declared by a court of competent jurisdiction to be inconsistent with federal or state law, and therefore unenforceable, the remaining provisions of this Agreement shall remain in full force and effect.
- B. Warranties. The Parties each represent and warrant that:
1. The execution and delivery of this Agreement has been duly and validly authorized and approved by all requisite action required under applicable law and that no further action is necessary to make this Agreement valid and binding.
 2. Each is fully authorized to enter into this Agreement and is duly organized and validly existing in good standing under the laws of one of the states of the United States of

America.

3. Each has taken all necessary governmental, corporate and internal legal actions to duly approve the making and performance of this Agreement and that no further corporate or other internal approval is necessary.
 4. The making and performance of this Agreement will not, to the knowledge of either of the Parties, violate any provision of law or of their respective articles of incorporation, charter or by-laws.
 5. Knowledgeable officials, officers, employees and/or agents of each Party have read this entire Agreement and know the contents hereof and that the terms of the Agreement are contractual and not merely recitals. Each Party has authorized this Agreement to be signed of its own free act, and, in making this Agreement, each has obtained the advice of legal counsel.
- C. Signatories. Each person executing this Agreement warrants that he or she has the authority and power to execute this Agreement from the Party on whose behalf he or she is executing.
- D. Change of Circumstances. Each Party to this Agreement acknowledges that it may hereafter discover facts in addition to or different from those which it now knows or believes to be true with respect to the subject matter of this Agreement. The Parties each expressly accept and assume the risk of such possible difference in facts and agree that this Agreement shall be and remain effective notwithstanding such difference in facts.
- E. No Rights to Non-Parties. Except as expressly provided herein, this Agreement is intended to confer rights and benefits only upon the Township and Gelman, and is not intended to confer any right or benefit upon any other person or entity. Except as expressly provided herein, no person or entity other than Gelman and the Township shall have any legally enforceable right under this Agreement.

- F. Arms-Length Negotiations. This Agreement is the product of arms-length negotiations, and the language in all parts of this Agreement shall be construed as a whole according to its meaning, and not strictly for or against any Party. The Parties hereto agree that this Agreement shall not be construed according to any special rules of construction applicable to contracts of adhesion and/or insurance contracts.
- G. Modification. This Agreement may not be modified in whole or in part except by written agreement signed by the Township and Gelman.
- H. Headings. The headings used in this Agreement are for convenience only and shall not be used to construe the provisions of this Agreement.
- I. Cooperation. The Township and Gelman shall execute promptly any and all voluntary dismissals, stipulations, supplemental agreements, releases, affidavits, waivers and other documents of any nature or kind which the other Party may reasonably require in order to implement the provisions or objectives of this Agreement.
- J. No Representations. The Parties represent and agree that in executing this Agreement they do not rely and have not relied upon any representation or statement made by any other Party or by any other person or entity released herein with regard to the subject matter, basis, or effect of this Agreement, or otherwise, which is not specifically set forth herein.
- K. Entire Agreement. This Agreement represents the entire understanding of the Township and Gelman, and this Agreement shall supersede and control any and all prior communications, correspondence, and memorialization of agreement or prior communication between the Township and Gelman or their representatives relative to the matters contained herein.
- L. Counterpart Signatures. This Agreement may be executed in multiple counterparts, each of which, when so executed and delivered, shall be an original, but such counterparts shall together constitute one and the same instrument and agreement.

- M. Governing Law. This Agreement shall in all respects be interpreted, enforced, and governed under the law of the State of Michigan and the law of the United States without regard to Michigan's conflict of laws principles.
- N. No Waiver. The failure of any of the Parties to exercise any power given such Party hereunder or to insist upon strict compliance by any Party with its obligations under this Agreement, and no custom or practice of the Parties at variance with the terms of this Agreement shall constitute a waiver of the Parties' right to demand exact compliance with the terms hereof.
- O. Effective Date. The Effective Date of this Agreement shall be on the date the later of the following two events occur: (i) the Order of Dismissal specified in Section III is entered; and (ii) the Consent Judgment is entered. This Agreement shall be effective only if both the Order of Dismissal specified in Section III and Consent Judgment are entered.
- P. Enforcement. The Parties agree that the Washtenaw County Circuit Court has exclusive jurisdiction to enforce the terms of this Agreement as appropriate.

****SIGNATURE PAGE FOLLOWS****

IN WITNESS WHEREOF, the Parties have executed this Agreement, consisting of twelve (12) pages plus Exhibit 1, by their duly authorized representatives as set forth below.

Scio Township

Gelman Sciences, Inc.,

By: Jessica Flintoft
Its: Township Clerk

By:
Its:

By: Jack Knowles
Its: Township Supervisor

William J. Stapleton
Hooper Hathaway, P.C.
Counsel for Scio Township

Michael L. Caldwell,
Zausmer, PC
Counsel for Gelman Sciences, Inc.