

IN THE CIRCUIT COURT OF JEFFERSON COUNTY, ALABAMA

ANNA SPRUIELL, et al.,)
)
Plaintiffs,)
)
vs.)
)
THE WATER WORKS BOARD OF)
THE CITY OF BIRMINGHAM, et al.,)
)
Defendants.)

CIVIL ACTION NO.
01-CV-2019-900914

CLASS ACTION SETTLEMENT AGREEMENT

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CLASS ACTION SETTLEMENT AGREEMENT

This Class Action Settlement Agreement ("Agreement" or "Settlement Agreement") is entered into as of _____, 2024 between and among the Water Works Board of the City of Birmingham ("BWWB"), Transwood, Inc. ("Transwood"), and the Class Plaintiffs (as defined in Section II ¶ 1.6), on behalf of themselves and the Settlement Class (as defined in Section II, Paragraph 1.23). This Agreement is intended by the Settling Parties to fully resolve the disputes between them, as set forth below, subject to the terms and conditions set forth herein.

I. RECITALS

WHEREAS, the Class Action Complaint was filed by Anna Spruiell, Sallie Hale, and Mountain High Outfitters Cahaba Village/280 in the Circuit Court of Jefferson County, Alabama on February 27, 2019 ("the Action");

WHEREAS, an amended complaint was filed on May 1, 2019, adding new Plaintiffs Altitude V, LLC, Active Exploration, LLC, Wish Boutique, LLC, Julie Klinner, and Allen Bayne, as well as adding new claims;

WHEREAS, the Class Plaintiffs in the complaint, as amended, alleged that BWWB and Transwood (and other entities since dismissed) trespassed causing emotional distress and/or physical injury; caused a private nuisance; negligently; recklessly and wantonly interfered with Plaintiffs' property rights; and committed battery, through their release of harmful chemicals occurring at BWWB's Shades Mountain Filter Plant in Birmingham, Alabama;

WHEREAS, BWWB and Transwood asserted that they acted in conformity with all applicable laws and regulations, as well as appropriate standards of care, and each denied any wrongdoing whatsoever and that the Class Plaintiffs and the Settlement Class suffered no legally cognizable harm or damages;

WHEREAS, one Class Plaintiff, Wish Boutique, LLC voluntarily dismissed its claims with prejudice on September 1, 2021, (Doc. 234);

WHEREAS, after certain discovery occurred, the parties agreed to mediate their disputes with Michael B. Walls, a highly-regarded mediator located in Birmingham, and after several months of negotiations following mediation, the parties finally achieved an amicable resolution of this matter;

WHEREAS, Settlement Class Counsel have conducted a thorough investigation and evaluation of the facts and law relating to the matters set forth in the Action; and

WHEREAS, Class Plaintiffs, BWB and Transwood desire to avoid the further expense of litigation and to settle any and all claims or causes of action between them that have arisen or that may arise in the future, which in any way relate to Class Plaintiff's claims or the facts alleged in the Action;

NOW, THEREFORE, in consideration of the foregoing and the mutual covenants and conditions contained herein, and with the intention of being legally bound hereby, each of the above parties hereto do covenant and agree as follows:

II. DEFINITIONS

The following definitions apply to this Agreement and the exhibits hereto, unless this Agreement specifically provides otherwise:

1.1 "**Action**" means the lawsuit filed by the Class Plaintiffs and others, styled *Anna Spruiell, et al. v. The Water Works Board of the City of Birmingham, et al.*, Civil Action No: CV-2019-900914, in the Circuit Court of Jefferson County, Alabama.

1.2 **"Agreement" or "Settlement Agreement,"** means this Class Action Settlement Agreement and the Exhibits attached hereto or incorporated herein, including any subsequent amendments agreed to by the parties and any exhibits to such amendments.

1.3 **"Bar Date,"** means the date by which Settlement Claim Forms must be received by BWWB or by any Settlement Administrator appointed by the Court. The Bar Date shall be specifically set forth on the Settlement Claim Form.

1.4 **"Class Counsel,"** means Taylor Bartlett and Caroline Hollingsworth of Heninger Garrison Davis, LLC.

1.5 **"Class Notice,"** which shall be in substantially the same form as Exhibit A (Long Form Notice) and Exhibit B (Summary Notice) hereto, shall mean the Court-approved long and summary forms of notice to the Settlement Class of (i) certification of the Settlement Class, (ii) preliminary approval of the Settlement Agreement, (iii) scheduling of the Final Approval Hearing, and (iv) options available to Settlement Class Members.

1.6 **"Class Plaintiff" or "Named Plaintiff,"** means Mountain High Outfitters Cahaba Village/280, Altitude V, LLC, Active Exploration, LLC, Julie Klinner, and Allen Bayne, who are Named Plaintiffs in the Action and who have executed this Agreement in their individual capacity and as representatives of the Settlement Class as defined in this Agreement.

1.7 **"Costs of Settlement Administration,"** shall mean all actual costs associated with or arising from Settlement Administration. These costs shall be equally incurred and paid by BWWB and Transwood, and shall include; (a) costs to provide notice of the settlement and this Agreement as set forth in Paragraph 8 of this Settlement Agreement; and (b) to distribute any settlement proceeds to those who submit valid proofs of claim.

1.8 **"Court,"** means the Circuit Court of Jefferson County, Alabama, the Hon. Javon Patton presiding, to whom presentation of this Agreement for judicial review and approval will be made, as well as any other judge of the Circuit Court of Jefferson County, Alabama to whom the Action may hereinafter be transferred or assigned.

1.9 **"Effective Date,"** means the date when the order finally approving the Settlement becomes a "Final Order" (as defined in Section II, Paragraph 1.12).

1.10 **"Fairness Hearing,"** means the hearing held by the Court to consider evidence and argument for the purposes of determining, among other things, whether this Agreement and the settlement are fair, reasonable, and adequate; this Agreement shall be given final approval through entry by the Court of the Final Order and Judgment; and certification of the Settlement Class should be made final.

1.11 **"Final Order" or "Final Judgment,"** means the termination of the Action after the occurrence of each of the following events:

1.11.1 This Class Action Settlement Agreement is approved in all respects by the Court without material modification unless any such modifications are expressly agreed to by BWB, Transwood and the Class Plaintiffs; and

1.11.2 An order and final judgment of dismissal with prejudice is entered by the Court against the Class Plaintiffs and all of the Settlement Class Members who do not opt out as provided in Rule 23 of the Alabama Rules of Civil Procedure, and the time for the filing of any appeals has expired or, if there are appeals, approval of the settlement and judgment has been affirmed in all respects by the appellate court of last resort to which such appeals have been taken and such affirmances are no longer subject to further appeal or review. It is agreed that in

determining the time for appeal, further appeal, or review, the provisions of Alabama Rule of Civil Procedure 60 shall not be taken into account.

1.12 **"Final Settlement Date,"** means a date ten (10) days after the date on which the Final Order is entered by the Court.

1.13 **"BWWB,"** means The Water Works Board of the City of Birmingham, and all of its predecessors in interest, successors in interest, parents, subsidiaries, divisions or affiliates, and their officers, directors, employees, trustees, principals, attorneys, insurers, agents, representatives, shareholders, partners, limited partners, as well as any person acting or purporting to act on their behalf.

1.14 **"Party" or "Parties,"** means Plaintiffs Mountain High Outfitters Cahaba Village/280, Altitude V, LLC, Active Exploration, LLC, Julie Klinner, and Allen Bayne, and Defendants BWWB and Transwood, separately and collectively, as each of those terms is defined in this Agreement.

1.15 **"Preliminary Approval Order"** shall mean the order of the Court preliminarily approving this Settlement Agreement, in substantially the same form as Exhibit D hereto.

1.16 **"Release,"** means the release and waiver set forth in Section III, Paragraph 14 of this Agreement.

1.17 **"Released Claims,"** means each and all of the existing or potential claims described in the Release.

1.18 **"Released Parties,"** means those persons or entities identified in Section III, Paragraph 14.

1.19 **"Settlement Administration,"** means the distribution of settlement proceeds to members of the Settlement Class who submit valid Settlement Claim Forms, and such other tasks as set forth in this Agreement.

1.20 **"Settlement Administrator,"** means a Settlement Administrator selected by BWWB and Transwood and approved by the Court.

1.21 **"Settlement Claim Form,"** means the form used by Settlement Class Members to seek the Settlement Benefits identified in Section III, Paragraph 15 of this Agreement. A copy of the Settlement Claim Form is attached hereto as Exhibit E.

1.22 **"Settlement Classes,"** means the classes defined in Section II, Paragraph 6 of this Agreement, which the Settling Parties have agreed herein to seek to have certified by the Court solely for purposes of this Settlement Agreement, and their heirs, agents, executors, administrators, successors, and assigns.

1.23 **"Settlement Class Member,"** means any person falling within the definition of the Settlement Class defined in Section III, Paragraph 6 herein (collectively referred to herein as "Settlement Class Members").

1.24 **"Settling Parties"** means the Class Plaintiffs, the Settlement Classes, BWWB and Transwood.

1.25 **"Settlement Website,"** means the website created by BWWB or any Settlement Administrator for purposes of facilitating notice to the Class Members and processing claims for payment of the Settlement Benefits. The Settlement Website shall include, in pdf format, a copy of the last amended complaint filed in this Action; this Settlement Agreement and its exhibits; any Preliminary Approval Order entered by the Court; a copy of the Long Form Settlement Notice; and such other information as the Court may designate or the Parties may agree to post there. The

Settlement Website will be operational and live by the date of the first publication of the Class Notice.

1.26 "**Subsequent Action,**" means any action brought in any state or federal court or arbitral proceeding advancing any claims involving, arising out of, or relating to chemical release at the Shades Mountain Filter Plant on February 27, 2019 that are brought by, or on behalf of, any member of the Settlement Classes.

1.27 As used herein, all references to persons or Class Members shall include, and be construed to include, that person's or Class Member's estate, including his or her bankruptcy estate.

1.28 As used herein, the plural of any defined term includes the singular thereof, and vice versa, except where the context requires otherwise.

III. TERMS AND CONDITIONS OF SETTLEMENT

1. **Plaintiffs' Allegations.** The Class Plaintiffs brought this Action as a class action under Rule 23 of the Alabama Rules of Civil Procedure. The Class Plaintiffs allege, among other things, that they were exposed to and suffered damage and loss as a result of the chemical release.

2. **Denial of Liability.** BWWB and Transwood believe that the Class Plaintiffs' factual and legal allegations in the Action are incorrect and specifically deny all liability to the Class Plaintiffs and the Settlement Class. BWWB and Transwood further believe that their actions were in conformity with all applicable laws and the applicable standards of care. BWWB and Transwood generally deny Class Plaintiffs' allegations and possess a number of defenses to the claims asserted, as well as defenses to certification of a class. For purposes of settlement only, and as part of this Agreement, BWWB and Transwood agree not to assert these defenses to Class Plaintiffs' claims.

3. **Negotiations.** Settlement negotiations have taken place between Settlement Class Counsel and counsel for BWWB and Transwood, free of any collusion. These negotiations included involving the services of Michael Walls, a well-recognized Mediator, and after months of negotiations, an agreement was reached between the parties. This Settlement Agreement, subject to the approval of the Court, contains all the terms of the Settlement agreed to between BWWB and Transwood, on the one hand, the Class Plaintiffs, individually and on behalf of the Settlement Class, on the other hand.

4. **Benefits of Settling the Actions.** Class Plaintiffs believe that the claims asserted in the Action have merit and that there is evidence to support those claims. Class Plaintiffs, however, recognize and acknowledge the expense and length of continued litigation and legal proceedings necessary to prosecute the Action against BWWB and Transwood through class certification proceedings, and ultimately trial and any appeals. Class Plaintiffs also recognize and have taken into account the uncertain outcome and risks associated with litigation and class actions in general, and this Action in particular, as well as the difficulties and delays inherent in any such litigation, including the possibility of multiple appeals.

The Class Plaintiffs are also mindful of the potential problems of proof and the possible defenses to class certification, as well as to the remedies they seek. As a result, the Class Plaintiffs believe that the Settlement set forth in this Agreement provides substantial benefits to Settlement Class Members. The Class Plaintiffs have therefore determined that the Settlement, as set forth in this Agreement, is fair, reasonable, adequate, and in the best interests of the Settlement Class.

5. **No Admission of Liability.** By entering into this Agreement, the Settling Parties agree that BWWB and Transwood are not admitting any liability to the Class Plaintiffs, the Settlement Class, or any other person or entity, and BWWB and Transwood expressly deny all

such liability. BWWB and Transwood's motivation for entering into this Settlement Agreement is to dispose expeditiously of the claims that have been asserted against them in the Action by settlement and compromise rather than incur the expense and uncertainty of protracted litigation. No portion of this Agreement may be admitted into evidence in any action, except as required to enforce this Agreement and/or to cease or enjoin litigation pursuant to Paragraph 21 of this Agreement.

6. Settlement Class Definition. The Class Action Complaint filed in the Action seeks relief for two classes of Plaintiffs described below, with each class being agreed to for purposes of settlement only and for no other purpose pursuant to Alabama Rule of Civil Procedure 23(b)(3):

(a) Business Loss Class. Any and all businesses within a circle whose radius begins at the Shades Mountain Filter Plant and extends 10,560 feet therefrom. These Settlement Class Members may recover losses they incurred as a result of the Chemical Spill incident, and the brief blockage of U.S. Highway 280 as a result of that incident. The amount that any Business Loss Class Member can recover shall not exceed \$1,500. The aggregate recovery for all Business Loss Class Members shall not exceed \$65,000.

(b) Property Damage Class. Any and all persons who owned real or personal property physically located within a circle whose radius extends 5,290 feet from the Shades Mountain Filter Plant. These Settlement Class Members may recover for injuries to their real and personal property they incurred as a result of the exposure of those properties to chlorine gas from the Chemical Spill incident. The amount that each Property Damage Class Member can recover shall not exceed \$1,000. The aggregate recovery for all Property Damage Class Members shall not exceed \$65,000.

Excluded from both proposed Settlement Classes are those persons or entities (a) who had claims pending against BWWB or Transwood before either a federal or state court as of the date of Preliminary Approval, where those claims related in any way to the chemical release on February 27, 2019 at the Shades Mountain Filter Plant; (b) who previously released all claims against BWWB or Transwood; (c) who had previously settled any claims they pursued (or could have pursued) against BWWB or Transwood,

where the suits or claims were independent and unconnected to any Settlement Agreement reached in this case; or (d) who are BWWB or Transwood agents or employees.

This Settlement Agreement also does not include any persons who claim to have suffered bodily injuries as a result of the Chemical Release incident. No bodily injury claims are being released by this Settlement Agreement or otherwise affected by it.

7. Preliminary Approval and Certification of Settlement Class

7.01 Promptly after execution of this Agreement, but in no event later than seven (7) business days thereafter, one or more of the Parties shall submit this Agreement to the Court, together with a motion requesting that the Court enter an Order (the "Preliminary Approval Order") granting preliminary approval of the Settlement. The Preliminary Approval Order should:

(a) Determine that this Action may continue to proceed as a class action pursuant to Alabama Rule of Civil Procedure 23(b)(3) with the Settlement Class as defined in Paragraph 6 of this Settlement Agreement;

(b) Find that Named Plaintiffs, Mountain High Outfitters Cahaba Village/280, Altitude V, LLC, Active Exploration, LLC, Julie Klinner, and Allen Bayne, as Class Representatives, and the Heninger Garrison Davis, LLC firm, as Class Counsel, have thus far fairly and adequately represented and protected the interests of the Settlement Class Members;

(c) Find on a preliminary basis that the Settlement set forth in this Settlement Agreement is fair, adequate, and reasonable to the Settlement Class Members;

(d) Stay all proceedings in this Action, except as may be necessary to implement this Agreement;

(e) Provide for a fairness hearing, on a date no earlier than one hundred and twenty (120) days from the date of entry of the Preliminary Approval Order, to determine the fairness, adequacy, and reasonableness of the Settlement set forth in this Agreement;

(f) Find that the method of identifying Class Members, as well as the timing, form, content, and method of disseminating the proposed Notices to the Class Members, as provided for herein, satisfy the requirements of due process and Alabama Rule of Civil Procedure Rule 23;

(g) Set a deadline, not less than thirty (30) days prior to the date for the Fairness Hearing, for submission of any objections to this Settlement as provided in Section III, Paragraph 15, and requests for exclusion as provided in Section III, Paragraph 16.

(h) Pending a final determination of whether the Settlement Agreement should be approved, enjoin and prohibit the Class Plaintiffs and all Settlement Class Members from commencing or prosecuting any action, either directly or indirectly, or in any capacity asserting any claims against BWB and/or Transwood, which are proposed to be released pursuant to this Agreement;

(i) Provide that, in the event the proposed Settlement set forth in this Agreement is not approved by the Court, or for any reason does not become final, or in the event that this Agreement becomes null and void pursuant to its terms, then this Agreement and all orders entered in connection therewith shall become null and void, shall be of no further force and effect, and shall not be used or referred to for any purposes whatsoever in this Action or in any other case or controversy; and that in such an event, this Agreement and all negotiations and proceedings related thereto shall be deemed to be without prejudice to the rights of any and all Parties hereto, who shall be restored to their respective litigation positions as of the date immediately preceding the Settlement Agreement.

7.02 A proposed Preliminary Approval Order, which the Parties acknowledge satisfies the requirements of Section III, Paragraph 7.01, is attached to this Settlement Agreement as Exhibit

D. In the event that the Court does not enter the Preliminary Approval Order described herein, or decides to do so only with modifications, then this entire Agreement shall become null and void, unless the Parties hereto agree in writing, within seven (7) days of the Court's modification(s), to proceed with this Agreement as modified.

8. Notice to Class Members and Duties of Settlement Administrator

8.01 The parties have provided to the Court a proposed Long Form Notice and proposed Summary Notice of the Settlement herewith. The parties will provide those notices to any appointed Settlement Administrator, if any, within ten (10) days from entry of the Preliminary Approval Order. The parties or any appointed Settlement Administrator will then provide the notices referred to herein to the outlets referenced herein with thirty (30) days from the entry of the Preliminary Approval Order. Except as specifically provided herein, the Class Plaintiffs and Class Counsel shall have no duties or responsibilities for the administration of the Settlement. As a part of its obligations, either BWWB or the Settlement Administrator shall provide the following services on behalf of the Settlement Class:

(a) BWWB and/or Transwood shall prepare a proposed class action notice, to be approved by Class Counsel, that explains the procedural history of the case, the settlement benefits, what Settlement Class Members must do to obtain those benefits, and their rights to opt-out of or object to the settlement (the "Long Form Notice"). BWWB or the Settlement Administrator will publish this Long Form Notice on its website.

(b) The Settlement Administrator, subject to court approval, shall publish a summary form of the Class Notice (not to exceed one-fourth of a page) in a newspaper circulated in Birmingham, Alabama (the "Summary Notice"). This Summary Notice will be published on two occasions, all at least sixty (60) days before the date set by the Court for the Fairness Hearing;

(c) The Settlement Administrator shall receive written objections, requests for exclusion, and other correspondence from Class Members and shall provide copies of such writings to Counsel for the Parties on a regular and timely basis;

(d) The Settlement Administrator shall provide to Class Counsel and Counsel for Defendants an affidavit setting forth all steps performed regarding notification to the Class Members, as well as expenses incurred, and shall provide supporting documentation, evidence, and/or testimony relating thereto to Counsel for the Parties and the Court no later than ten (10) days prior to the date scheduled for the Fairness Hearing;

(e) For a period of one-hundred eighty (180) days after the Final Order and Judgment (the "Bar Date"), the Settlement Administrator shall maintain the website and mailing address in order to receive any claims for settlement benefits and to respond to any inquiries with respect to the Settlement; and

(f) All costs associated with, incurred by, or charged by any Settlement Administrator shall be paid by Defendants. Class Counsel will pay for their own costs associated with monitoring the dissemination of the Class Notices and with administering any and all Settlement terms.

8.02 BWB agrees that it will also post the Summary Notice on its website for a period of at least thirty (30) days in advance of the Settlement Fairness Hearing. These Summary Notices will direct readers to the Long Form of the Settlement Notice located on the Settlement Administrator's website.

8.03 The Settlement Administrator will also post a notice, substantially similar to the Summary Notice, on its website. This summary notice must be published within thirty (30) days of entry of the Preliminary Approval Order and must remain posted on the website for a period of time of at least thirty (30) days in advance of the Settlement Fairness Hearing. This Summary

Notice must also direct customers where they can review the Long Form of the Settlement Notice on the Settlement Administrator's website.

9. Media and Other Communications

9.01 The Parties and their counsel agree to ensure that any comments in the media about or descriptions of this Settlement and the Agreement (or its value or cost) or in any other public forum apart from the Action are accurate. In addition, the Parties and their counsel agree that until such time as the Final Order and Judgment is entered, Class Counsel and Counsel for Defendants may, after mutual consultation, make only mutually agreeable press communications announcing the Settlement, but shall not otherwise issue any press release or printed or broadcast public communications about this Agreement or the Settlement except to communicate with Settlement Class Members about what they should do to submit appropriate Claim Forms.

9.02 Notwithstanding the foregoing, BWWB and/or Transwood may disclose this Agreement to, and discuss this Agreement with, their parent companies, affiliated companies, clients, and each of their officers, respective accountants, shareholders, insurers, auditors, consultants and investors, as well as with government entities as necessary to comply with applicable law, at any time before or after the Final Order and Judgment.

9.03 The Parties agree that BWWB shall have the right to communicate with, and respond to inquiries from, Settlement Class Members in the ordinary course of its business, a right which BWWB expressly reserves. However, any inquiries about this Agreement or about the Action shall also be referred to Class Counsel.

10. Fairness Hearing

10.01 At the hearing on the fairness, adequacy, and reasonableness of the Settlement set forth herein, the Parties shall request the Court to enter an Order (the "Final Order and Judgment")

granting final approval of this Settlement Agreement, entering a judgment thereon, and dismissing with prejudice this Action against BWWB, Transwood, and other Related Parties. In order to satisfy the requirements of this Settlement Agreement, the Final Order and Judgment must include provisions which:

(a) Certify that this Action was properly maintained as a Class Action pursuant to Alabama Rule of Civil Procedure 23(b)(3), with the Settlement Classes as defined in Paragraph 6 of this Settlement Agreement;

(b) Find that Mountain High Outfitters Cahaba Village/280, Altitude V, LLC, Active Exploration, LLC, Julie Klinner, and Allen Bayne, as Class Representatives, and Class Counsel have fairly and adequately represented and protected the interests of the Settlement Class Members;

(c) Find that the method of identifying Class Members, as well as the timing, form, content, and method of disseminating the proposed Notice to the Class Members, satisfied the requirements of both Alabama Rule of Civil Procedure 23 and due process, and that the Court has jurisdiction over the Class;

(d) Find that the Settlement Agreement is fair, adequate, and reasonable to the Class Members and conclude that the Agreement should be approved;

(e) Order that Class Plaintiffs, Mountain High Outfitters Cahaba Village/280, Altitude V, LLC, Active Exploration, LLC, Julie Klinner, and Allen Bayne, individually and as Class Representatives, as well as all Settlement Class Members, have released BWWB, Transwood, and other Related Parties in accordance with the terms and conditions set forth in Paragraph 13 of this Agreement;

(f) Dismiss on the merits and with prejudice all claims in this Action against BWWB, Transwood, and the other Released Parties, and permanently enjoin the Named Plaintiffs and all Settlement Class Members from bringing or prosecuting any claim or action that is released in Paragraph 13 of this Settlement Agreement;

(g) Approve an award of attorneys' fees (as well as all reasonable and necessary costs and litigation expenses) to Class Counsel, not to exceed \$75,000 in total, payable by BWWB and Transwood;

(h) Retain jurisdiction over any and all matters and issues relating to the interpretation, administration, implementation, effectuation, and enforcement of this Settlement Agreement and Final Order and Judgment, specifically including, but not limited to, the allocation, payment and distribution of Class Counsels' attorneys' fees and expenses or fees payable by Class Counsel to any referring attorneys.

10.02 At or before the Fairness Hearing, Class Counsel, BWWB and Transwood shall present sufficient evidence to support the entry of the Final Order and Judgment. Class Counsel shall also present such evidence as they deem appropriate to support any award of attorneys' fees and costs. The Parties may submit a proposed version of the Final order and Judgment to the Court within five (5) business days in advance of the Fairness Hearing.

11. Finality of this Agreement

11.01 This Agreement shall become final on the Effective Date of the Settlement Agreement as defined in Section II, paragraphs 1.9 and 1.11. In the event that the Court refuses to approve this Agreement, or if the Final Order and Judgment described in this Settlement Agreement is not entered, or if the Court's approval of this Agreement or such Final Order and Judgment is vacated, reversed or modified on appeal, then this entire Agreement shall become null

and void, unless the Parties hereto agree in writing to proceed with this Agreement with modifications thereto.

12. Definition of the Class Claims

12.01 For the purpose of this settlement, the claims of the Class Plaintiffs and the Settlement Class shall consist of all business loss or property damage claims asserted by the Class Plaintiffs (or all previous Class Plaintiffs) in any of their Class Action Complaints (original and amended). "Class Claims" also include any and all claims, causes of action, suits, obligations, demands, promises, liabilities, controversies and theories of relief, of any nature whatsoever, whether based on state or federal law, common law, state or federal regulations, whether known or unknown, whether actual or contingent, whether foreseen or unforeseen, whether liquidated or unliquidated, that arise out of or relate to or involve the chemical release on February 27, 2019 at the Shades Mountain Filter Plant, whether asserted in a complaint or not. The Class Claims do not include any bodily injury claims.

13. Release of Class Claims

13.01 Entry of the Final Order and Judgment on this Settlement shall constitute and have the full force and effect of a general release and discharge by Class Plaintiffs, Mountain High Outfitters Cahaba Village/280, Altitude V, LLC, Active Exploration, LLC, Julie Klinner, and Allen Bayne, as well as all Settlement Class Members, of BWWB and Transwood, together with their past and present members, divisions, subsidiaries, parent corporations, sister companies or corporations, affiliated corporations or companies, stockholders, partners, directors, officers, agents, employees, attorneys, representatives, trustees, insurers, instrumentalities, assignors, assignees, transferors, transferees, and affiliates (the "BWWB/Transwood Released Parties") from

any and all Class Claims as defined in Paragraph 12. The Action shall also be dismissed with prejudice.

13.02 The release of Claims set forth in Paragraph 13.01 shall be fully effective as to all Settlement Class Members who did not timely and effectively opt-out of the Class, regardless of whether a Settlement Claim Form is submitted, or a payment check is cashed. The Settlement Class Member will be precluded from asserting any of the claims that would fall within the scope of their Release in any future Court proceeding.

13.03 The Parties hereto agree that the Class Plaintiffs and all Settlement Class Members are permanently barred and enjoined from bringing, participating in, or prosecuting, directly or indirectly, any claim or action against BWWB and Transwood and any other party released under Paragraph 13 for any Class Claims referenced in Paragraph 12.

14. Settlement Class Relief

14.01 In return for the release and dismissal of all the Class Claims, the Class Plaintiffs and the Settlement Classes shall obtain the relief provided in this Settlement Agreement. The settlement relief shall be embodied in a Final Judgment or a Consent Order entered by the Court. A copy of an acceptable Claim Form is attached hereto as Exhibit E. A Settlement Class Member, however, can provide other proofs of claim in other formats, so long as those alternative formats contain the same essential information as required in Exhibit E. Defendants may pay or reject any Settlement Claim Form received after the Bar Date in their sole and absolute discretion.

15. Procedures for Presenting Objections

15.01 Settlement Class Members shall have the right to appear and show cause, if they have any, why this case should not be certified as a class action and/or why the proposed Settlement

should not be approved by the Court. The right of a Class Member to object shall be deemed waived, however, and the objections shall not be heard, unless he, she, or it:

(a) signs and files a written statement of any objection he, she, or it may have to the settlement; and

(b) delivers by hand or sends copies of the same by first class U.S. mail to BWWB or any Settlement Administrator, Counsel for BWWB and Transwood, and Class Counsel.

15.02 The written statement of objection must be signed by the Settlement Class Member making such objection and must include:

(a) the Settlement Class Member's name and address, along with the name, telephone number, and address of any person who is knowledgeable about the objection and who may present arguments or evidence in support of the objection at the Fairness Hearing;

(b) the title and case number of this Action;

(c) a statement that the objection is submitted in response to a Notice of Settlement in the Action; and

(d) a brief statement of the substance and grounds for the objection.

15.03 All such written statements of objectors must be received by the Court, BWWB or the Settlement Administrator, Counsel for BWWB and Transwood, and Class Counsel no later than thirty (30) calendar days before the date set for the hearing to determine the fairness of the proposed settlement, which date shall be set forth in the Notice to be provided to Class Members pursuant to Paragraph 16 hereof. Objections filed and served in accordance with the foregoing procedure may be considered by the Court regardless of whether the objecting Settlement Class Member appears personally or by counsel at the hearing to argue the same.

15.04 Any Settlement Class Member may appear at the Fairness Hearing and request an opportunity to be heard, but only if such person or entity has filed and served a Notice of Intent to Appear and Present Objections. This Notice of Intent to Appear must be filed and served in the same manner and within the same 30-day period referenced above for objections.

15.05 An objector may only file an objection on his or her behalf, not on behalf of some portion or sub-set of the Class, unless he or she has been appointed by the Court to do so. If the Court affords this right to any Settlement Class Member, BWWB and Transwood shall have the right to set aside, rescind, or terminate this Agreement.

16. Procedures for Requesting Exclusion from the Settlement

16.01 Settlement Class Members shall have the right to exclude themselves from this Settlement. To do so, they must complete and return to the Settlement Administrator a Request for Exclusion. The Request for Exclusion must identify the Settlement Class Member seeking exclusion by their full name and current address. The Request for Exclusion must be signed, contain a statement to the effect that "I want to be excluded from the Settlement Class," and must be sent to the Settlement Administrator by First Class Mail postmarked no later than thirty (30) days before the date set by the Court for the Fairness Hearing.

16.02 Requests seeking to exclude a class of persons are invalid and will not be accepted.

16.03 Requests for Exclusion not received by the date set forth in Paragraph 16.01 shall not be accepted, and those persons will be included in the Settlement Class and will be bound by the terms of this Settlement Agreement if approved by the Court, including without limitation the judgment ultimately rendered in the case.

17. Covenants of Class Counsel

17.01 Class Counsel acknowledge that the following conduct would constitute a conflict of interest with the interests of the Settlement Class, which they purport to represent, and with the position Class Counsel has taken as to the fairness and reasonableness of the Class Settlement: the representation of any persons or entities (i) who are Settlement Class Members and who challenge in any way the settlement; (ii) who may later claim at some date that they were not bound by the terms of the Class Settlement for any reason; or (iii) who may claim that the Release of Claims provision in the Class Settlement does not bar their claims.

17.02 Notwithstanding the foregoing covenants, the parties acknowledge that class counsel may hereafter represent future clients who have claims different from the Class Claims embraced by this Settlement, with respect to any other disputes with BWWB or Transwood. Class Counsel agree, however, that before they commence litigation against BWWB or Transwood, they will present the dispute to BWWB or Transwood, as the case may be. BWWB and/or Transwood will then have forty-five (45) days to resolve the dispute to Class Counsel's or their clients' satisfaction before a lawsuit may be filed. Provided further, however, that Class Counsel may commence litigation within this forty-five day period if necessary to avoid expiration of a statute of limitations or any jurisdictional or procedural bar. During the forty-five day review period, BWWB and/or Transwood may seek the aid of a mediator to assist in resolution of the dispute. Class Counsel stipulate that they currently have no clients with plans to commence such litigation and that they have no present intentions or plans to commence such litigation on behalf of any clients.

18. Failure to Obtain Final Court Approval

18.01 If the parties' agreed upon Final Order is not entered, or if the Settlement is not finally approved and consummated on the terms agreed to by the parties, or if the Final Order is

reversed on appeal, or if appealed, the Final Order is not affirmed in all respects, the Settlement Agreement shall be null and void for all purposes. However, the parties may agree to go forward with the Settlement under such modified terms. If the parties elect to exercise this right, they must do so in writing, with copies provided to the Court, within seven (7) days of any such order.

19. Best Efforts

19.01 The Parties and counsel shall use their best efforts to cause the Court to give preliminary approval to the Settlement Agreement as promptly as possible and to take all steps contemplated by the Agreement to effectuate the Settlement on the stated terms and conditions and, further, to obtain final approval of the settlement contained in the Agreement. Specifically, the Class Plaintiffs and Class Counsel agree (a) to recommend the Settlement contained in this Stipulation as being in the best interests of the Settlement Class Members under the circumstances, (b) to oppose any objections, and (c) not to cooperate with objectors or their counsel. No Settlement Class Member, however, other than the Class Plaintiffs, shall be precluded from questioning or objecting to the proposed settlement at the hearing for final approval thereof by the Court notwithstanding Settlement Class Counsel's recommendation, provided that the procedure for objections ordered by the Court is followed. The Class Plaintiffs and Class Counsel, however, agree not to solicit, request, or advise Settlement Class Members to object to the settlement or to arrange representation for Settlement Class Members objecting to the settlement.

19.02 No party will institute, participate in, or encourage any appeal from an order implementing the Settlement Agreement; provided, however, any party shall have the right to appeal an order which is materially different from the terms of the Settlement Agreement, or which alters the consideration to be given by or to any party or to Class Counsel.

20. Warranties and Representations

20.01 The Class Plaintiffs, by and through their Class Counsel, warrant and represent to BWWB and Transwood that they have not conveyed, pledged, transferred, hypothecated, or in any manner encumbered or assigned the Class Claims to any other natural person, firm, corporation, partnership, joint venture, trust or estate, business, association, or any form of legal entity. Counsel for the parties also warrant that the Settlement Agreement has been entered into in good faith, following extensive negotiations, and that no conflicts of interest exist on their part.

21. Continuing Jurisdiction of the Court

21.01 Without affecting the finality of the Final Order and Judgment, for purposes of appeal, the Court will retain exclusive jurisdiction over the interpretation, administration, effectuation, implementation, and enforcement of the Settlement Agreement. Further, any breach of the Settlement Agreement or violations of orders of the Court in regard to this litigation and Settlement shall not automatically affect the validity of the Agreement, any final judgment entered by the Court, or any release hereunder. Instead, any person making such allegations shall bring such complaints to the Court. If the Court determines there was a breach, it may assess damages against the party causing the breach, including legal fees and costs reasonably incurred by the non-breaching party as a consequence of the breach.

22. Return of Discovery Materials

22.01 Promptly after the Effective Date of the Settlement, the Class Plaintiffs and Class Counsel must: (a) return to BWWB's and Transwood's Counsel any and all documents in their possession, custody, or control which have been produced to them in discovery by BWWB or Transwood in this or any other case, or (b) destroy such documents and provide a written certification that such documents have been destroyed. Class Counsel must certify in writing that they and the Class Plaintiffs are in compliance with this requirement and in compliance with the

terms of the Protective Order previously entered by the Court forbidding the disclosure to others of documents marked "Confidential" by one of the Defendants.

23. Non-Cooperation with Other Counsel

23.01 The Class Plaintiffs and Class Counsel agree not to share with other counsel or persons any other documents produced to them in discovery by BWWB and/or Transwood in this action or in any other action, or any depositions obtained in this or in any other action.

24. Attorneys' Fees and Expenses

24.01 Class Counsel reserves the right to petition the Court for an award of attorneys' fees and expenses. Class Counsel agrees not to seek an award in excess of the total amount of \$75,000 in attorneys' fees, expenses, and costs from BWWB and/or Transwood, from any Settlement Class Member, or from any other third party. As long as the petition for fees and expenses does not exceed \$75,000, BWWB and Transwood agree not to oppose the petition or object to the fees requested. BWWB and Transwood agree to pay the total of \$75,000, or any lesser sum approved by the Court, within ten (10) business days after the Effective Date of the settlement. This amount shall cover any claims for fees and expenses of Class Counsel in this case (or of other counsel who have provided assistance to Class Counsel). Unreimbursed fees and expenses of other counsel providing assistance to Class Counsel in this and related matters may be submitted in support of the Petition. Class Plaintiffs may petition the Court for an incentive fee not to exceed \$750.00 for each of the Class Plaintiffs Mountain High Outfitters Cahaba Village/280, Altitude V, LLC, Active Exploration, LLC, Julie Klinner, and Allen Bayne. BWWB and Transwood agree not to object to or oppose this request. If those Class Plaintiffs receive any incentive payments, the amount of that payment must come from the \$75,000 paid pursuant to this Paragraph or from Class Counsel's other resources, not from BWWB or Transwood. Under no circumstances shall BWWB or

Transwood be responsible to pay any additional expenses or attorneys' fees or incentive payments in settlement of this Action to Class Counsel or any other person, entity, or Firm.

24.02 Class Counsel, BWWB and Transwood agree that the Settlement Class shall not be liable for any attorneys' fees or costs (except for any attorney a Class member may hire to submit objections to the Settlement). Failure by the Court to grant any fee and expense petition by Class Counsel in the amount and manner sought by Class Counsel shall not affect or vitiate any other provision of this Agreement or the finality of the Final Judgment, nor shall it affect or relieve Class Counsel's obligations hereunder to use their best efforts to effect the consummation and implementation of this Agreement and the Settlement provided for herein.

24.03 Class Plaintiffs and Class Counsel represent that the fees and expenses petitioned for in Paragraph 24.01 of this Agreement, includes all persons (natural or legal) having any interest in any award of attorneys' fees and costs in connection with this Action. Class Plaintiffs and Class Counsel warrant that any award of fees/costs shall include within its scope all attorneys and law firms with a financial interest in any such award.

24.04 Class Counsel must submit their motion for an award of fees, costs, and expenses no later than fourteen (14) days before the deadline established by the Court for Settlement Class Members to either object to the Settlement or to request exclusion from the Settlement Class.

24.05 Class Counsel is solely responsible for distributing any attorneys' fees and expenses award to and among all attorneys that may claim entitlement to attorneys' fees or costs in this Action. It is a condition to this Settlement that BWWB and Transwood shall not be liable to anyone else for any attorneys' fees or costs, or any claim by any other counsel or Class Member for additional attorneys' fees, costs, or expenses relating in any way to this Action or this Settlement.

25. Miscellaneous Provisions and Reservations

25.01 This Agreement reflects, among other things, the compromise and settlement of disputed claims among the Parties hereto, and nothing in this Agreement nor any action taken to effectuate this Agreement, is intended to be an admission or concession of liability of any party or the validity of any claim.

25.02 This Agreement is entered into only for purposes of settlement. In the event that Final Approval of this Agreement and this Settlement does not occur for any reason, including without limitation if such Final Approval is reversed on appeal, this Agreement shall become null and void. In that event, the Parties shall be absolved from all obligations under this Agreement, and this Agreement, any draft thereof, and any discussion, negotiation, documentation, or other part or aspect of the Parties' settlement discussions leading to the execution of this Agreement shall have no effect and shall not be admissible evidence for any purpose. Any orders entered pursuant to the Settlement shall be null and void, shall not be an adjudication of any fact or issue for any purpose other than the effectuation of this Agreement, and shall not be considered as law of the case, *res judicata*, or collateral estoppel in this or any other proceeding. In addition, the status of the Action shall revert to the state it was in prior to settlement, and the agreements contained herein shall be null and void; provided, however, that the Parties shall cooperate in requesting the Court to enter a new scheduling order such that neither Party's substantive or procedural rights are prejudiced by the attempted Settlement.

25.03 A party who chooses to terminate this Agreement or withdraw from it, if allowed under the Agreement, must do so by a signed writing served on the other Party no later than thirty-five (35) days after receiving notice of the event prompting the termination unless there is a motion or petition seeking reconsideration, alteration or appellate review of the event, in which case thirty-five (35) days after the final resolution of such motion or petition seeking reconsideration,

alteration, or appellate review thereof, whichever is later. If any event occurs that would allow a party to terminate or withdraw from the Agreement, no party is required for any reason or under any circumstance to exercise that option.

25.04 This Agreement shall be interpreted and enforced in accordance with Alabama law.

25.05 The Settling Parties agree and stipulate that this Agreement was negotiated on an "arms-length" basis between parties of equal bargaining power. This Agreement shall be deemed to have been drafted jointly by the Parties and their Counsel, and any rule that ambiguities in a document shall be interpreted against the drafter shall not apply to this Agreement.

25.06 The waiver by one Party of any provision or breach of this Settlement Agreement shall not be deemed a waiver of any other provision or breach of this Settlement Agreement.

25.07 This Settlement Agreement shall inure to the benefit of (and shall be binding upon) the respective heirs, successors and/or assigns of the Parties, and the Released Parties shall be deemed to be intended third-party beneficiaries of this Settlement Agreement, and once approved by the Court, of the Settlement.

25.08 With the exceptions of non-parties who are covered by the releases in Paragraph 13, this Settlement Agreement may not be relied upon for any purpose by, or create any rights in, any person who is not a Settlement Class Member, as that term is defined herein in Paragraph 1.23.

25.09 No litigation class will be certified in whole or in part because of this Agreement. BWWB and Transwood will not be deemed to have consented (and will not be estopped to oppose) the certification of any class for purposes of litigation by virtue of its having entered into this Agreement for certification of a class for settlement purposes only. BWWB and Transwood,

moreover, affirmatively reserves all of their defenses to class certification and to the merits of Plaintiff's claims.

25.10 This Settlement Agreement shall become effective upon its execution by counsel for all Parties. The Parties may execute this Settlement Agreement in counterparts. Each counterpart shall be deemed to be an original, and execution of counterparts shall have the same force and effect as if all Parties had signed the same instrument at the same time.

25.11 The Class Plaintiffs, Class Counsel and Defendants each represent and warrant that they are fully authorized to enter into this Settlement Agreement and to carry out the obligations provided for herein. Each person executing this Settlement Agreement on behalf of a Party covenants, warrants and represents that he/she/it is and has been fully authorized to do so by such Party. The parties hereto further represent and warrant that they intend to be bound fully by the terms of this Settlement Agreement.

25.12 Any inconsistency between this Agreement and the attached Exhibits will be resolved in favor of this Agreement.

25.13 If either party breaches the Agreement or the terms of any of the representations and warranties in this section, it shall be fully liable for all damages it caused, including legal fees and costs reasonably incurred as a consequence of the breach, to any adversely-affected Party. The adversely-affected Party may institute a proceeding before the Court in this Action to recover all sums due and owing under this paragraph, and to seek additional equitable relief as the Court deems proper and just, and the Court shall retain jurisdiction over this matter to entertain such proceedings. But if one Party to this Agreement considers the other Party to be in breach of its obligations under this Agreement, that Party must first provide the breaching Party with written

notice and a twenty (20) day opportunity to cure the breach before bringing an action in Court to enforce any rights under this Agreement.

25.14 This Settlement Agreement shall be binding upon and inure to the benefit of the Class Plaintiffs, the Settlement Class Members, BWWB, and Transwood, as well as their respective heirs, representatives, executors, predecessors, successors and assigns, and upon any corporations or other entities with which they may merge or consolidate.

25.15 In the event any one or more of the provisions contained herein shall for any reason be held illegal, invalid, or unenforceable in any respect, each illegality, invalidity, or unenforceability shall not affect any other provisions if the Settling Parties and their counsel mutually elect by written stipulation to be filed with the Court within twenty (20) days to proceed as if such illegal, invalid, or unenforceable provisions had never been included in this Agreement.

25.16 Prior to the entry of the Final Order and Judgment, the terms and provisions of this Agreement may be amended, modified, or expanded by written agreement of the Parties and approval by the Court; provided, however, that after entry of the Final Order and Judgment, the Parties by mutual agreement may effect such amendments, modifications, or expansions of this Agreement and its implementing documents (including all exhibits hereto) without further notice to the Class or approval of the Court if such changes are not materially inconsistent with the Court's Final Order and Judgment and do not materially limit, or materially and adversely affect, the rights or obligations of the Settlement Class Members under this Agreement.

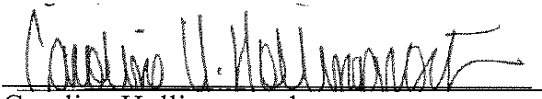
25.17 The headings used in this Settlement Agreement are for the purposes of convenience and do not constitute part of the Settlement Agreement, and no heading shall be used to help construe the meaning of the Settlement Agreement.

25.18 Whenever any written notice is required by the terms of this Agreement or by an order of the Court, it shall be sent by e-mail or first-class mail to the counsel listed below at the addresses also listed below on the signature pages.

25.19 All time periods set forth herein shall be computed in calendar days unless otherwise expressly provided. In computing any period of time under this Agreement, the last day of the period shall be included, unless it is a Saturday, Sunday, or legal holiday, in which event, the period shall run to the next day that is not one of those days.

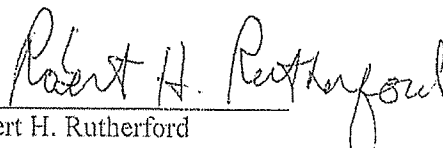
25.20 The foregoing constitutes the entire agreement between the Parties with respect to the subject matter hereof and may not be modified or amended except in writing signed by Class Counsel and counsel for BWWB and Transwood. To the extent that this Settlement Agreement differs in any manner whatsoever from prior written or oral agreements regarding the subject matter hereof, the terms and conditions of this Settlement Agreement shall control.

IN WITNESS WHEREOF, this Settlement Agreement has been executed and delivered as of the 5th day of August, 2024.


Caroline Hollingsworth
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