

THE STATE OF NEW HAMPSHIRE

MERRIMACK, SS.

SUPERIOR COURT

Docket No. 217-2003-EQ-00106

In the Matter of the Liquidation of  
The Home Insurance Company

LIQUIDATOR'S MOTION FOR APPROVAL OF  
SETTLEMENT AGREEMENT WITH POLYONE CORPORATION  
AND GOODRICH CORPORATION

Christopher R. Nicolopoulos, Insurance Commissioner of the State of New Hampshire, as Liquidator ("Liquidator") of The Home Insurance Company ("Home"), moves that the Court enter an order in the form submitted herewith approving a Settlement Agreement and Mutual Release ("Settlement Agreement") between PolyOne Corporation, formerly known as The Geon Company ("PolyOne"), Goodrich Corporation, formerly known as B.F. Goodrich Company ("Goodrich" and, with PolyOne, "Claimants"), and the Liquidator. As reasons therefor, the Liquidator states as follows:

1. The Settlement Agreement was negotiated under the supervision of the Special Deputy Liquidator. A copy of the Settlement Agreement is attached hereto as Exhibit A. Affidavit of Peter A. Bengelsdorf, Special Deputy Liquidator, in Support of Motion for Approval of Settlement Agreement with PolyOne Corporation and Goodrich Corporation ("Bengelsdorf Aff.") ¶ 2.

2. Home issued ten policies under which B.F. Goodrich Company ("BFG") is the named insured for various periods between January 1, 1973 and July 1, 1985 which, together with all other insurance policies Home may have issued to BFG before the effective date of the Settlement Agreement, are referred to collectively as the "Policies". Settlement Agreement, second Whereas clause. Bengelsdorf Aff. ¶ 3.

3. PolyOne submitted a proof of claim in the Home liquidation seeking coverage under the Policies in connection with asserted liability arising out of contamination at a site in Calvert City, Kentucky presently or formerly operated by BFG (the “Calvert City Site”), which was assigned two proof of claim numbers and which, together with any other proofs of claim hereinbefore or hereinafter filed by PolyOne in the Home liquidation asserting claims under the Policies, are referred to collectively as the “PolyOne Proofs of Claim”. Id., third Whereas clause. The Liquidator disallowed the two proofs of claim, and PolyOne objected to the disallowance. PolyOne’s claim is presently pending as Disputed Claim Proceeding 2019-HICIL-62 (the “Disputed Claim Proceeding”). Id.<sup>1</sup> Bengelsdorf Aff. ¶ 4.

4. Goodrich submitted a proof of claim in the Home liquidation seeking coverage under the Policies in connection with asserted liability arising out of contamination at the Calvert City Site, as well as other matters, which was assigned ten proof of claim numbers and which, to the extent they assert claims with respect to the Calvert City Site, and together with any other proofs of claim hereinbefore or hereinafter filed by Goodrich in the Home liquidation to the extent they assert claims with respect to the Calvert City Site, are referred to collectively as the “Goodrich Calvert City Proofs of Claim”. Id., fourth Whereas clause. Goodrich is a participant in the Disputed Claim Proceeding. Id.<sup>2</sup> Bengelsdorf Aff. ¶ 5.

5. The Liquidator and the Claimants have negotiated the Settlement Agreement reflecting a resolution of all matters concerning the PolyOne Proofs of Claim and all PolyOne’s rights and obligations with respect to the Policies and all matters concerning the Goodrich Calvert City Proofs of Claim and all Goodrich’s rights and obligations with respect to the

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<sup>1</sup> PolyOne has also asserted claims in the Home liquidation under policies other than those issued to BFG. Those claims have been disallowed and are not affected by the Settlement Agreement.

<sup>2</sup> Goodrich is also asserting claims in the Home liquidation under the Policies concerning matters other than the Calvert City Site. Those claims are not affected by the Settlement Agreement.

Policies as to the Calvert City Site. The Settlement Agreement is subject to approval by the Court. Settlement Agreement ¶ 1. Bengelsdorf Aff. ¶ 6.

6. The Settlement Agreement provides that the Liquidator will recommend allowance of the PolyOne Proofs of Claim and the Goodrich Calvert City Proofs of Claim in the amount of \$15,000,000 (the “Recommended Amount”) as a Class II priority claim of PolyOne under RSA 402-C:44. Settlement Agreement ¶ 2(A). Allowance of the Recommended Amount as a Class II claim will fully and finally resolve the PolyOne Proofs of Claim, the Goodrich Calvert City Proofs of Claim, all claims that PolyOne has under the Policies, and all claims that Goodrich has under the Policies with respect to the Calvert City Site. *Id.* ¶ 2(B). Distributions based on that allowance will be made to PolyOne at the same intervals and at the same percentages as distributions to other Class II creditors of Home. *Id.* ¶ 2(C). Bengelsdorf Aff. ¶ 7.

7. The Settlement Agreement is intended to resolve the PolyOne Proofs of Claim, the Goodrich Calvert City Proofs of Claim, all claims that PolyOne has under the Policies, and all claims that Goodrich has under the Policies with respect to the Calvert City Site. Settlement Agreement ¶ 2(B). To that end, the Settlement Agreement provides for (a) mutual releases of all claims among the Liquidator, Home, and PolyOne arising from or related to the PolyOne Proofs of Claim or the Policies, *id.* ¶¶ 3, 5, and (b) mutual releases of all claims among the Liquidator, Home, and Goodrich arising from or related to the Goodrich Calvert City Proofs of Claim or the Policies with respect to the Calvert City Site, *id.* ¶¶ 4, 6. Bengelsdorf Aff. ¶ 8.

8. The Settlement Agreement provides for the parties to file a stipulation of dismissal of the Disputed Claim Proceeding with prejudice when the Settlement Agreement becomes effective. Settlement Agreement ¶ 7. The parties have filed a joint motion to stay the

Disputed Claim Proceeding with the Referee pending the Court's action on this motion.

Bengelsdorf Aff. ¶ 9.

9. In resolving all of PolyOne's claims relating to the PolyOne Proofs of Claim and the Policies and all of Goodrich's claims relating to the Goodrich Calvert City Proofs of Claim and the Policies as to the Calvert City Site, the Settlement Agreement is intended to resolve all matters arising out of or relating to any rights PolyOne ever had, now has, or hereafter may have in the Policies and the PolyOne Proofs of Claim, and that Goodrich ever had, now has, or hereafter may have in the Goodrich Calvert City Proofs of Claim or the Policies as to the Calvert City Site, including any asserted rights of third-party claimants against the Claimants under the Policies. Settlement Agreement ¶ 8. Each Claimant agrees to address, at its sole cost, any such claims of third-party claimants against that Claimant as if there had been no liquidation proceeding for Home and as if that Claimant had no insurance coverage from Home by virtue of the Policies. *Id.* PolyOne also agrees to indemnify and hold the Liquidator and Home harmless from all claims arising from or relating to the PolyOne Proofs of Claim or the Policies, or to the Goodrich Calvert City Proofs of Claim or the Policies as to the Calvert City Site, including asserted rights of third party claimants, up to the amount ultimately distributed or approved for distribution to PolyOne in relation to the Recommended Amount. *Id.* Bengelsdorf Aff. ¶ 10.

10. The Liquidator is not aware of any third party claimants asserting claims under the Policies. However, the denial of any third party claimants' claims without prejudice to their claims against the Claimants will not harm the third party claimants, who will continue to have their claims against the Claimants. As noted above, the Claimants have agreed to address such claims as if they had no insurance coverage from Home under the Policies, in accordance with the terms of the Settlement Agreement. Settlement Agreement ¶ 8. Third party claimants' proofs of claim against the insolvent Home, if not denied with the agreement, would release the

Claimants from those claims up to the limits of the Policies but only entitle the third party claimants (assuming their claims were allowed) to the initial interim distributions and any later distribution at a presently undetermined distribution percentage from Home at the future date when distribution is made. See RSA 402-C:40, I; Gonya v. Commissioner, New Hampshire Insurance Dept., 153 N.H. 521, 535 (2006) (noting the “inherent uncertainty of any creditor’s recovery in a liquidation”). It is not expected that the allowed claims of any third party claimants (or other Class II creditors) of Home will be paid in full. Under the Settlement Agreement, Claimants are responsible for any third party claimants’ claims. See Settlement Agreement ¶ 8. Bengelsdorf Aff. ¶ 11.

11. The Liquidator is not aware of any proof of claim asserting a claim subject to the same limits in the Policies as the proofs of claim resolved by the Settlement Agreement. However, if a claim of another claimant is subject to the same limit of liability as the claims resolved by the Settlement Agreement, and if the total allowed amounts for all claimants exceed the limit, then the allowed amounts for all claimants will be subject to adjustment under RSA 402-C:40, IV, so that the policy limit will not be exceeded. See Settlement Agreement ¶ 9. Bengelsdorf Aff. ¶ 12.

12. The Settlement Agreement reflects a compromise of the claims asserted in the PolyOne Proofs of Claim and the Goodrich Calvert City Proofs of Claim. It is the result of negotiations involving the Claims Department, under my supervision, which has extensive experience in assessing the exposure presented by claims under Home’s insurance policies. The agreed settlement amount is based on careful evaluation and negotiation of coverage obligations under the Policies respecting the underlying liabilities of the Claimants. The Liquidator accordingly recommends approval of the Settlement Agreement and allowance of the

\$15,000,000 settlement amount as a Class II claim of PolyOne in accordance with RSA 402-C:45 and RSA 402-C:44. Bengelsdorf Aff. ¶ 13.

13. The Court has previously approved many similar settlement agreements. See, e.g., Order Approving Settlement Agreement with Ashland LLC (April 30, 2020); Order Approving Settlement Agreement with Navistar, Inc. (December 11, 2018); Order Approving Settlement Agreement with Graham Corporation (July 8, 2016); Order Approving Settlement Agreement with Washington Gas (July 15, 2013); Order Approving Settlement Agreement with Wisconsin Energy (March 18, 2010); Order Approving Commutation Agreement with Northwestern National Insurance Company and Settlement Agreement and Assignment of Distribution with AK Steel Corporation (March 10, 2006). The Liquidator's negotiation and the Court's approval of such agreements are authorized by the broad authority of the Liquidator to "compound, compromise or in any other manner negotiate the amount for which claims will be recommended to the court," RSA 402-C:45, I, and the authority of the Court to "approve, disapprove or modify any report on claims by the liquidator." RSA 402-C:45, II. It is also an appropriate exercise of the Liquidator's authority ("[s]ubject to the court's control") to "do such other acts . . . as are necessary or expedient for the accomplishment of or in aid of the purpose of liquidation." RSA 402-C:25, XXII.

14. In his Motion for Approval of Commutation with Northwestern National Insurance Company and Settlement Agreement and Assignment of Distribution with AK Steel Corporation ¶¶ 19-23 (February 16, 2006), the Liquidator provided his analysis of New Hampshire law, including RSA 402-C:40, III, as it applies to this type of comprehensive policy coverage compromise and settlement in an insurer liquidation context. That analysis also applies to the proposed Settlement Agreement with the Claimants.

15. The Liquidator submits that the Settlement Agreement is fair and reasonable and in the best interests of the policyholders and creditors of Home. See Bengelsdorf Aff. ¶ 14.

WHEREFORE, the Liquidator respectfully requests that this Court:

- A. Grant this Motion;
- B. Enter an Order in the form submitted herewith approving the Settlement Agreement, approving the Liquidator's claim recommendation, and allowing the Claimants' claims as a Class II claim of PolyOne in accordance with RSA 402-C:45 and RSA 402-C:44 in the amount of \$15,000,000; and
- C. Grant such other and further relief as justice may require.

Respectfully submitted,

CHRISTOPHER R. NICOLOPOULOS,  
INSURANCE COMMISSIONER OF THE  
STATE OF NEW HAMPSHIRE, AS  
LIQUIDATOR OF THE HOME  
INSURANCE COMPANY,

By his attorneys,

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June 24, 2020



**Certificate of Service**

I hereby certify that a copy of the foregoing Liquidator's Motion for Approval of Settlement Agreement with PolyOne Corporation and Goodrich Corporation, the Affidavit of Peter A. Bengelsdorf, and the Proposed Order, were sent this 24th day of June, 2020, by first class mail, postage prepaid to all persons on the attached service list.



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Eric A. Smith  
NH Bar ID No. 16952

THE STATE OF NEW HAMPSHIRE

MERRIMACK, SS.

SUPERIOR COURT

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The Home Insurance Company  
Docket No. 217-2003-EQ-00106

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**SETTLEMENT AGREEMENT AND MUTUAL RELEASE**

This Settlement Agreement and Mutual Release (“Settlement Agreement”) is made as of this 18th day of June, 2020, by and between PolyOne Corporation, formerly known as The Geon Company (“PolyOne”), and Goodrich Corporation, formerly known as B. F. Goodrich Company (“Goodrich”) (collectively, “Claimants”), on the one hand, and Christopher R. Nicolopoulos, Insurance Commissioner of the State of New Hampshire, solely in his capacity as Liquidator (“Liquidator”) of The Home Insurance Company (“Home”), on the other hand (Claimants and the Liquidator are hereinafter referred to collectively as the “Parties”).

**WHEREAS**, Home is being liquidated pursuant to the June 13, 2003 Order of the Superior Court of the State of New Hampshire, Merrimack County (the “Liquidation Court”), pursuant to which the Liquidator was appointed as the Liquidator of Home;

**WHEREAS**, Home issued the following insurance policies under which B.F. Goodrich Company (“BFG”) is the named insured:

<u>Policy Number</u>	<u>Policy Period</u>
HEC4356627	1/1/73-7/1/74
HEC4356857	3/21/73-7/1/74
HEC4495806	7/1/74-7/1/75
HEC9006524	7/1/75-7/1/77
HEC9531430	7/1/77-1/1/78
HEC9631550	1/1/78-1/1/79
HEC9690287	1/1/79-1/1/82
HEC9902297	7/1/82-7/1/83
HEC1203665	7/1/83-7/1/84
HXL1638407	7/1/84-7/1/85

which, together with all other insurance policies Home may have issued to BFG before the Effective Date (as defined below), are defined collectively as the “Policies”.

**WHEREAS**, PolyOne has submitted a proof of claim in the Home liquidation seeking coverage under the Policies in connection with asserted liability arising out of contamination at a site in Calvert City, Kentucky presently or formerly operated by BFG (the “Calvert City Site”) assigned proof of claim numbers INSU703957 and INSU703968, which together with any other proofs of claim hereinbefore or hereinafter filed by PolyOne in the Home liquidation asserting claims under the Policies are defined collectively as the “PolyOne Proofs of Claim”. The Liquidator disallowed proofs of claim INSU703957 and INSU703968 by notice of determination dated June 13, 2019. PolyOne objected to the disallowance, and its claim is now pending as Disputed Claim Proceeding 2019-HICIL-62 (the “Disputed Claim Proceeding”);

**WHEREAS**, Goodrich has submitted a proof of claim in the Home liquidation seeking coverage under the Policies in connection with asserted liability arising out of contamination at the Calvert City Site as well as other matters assigned proof of claim numbers INSU703157, INSU703160, INSU703161, INSU703162, INSU703163, INSU703165, INSU703166, INSU703168, INSU703169, and INSU703171, which, to the extent, and only to the extent, they assert claims with respect to the Calvert City Site and together with any other proofs of claim hereinbefore or hereinafter filed by Goodrich in the Home liquidation to the extent, and only to the extent, they assert claims with respect to the Calvert City Site are defined collectively as the “Goodrich Calvert City Proofs of Claim.” (Goodrich has claims in the Home liquidation concerning matters other than the Calvert City Site, which are not resolved by this Settlement Agreement and which shall remain unaffected by any aspect of this Settlement Agreement.) Goodrich is a participant in the Disputed Claim Proceeding;

**WHEREAS**, PolyOne and the Liquidator are now desirous of resolving all claims that were asserted, or could have been or could be asserted, between them and resolving all matters

concerning the PolyOne Proofs of Claim and all PolyOne's asserted rights and obligations with respect to the Policies;

**WHEREAS**, Goodrich and the Liquidator are now desirous of resolving all claims that were asserted, or could have been or could be asserted, between them concerning the Calvert City Site and resolving all matters concerning the Goodrich Calvert City Proofs of Claim and all Goodrich's asserted rights and obligations with respect to the Policies as to the Calvert City Site; and

**WHEREAS**, the Parties agree that this Settlement Agreement is subject to and conditioned upon its approval by the Liquidation Court and allowance of the Recommended Amount (as defined below) into the Home liquidation and in the event that the Liquidation Court does not approve the Settlement Agreement and allow the Recommended Amount, this Settlement Agreement shall be null and void and without any force or effect;

**NOW, THEREFORE**, in consideration of all the respective transactions contemplated by this Settlement Agreement, and the mutual covenants and representations herein contained, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as a compromise as follows:

1. Effectiveness. This Settlement Agreement is conditioned and shall only become effective (the "Effective Date") upon approval by the Liquidation Court. The Liquidator shall move for approval of this Settlement Agreement promptly following execution by all Parties.

2. Recommendation, Allowance, and Classification of Claims.

A. Subject to all the terms of this Settlement Agreement, and with the agreement of Claimants, which by Claimants' execution hereof is hereby granted, the Liquidator shall recommend pursuant to N.H. RSA 402-C:45 that the PolyOne

Proofs of Claim and the Goodrich Calvert City Proofs of Claim be allowed in the total amount of \$15,000,000 (Fifteen Million Dollars) (hereinafter the "Recommended Amount") as a Class II priority claim of PolyOne under N.H. RSA 402-C:44. The Liquidator shall seek allowance of the Recommended Amount as a Class II priority claim of PolyOne by the Liquidation Court in the Liquidator's motion for approval of this Settlement Agreement.

- B. Allowance of the Recommended Amount as a Class II claim of PolyOne by the Liquidation Court shall fully and finally resolve the PolyOne Proofs of Claim and the Goodrich Calvert City Proofs of Claim, any and all claims of whatever nature that PolyOne has under the Policies, and any and all claims of whatever nature that Goodrich has under the Policies with respect to the Calvert City Site. In the event that the Liquidation Court does not allow the Recommended Amount as a Class II claim, this Settlement Agreement shall be null and void and shall have no force and effect and the Parties will be returned to *status quo ante*, as if no such agreement was ever reached, with this Settlement Agreement thereafter being inadmissible for any purpose in any dispute between the Parties.
- C. If and when the Liquidation Court allows the Recommended Amount as a Class II claim, PolyOne will become a Class II creditor in the Home liquidation pursuant to N.H. RSA 402-C:44, and PolyOne shall, subject to this Settlement Agreement, receive distributions on the allowed amount at the same intervals and at the same percentages as other Class II creditors of Home. All



distributions to Claimants shall be made to PolyOne by check payable to  
“PolyOne Corporation” and sent to PolyOne at the following address:

PolyOne Corporation  
Attn: General Counsel  
33587 Walker Road  
Avon Lake, Ohio 44012

Email: [lisa.kunkle@polyone.com](mailto:lisa.kunkle@polyone.com)

with a copy of such transmission to the PolyOne and Goodrich counsel or  
representatives set forth in Paragraph 23 of this Agreement. PolyOne agrees that  
it will promptly notify the Liquidator of any change of address or addressee.

3. Release by PolyOne. Subject to the terms of this Settlement Agreement and the  
Liquidation Court’s approval of the Recommended Amount as a Class II claim, PolyOne for  
itself and, to the full extent of its authority, on behalf of each of its officers, directors, employees,  
agents, attorneys, subsidiaries, affiliates, predecessors, and their successors and assigns (the  
“PolyOne Releasing Parties”), irrevocably and unconditionally releases and discharges the  
Liquidator and Home and each of their respective officers, directors, employees, agents,  
attorneys, subsidiaries, affiliates, predecessors, successors, and assigns (including any trustee or  
other statutory successor) (the “Released Parties”), from any and all actions, causes of action,  
liabilities, adjustments, obligations, offsets, suits, debts, dues, sums of money, accounts,  
reckonings, bonds, bills, premiums, losses, salvage, specialties, covenants, contracts,  
controversies, agreements, promises, variances, trespasses, damages, judgments, extents,  
executions, claims, and/or demands (collectively, “Claims”), arising from or related to the  
PolyOne Proofs of Claim or the Policies, in law, admiralty, or equity, which the PolyOne  
Releasing Parties ever had, now have, or hereafter may have against the Released Parties, all  
whether known or unknown, suspected or unsuspected, fixed or contingent, in law, admiralty or

equity, arising from or related to the PolyOne Proofs of Claim or the Policies. Provided, however, that nothing in this Paragraph releases Claims: (x) other than those arising from or related to the PolyOne Proofs of Claim or the Policies; (y) against any insured other than the PolyOne Releasing Parties; or (z) arising under or in any way relating to any policies other than the Policies.

4. Release by Goodrich. Subject to the terms of this Settlement Agreement and the Liquidation Court's approval of the Recommended Amount as a Class II claim, Goodrich for itself and, to the full extent of its authority, on behalf of each of its officers, directors, employees, agents, attorneys, subsidiaries, affiliates, predecessors, and their successors and assigns (the "Goodrich Releasing Parties"), irrevocably and unconditionally releases and discharges the Released Parties from any and all Claims, arising from or related to the Goodrich Calvert City Proofs of Claim or the Policies with respect to the Calvert City Site, in law, admiralty, or equity, which the Goodrich Releasing Parties ever had, now have, or hereafter may have against the Released Parties, all whether known or unknown, suspected or unsuspected, fixed or contingent, in law, admiralty or equity, arising from or related to the Goodrich Calvert City Proofs of Claim or the Policies with respect to the Calvert City Site. Provided, however, that nothing in this paragraph shall release any Claims: (x) other than those arising from or related to insurance for the Calvert City Site; (y) against any insured other than the Goodrich Releasing Parties; or (z) arising under or in any way relating to any policies other than the Policies.

5. Release by Liquidator of PolyOne. Subject to the terms of this Settlement Agreement and the Liquidation Court's approval of the Recommended Amount as a Class II claim, the Liquidator, in his capacity as such, and on behalf of Home and each of its officers, directors, employees, agents, attorneys, subsidiaries, affiliates, predecessors, and their successors

and assigns, irrevocably and unconditionally releases and discharges PolyOne and each of its officers, directors, employees, agents, attorneys, subsidiaries, affiliates, predecessors, successors, and assigns, from any and all actions, causes of action, liabilities, adjustments, obligations, offsets, suits, debts, dues, sums of money, accounts, reckonings, bonds, bills, premiums, losses, salvage, specialties, covenants, contracts, controversies, agreements, promises, variances, trespasses, damages, judgments, extents, executions, claims, and/or demands, arising from or related to the PolyOne Proofs of Claim or the Policies, in law, admiralty, or equity, which the Liquidator, Home, or their subsidiaries, affiliates, predecessors, successors, and assigns, ever had, now have, or hereafter may have against PolyOne or its officers, directors, employees, agents, attorneys, subsidiaries, affiliates, predecessors, successors, and assigns, all whether known or unknown, suspected or unsuspected, fixed or contingent, in law, admiralty or equity, arising from or related to the PolyOne Proofs of Claim or the Policies.

6. Release by Liquidator of Goodrich. Subject to the terms of this Settlement Agreement and the Liquidation Court's approval of the Recommended Amount as a Class II claim, the Liquidator, in his capacity as such, and on behalf of Home and each of its officers, directors, employees, agents, attorneys, subsidiaries, affiliates, predecessors, and their successors and assigns, irrevocably and unconditionally releases and discharges Goodrich and each of its officers, directors, employees, agents, attorneys, subsidiaries, affiliates, predecessors, successors, and assigns, from any and all actions, causes of action, liabilities, adjustments, obligations, offsets, suits, debts, dues, sums of money, accounts, reckonings, bonds, bills, premiums, losses, salvage, specialties, covenants, contracts, controversies, agreements, promises, variances, trespasses, damages, judgments, extents, executions, claims, and/or demands, arising from or related to the Goodrich Calvert City Proofs of Claim or the Policies with respect to the Calvert

City Site, in law, admiralty, or equity, which the Liquidator, Home, or their subsidiaries, affiliates, predecessors, successors, and assigns, ever had, now have, or hereafter may have against Goodrich or its officers, directors, employees, agents, attorneys, subsidiaries, affiliates, predecessors, successors, and assigns, all whether known or unknown, suspected or unsuspected, fixed or contingent, in law, admiralty or equity, arising from or related to the Goodrich Calvert City Proofs of Claim or the Policies with respect to the Calvert City Site.

7. Dismissal of Disputed Claim Proceeding. Immediately following the execution of this Settlement Agreement by all Parties, the Parties shall jointly request that the Disputed Claim Proceeding be stayed pending the Liquidation Court's ruling on whether to approve this Settlement Agreement. Immediately following the Effective Date, the Parties will file a stipulation of dismissal dismissing the Disputed Claim Proceeding with prejudice.

8. Resolution of Matters and Indemnification. Claimants acknowledge that this Settlement Agreement is intended to resolve all matters arising out of or relating to any rights PolyOne ever had, now has or hereafter may have in the Policies and the PolyOne Proofs of Claim, including any asserted rights of third-party claimants against PolyOne under the Policies, and also all matters arising out of or relating to any rights Goodrich ever had, now has or hereafter may have in the Policies with respect to the Calvert City Site and the Goodrich Calvert City Proofs of Claim, including any asserted rights of third-party claimants against Goodrich under the Policies with respect to the Calvert City Site. Each Claimant agrees to address, at its sole cost and expense, any such claims of third-party claimants against a Claimant as if there had been no liquidation proceeding for Home and as if such Claimant had no insurance coverage from Home by virtue of the Policies. In consideration of the Recommended Amount being allowed by the Liquidation Court as a Class II claim, PolyOne agrees to indemnify and hold the

Liquidator and Home harmless from and against any and all claims, losses, liabilities, debts, damages, costs or expenses arising from or related to the PolyOne Proofs of Claim or the Goodrich Calvert City Proofs of Claim or the Policies with respect to the Calvert City Site and such indemnification shall be capped at the ultimate amount distributed or approved for distribution in relation to the Recommended Amount as allowed by the Liquidation Court.

Subject to the scope of indemnification set forth in the preceding sentence, the future obligations of PolyOne under this paragraph shall extend to and include (by way of example and not limitation) any claims for defense or indemnity for claims made under the Policies against the Liquidator or Home by other insurers of BFG, or by any individuals or entities asserting “direct action” claims arising out of or related to the Policies with respect to the Calvert City Site. The Liquidator shall promptly notify Claimants of any such claim, and shall afford Claimants the opportunity to reasonably participate in the defense of such claims. The Liquidator shall assert all defenses to such claims reasonably available to the Liquidator, including defenses under the Order of Liquidation or the New Hampshire Insurers Rehabilitation and Liquidation Act. Claimants shall cooperate with the Liquidator (including but not limited to the provision of affidavits or testimony) to defend against and resolve such claims. The Liquidator represents and warrants that he is presently unaware of any claims that would trigger an indemnification obligation of PolyOne pursuant to this Settlement Agreement.

9. Multiple Claims. The Home policies against which the PolyOne and Goodrich claim is made contain certain limits. New Hampshire RSA 402-C:40 (IV) provides that in the event multiple claims against such a policy are filed, and the aggregate allowed amount of all claims to which the same limit of liability in the policy is applicable exceeds that limit, then each claim as allowed shall be reduced in the same proportion so that the total equals the policy limit. The

Liquidator is unaware of any proof of claim filed in the Home Liquidation asserting a claim subject to the same limit in the Home policies as this claim. (For the avoidance of doubt, the claims of PolyOne and Goodrich with respect to the Calvert City Site on the one hand, and the claims of Goodrich with respect to claims other than the Calvert City Site on the other hand, share the same policies, but are not part of the same “occurrence” and do not share the same per occurrence limits.) However, if an allowance is made such that the aggregate allowed amount of all claims subject to the same limit exceeds the limit, each claim will be prorated so that the total equals the policy limit, to the extent required by RSA 402-C:40 (IV). The Liquidator will be unable to determine whether, or the extent to which, Claimants’ claim may be subject to proration until all claims against the policy have been determined. If the aggregate allowed amount of claims exceeds the applicable limit such that Claimants’ claim is subject to proration, the Liquidator will inform Claimants accordingly.

10. Mutual Release of Settling Carriers. Claimants agree to use reasonable commercial efforts to cause any future settlement agreement relating to the underlying matters covered by the PolyOne Proofs of Claim or the Goodrich Calvert City Proofs of Claim with any other insurance company to include a waiver by that other insurance company of any claim, including contribution, apportionment, indemnification, subrogation, equitable subrogation, allocation, or recoupment, against Home regarding the underlying matters covered by the PolyOne Proofs of Claim or the Goodrich Calvert City Proofs of Claim. The Liquidator agrees to waive, relinquish and release any claim, including contribution, apportionment, indemnification, subrogation, equitable subrogation, allocation, or recoupment, as to the underlying matters covered by the PolyOne Proofs of Claim or the Goodrich Calvert City Proofs of Claim against any other

insurance company which executes a settlement with Claimants that includes a provision that is materially the same as this paragraph.

11. No Assignments. Except for the Amended and Restated Assumption of Liabilities and Indemnification Agreement Relating to the Goodrich PVC Business, dated and effective as of March 1, 1993 as amended and restated on April 27, 1993, each Claimant warrants and represents that it has not assigned, conveyed, or otherwise transferred any claims, demands, causes of action, rights, or obligations related in any way to the Policies, or any proceeds thereof, or the PolyOne Proofs of Claim or the Goodrich Calvert City Proofs of Claim, or the claims, losses and expenses released herein, to any person or entity. Claimants shall not assign or otherwise transfer this Settlement Agreement or any rights or obligations thereunder without the written consent of the Liquidator, which consent shall not be unreasonably withheld.

12. Further Assurances. The Parties shall take all further actions as may be necessary to carry out the intent and purpose of this Settlement Agreement and to consummate the transactions contemplated herein. Claimants acknowledges they are aware of the requirements of the Medicare Secondary Payer Act and the Medicare, Medicaid and SCHIP Extension Act of 2007, including provisions concerning Medicare set-asides and/or notification to the Centers for Medicare and Medicaid Services (“CMS”) regarding certain Medicare-eligible, or potentially eligible, claimants who enter into settlement agreements that may justify recovery for Medicare covered case-related services. Claimant acknowledges that it may be obligated, and otherwise agrees, to provide data, if and when required or requested, for CMS regarding claimants who will share in distributions from Claimants’ assets that include a portion of the Recommended Amount.

13. Governing Law and Venue. This Settlement Agreement shall be governed by and construed in accordance with the laws of the State of New Hampshire without regard to the conflicts of law provisions thereof. The Parties agree that the exclusive venue for any dispute between the Parties arising out of the PolyOne Proofs of Claim or the Goodrich Calvert City Proofs of Claim, the Policies or this Settlement Agreement shall be the Liquidation Court.

14. Due Diligence. The Parties acknowledge and agree that, in negotiating and executing this Settlement Agreement, they have relied upon their own judgment and upon the recommendations of their own legal counsel, that they have read this Settlement Agreement and have had the opportunity to consider its terms and effects, and that they have executed this Settlement Agreement voluntarily and with full understanding of its terms and effects. This Settlement Agreement is the product of negotiations between the Parties. No Party shall be charged with having promulgated this Settlement Agreement, and the general rule that ambiguities are to be construed against the drafter shall not apply to this Agreement.

15. No Third Party Rights. This Settlement Agreement is entered into solely for the benefit of the Liquidator, Home, and Claimants and is not intended to, and does not give or create any rights to or in any person or entity other than the Parties, including, but not limited to, any of the insurers of the Claimants.

16. Counterparts. This Settlement Agreement may be executed in multiple counterparts, each of which, when so delivered, shall be an original, but such counterparts shall together constitute one and the same instrument. The Parties agree that a signature sent by facsimile or electronic mail to the other Party shall have the same force and effect as an original signature.

17. Power and Authority to Execute. Subject to the approval of the Liquidation Court required by Paragraph 1 of this Settlement Agreement, each Party hereto represents and warrants



that it has the full power and authority to execute, deliver, and perform this Settlement Agreement; that all requisite and necessary approvals have been obtained to consummate the transactions contemplated by this Settlement Agreement; that there are no other agreements or transactions to which it is a party that would render this Settlement Agreement or any part thereof, void, voidable or unenforceable; that each individual signing on behalf of a Party has been duly authorized by that Party to execute this Settlement Agreement on its behalf; and that no claims being released under the terms of this Settlement Agreement have been assigned, sold, or otherwise transferred to any other entity.

18. Successor-in-Interest Bound. This Settlement Agreement shall be binding upon, and shall inure to the benefit of the Parties and their respective officers, directors, employees, agents, attorneys, liquidators, receivers, administrators, successors, and assigns.

19. Entire Agreement. This Settlement Agreement constitutes the entire agreement and understanding between the Parties with respect to the subject matter thereof. This Settlement Agreement supersedes all prior agreements and understandings, whether written or oral, concerning such matters.

20. Survival of Warranties and Representations. The warranties and representations made herein shall survive the execution of this Settlement Agreement.

21. Validity of Settlement Agreement. Subject to approval of this Settlement Agreement by the Liquidation Court as required by Paragraph 1, each Party represents and warrants that this Settlement Agreement is a legal, valid, and binding obligation, enforceable in accordance with its terms.

22. No Waiver. No waiver of any right under this Settlement Agreement shall be deemed effective unless contained in a writing signed by the Party or an authorized

representative of the Party charged with such waiver, and no waiver of any breach or failure to perform shall be deemed to be a waiver of any future breach or failure to perform or of any other provision of this Settlement Agreement. This Settlement Agreement may not be amended except in a document signed by the Party or an officer or other authorized official of the Party to be charged.

23. Notice. All notices to be given under this Settlement Agreement shall be given by e-mail and first class U.S. mail directed to:

If to PolyOne, to:

PolyOne Corporation  
33587 Walker Road  
Avon Lake, Ohio 44012  
Attn: General Counsel  
Email: [lisa.kunkle@polyone.com](mailto:lisa.kunkle@polyone.com)

and

Lori L. Siwik  
SandRun Risk  
4199 Kinross Lakes Parkway, Suite 275  
Richfield, Ohio 44286  
Email: [lsiwik@sandrunrisk.com](mailto:lsiwik@sandrunrisk.com)

and

Paul K. Stockman  
Kazmarek Mowrey Cloud Laseter LLP  
One PPG Place, Suite 3100  
Pittsburgh, Pennsylvania 15222  
Email: [pstockman@kmellaw.com](mailto:pstockman@kmellaw.com)

and

Michael J. Tierney  
Wadleigh, Starr & Peters, PLLC  
95 Market Street  
Manchester, New Hampshire 03101  
Email: [mtierney@wadleighlaw.com](mailto:mtierney@wadleighlaw.com)

If to Goodrich, to:

Steven M. Greenspan, Esq.  
Vice President and Chief Litigation Counsel  
Raytheon Technologies Corporation  
10 Farm Springs Road  
Farmington, Connecticut 06032-2568  
Email: [Steven.greenspan@utc.com](mailto:Steven.greenspan@utc.com)

and

Benedict M. Lenhart, Esq.  
Covington & Burling LLP  
850 Tenth Street NW  
Washington, D.C. 20001  
Email: [blenhart@cov.com](mailto:blenhart@cov.com)

If to the Liquidator, to:

Angela Anglum, Esq.  
VP Legal Affairs & Corporate Secretary  
The Home Insurance Company in Liquidation  
61 Broadway, 6<sup>th</sup> Floor  
New York, New York 10006  
Email: [angela.anglum@homeinsco.com](mailto:angela.anglum@homeinsco.com)

and

J. Christopher Marshall  
Civil Bureau  
New Hampshire Department of Justice  
33 Capitol Street  
Concord, New Hampshire 03301-6397  
Email: [christopher.marshall@doj.nh.gov](mailto:christopher.marshall@doj.nh.gov)

and

Eric A. Smith, Esq.  
Rackemann, Sawyer & Brewster, P.C.  
160 Federal Street  
Boston, Massachusetts 02110-1700  
Email: [esmith@rackemann.com](mailto:esmith@rackemann.com)

24. Severability. If any provision of this Settlement Agreement is invalid, unenforceable, or illegal under the law of any applicable jurisdiction, the validity and enforceability of such provision in any other jurisdiction shall not be affected thereby and the remaining provisions of this Settlement Agreement shall remain valid and enforceable. However, in the event of such invalidity, unenforceability, or illegality, the Parties shall negotiate in good faith to amend this Settlement Agreement through the insertion of additional provisions which are valid, enforceable, and legal and which reflect, to the extent possible, the purposes contained in the invalid, unenforceable, or illegal provision.

[remainder of page left intentionally blank]

**WHEREFORE**, the Parties have caused this Settlement Agreement to be executed on their respective behalves by their duly authorized representatives.

**POLYONE CORPORATION**

By: Lisa K. Kunkle DUPLICATE

Name: Lisa K. Kunkle

Title: Senior Vice President, General Counsel & Secretary

Date: June 22, 2020

**GOODRICH CORPORATION**

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

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: June \_\_\_, 2020

**CHRISTOPHER R. NICOLOPOULOS, INSURANCE  
COMMISSIONER OF THE STATE OF  
NEW HAMPSHIRE, SOLELY IN HIS  
CAPACITY AS LIQUIDATOR OF  
THE HOME INSURANCE COMPANY**

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

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: June \_\_\_, 2020

**WHEREFORE**, the Parties have caused this Settlement Agreement to be executed on their respective behalves by their duly authorized representatives.

**POLYONE CORPORATION**

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

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: June \_\_\_, 2020

**GOODRICH CORPORATION, a wholly-owned subsidiary of Raytheon Technologies Corporation**

By: *Steven M. Greenspan*

Name: Steven M. Greenspan

Title: Vice President

Date: June 19, 2020

**CHRISTOPHER R. NICOLOPOULOS, INSURANCE COMMISSIONER OF THE STATE OF NEW HAMPSHIRE, SOLELY IN HIS CAPACITY AS LIQUIDATOR OF THE HOME INSURANCE COMPANY**

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

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**WHEREFORE**, the Parties have caused this Settlement Agreement to be executed on their respective behalves by their duly authorized representatives.

**POLYONE CORPORATION**

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

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: June \_\_, 2020

**GOODRICH CORPORATION**

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

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: June \_\_, 2020

**CHRISTOPHER R. NICOLOPOULOS, INSURANCE  
COMMISSIONER OF THE STATE OF  
NEW HAMPSHIRE, SOLELY IN HIS  
CAPACITY AS LIQUIDATOR OF  
THE HOME INSURANCE COMPANY**

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

Name: Kevin L. Kelly

Title: Chief Environmental Officer

Date: June 22, 2020