

**NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION
STATE SUPERFUND PROGRAM**

ECL § 27-1301 *et seq.*

In the Matter of a Remedial Program for

**AMENDMENT TO ORDER ON CONSENT
AND ADMINISTRATIVE SETTLEMENT
Index No. CO 4-20160212-18**

PFOA impacting the Village of Hoosick Falls Municipal Water Supply, private drinking water wells in the Town of Hoosick,

and

DEC Site Name: Saint-Gobain McCaffrey Street

DEC Site No.: 442046

Site Address: 14 McCaffrey Street
Hoosick Falls, NY 12090
Rensselaer County

Hereinafter referred to as "McCaffrey Site" or "Site"

and

DEC Site Name: Saint-Gobain Liberty Street Site

DEC Site No.: 442048

Site Address: 1 Liberty Street
Hoosick Falls, NY 12090
Rensselaer County

Hereinafter referred to as "Liberty Site" or "Site"

by: Saint-Gobain Performance Plastics Corporation

and

Honeywell International Inc.

Hereinafter referred to as "Respondent" or
"Respondents"

WHEREAS:

1. A. The New York State Department of Environmental Conservation ("Department") is responsible for inactive hazardous waste disposal site remedial

programs pursuant to Article 27, Title 13 of the Environmental Conservation Law ("ECL") and Part 375 of Title 6 of the Official Compilation of Codes, Rules and Regulations ("6 NYCRR") and may issue orders consistent with the authority granted to the Commissioner by such statute.

B. The Department is responsible for carrying out the policy of the State of New York to conserve, improve and protect its natural resources and environment and control water, land, and air pollution consistent with the authority granted to the Department and the Commissioner by Article 1, Title 3 of the ECL.

C. This Amendment to Order on Consent and Administrative Settlement ("Amendment") is issued pursuant to the Department's authority under, *inter alia*, ECL Article 27, Title 13 and ECL 3-0301.

2. Saint-Gobain Performance Plastics Corporation ("Respondent Saint-Gobain") is a California corporation doing business in the State of New York. Respondent Saint-Gobain owns and operates the McCaffrey Site and Liberty Site.

3. Honeywell International Inc. ("Respondent Honeywell") is a Delaware corporation whose predecessors, Allied-Signal Inc. and/or AlliedSignal Laminate Systems, Inc., owned and/or operated the McCaffrey Site, Liberty Site, and other industrial facilities in and around the Village of Hoosick Falls ("Village").

4. The McCaffrey Site is currently listed in the Registry of Inactive Hazardous Waste Disposal Sites in New York State ("Registry") as Site Number 442046 with a Classification of 02 pursuant to ECL 27-1305. The McCaffrey Site is also currently listed on the National Priorities List ("NPL") with Site EPA ID NYD004986741 as the Saint-Gobain Performance Plastics site. The Department has divided the McCaffrey Site into three operable units. An operable unit represents a portion of a remedial program for a site that for technical or administrative reasons can be addressed separately to investigate, eliminate or mitigate a release, threat of release or exposure pathway resulting from the site contamination.

5. The Liberty Site is currently listed in the Registry as Site Number 442048 with a Classification of 02 pursuant to ECL 27-1305.

6. Respondents entered into Order on Consent and Administrative Settlement Index Number CO 4-20160212-18 with the Department ("Order"), dated June 3, 2016. Under the Order prior to this Amendment, the Department reserved all rights to seek recovery of costs not paid pursuant to the Order, and Respondents reserved their rights to contest payment of costs not set forth in Paragraph III.B.1 of the Order.

7. The Village Municipal Water Supply ("MWS") is managed as Operable Unit Number 02 ("OU-02") of the McCaffrey Site. On December 3, 2021, the Department issued a Record of Decision ("ROD") for OU-02, selecting as the remedy ("OU-02

Remedy”) a New Groundwater Source with GAC Treatment. The elements of the OU-02 Remedy are described in the OU-02 ROD.

8. Off-site contamination related to the atmospheric deposition of site-related contaminants and/or direct off-site disposal of site-related liquid and/or solid wastes is managed as Operable Unit Number 03 (“OU-03”) of the McCaffrey Site. The Department expects that the OU-03 remedy will include a requirement for ongoing remedial action in the form of an alternate water supply or Point of Entry Treatment (“POET”) system for all locations where perfluorooctanoic acid (“PFOA”) is detected at or above the maximum contaminant level applicable when the OU-03 ROD is issued. The Department has no position currently on whether the OU-03 remedy will also require an alternate water supply or POET for other locations, or whether the OU-03 remedy will include other/additional requirements. The Department recognizes at this time that cleanup of the entire aquifer seems infeasible based on current technologies. The Department is committed to a full OU-03 investigation and will select the most appropriate remedy in accordance with the remedy selection criteria set forth in DER-10 when that point in the remedial program is reached.

9. Respondents consent to the issuance of this Amendment without (i) an admission or finding of liability, fault, wrongdoing, or violation of any law, regulation, permit, order, requirement, or standard of care of any kind whatsoever; (ii) an acknowledgment that there has been a release or threatened release of hazardous waste at or from the Sites or any other industrial facilities now or formerly owned or operated by Respondents, either identified or unidentified; and/or (iii) an acknowledgment that a release or threatened release of hazardous waste at or from the Sites constitutes a significant threat to the public health or environment.

10. Solely with regard to the matters set forth below, Respondents hereby waive any right to a hearing as may be provided by law, consent to the issuance and entry of this Amendment, and agree to be bound by its terms. Respondents consent to and agree not to contest the authority or jurisdiction of the Department to issue or enforce this Amendment and agree not to contest the validity of this Amendment or its terms or the validity of data submitted to the Department by Respondents pursuant to this Amendment.

NOW, having considered this matter and being duly advised, **IT IS ORDERED THAT:**

I. McCaffrey Site OU-02 Remedy

A. Respondents shall fully implement the OU-02 remedy, in accordance with the OU-02 ROD and any modifications thereto, under Department oversight.

B. Implementation of the OU-02 ROD requires improvements (“Improvements”) to the water supply system of the Village of Hoosick Falls (“Village”).

The Improvements include new groundwater supply wells, associated hardware, and a new water line. Respondents have entered into a separate agreement with the Village ("Village Agreement") that sets forth the respective rights of Respondents and the Village relative to the Improvements, including Village oversight of the design and construction of the Improvements, as well as future operation and maintenance of the Improvements. The Village Agreement is attached hereto as Exhibit A.

C. In the event that the Village Agreement is terminated pursuant to its terms, such termination shall constitute a Force Majeure Event under Paragraph IV.B of Appendix A, and Respondents' obligations under Paragraphs I.A and I.B of this Amendment shall be suspended until the Force Majeure Event is resolved or the Department issues an amended record of decision for OU-02. In the event such a Force Majeure Event is not resolved, Respondents and the Department reserve all of their respective rights and defenses with respect to OU-02.

D. Respondents have entered into a Class Settlement Agreement in *Baker, et al. v. Saint-Gobain Performance Plastics Corp., et al.*, No. 1:16-CV-00917-LEK-DJS (N.D.N.Y.), pursuant to which a Medical Monitoring Administrator has been appointed to oversee a biomonitoring program for Village residents. Respondents shall request that the Medical Monitoring Administrator provide the Department and the New York State Department of Health ("NYSDOH") with biomonitoring data for Village residents periodically every twelve (12) months during the length of the biomonitoring program provided for in the Class Settlement Agreement, as such data are reported to the Medical Monitoring Administrator, in a compiled and aggregate manner to protect the confidentiality of any individual's results.

II. Ongoing POET Operation and Maintenance ("O&M")

A. On a monthly basis, the Department will send Respondents a summary of the status of all POET locations managed by the Department under HSF PFOA POET Spill Number 1511059 in accordance with the applicable O&M Plan.

B. The O&M Plan for POET locations managed by the Department under HSF PFOA POET Spill Number 1511059 is entitled "Hoosick Falls PFOA Point of Entry Treatment and Point of Use Treatment Systems Site Management Plan for NYSDEC Installed Treatment Systems."

C. The Department reserves the right to continue to optimize the O&M Plan for POET locations managed by the Department under HSF PFOA POET Spill Number 1511059. The Department may, for example, optimize POET maintenance or sampling requirements based on information or guidance.

D. The Department has not selected, and has not made a commitment to select, any particular remedy or remedial action component for OU-03.

III. Payment of State Costs

A. Paragraph III.B.1 of the Order is amended as follows:

B. 1. *In accordance with Appendix A, Respondents shall pay State Costs identified in this Paragraph within sixty (60) Days of receipt of an invoice. Included as State Costs that are to be paid pursuant to this Paragraph are the costs of the State's sampling of private water wells in and around the Town of Hoosick, the Village of Hoosick Falls, and the Bus Garage on River Road, the State's sampling of the Hoosick River, and other surface waters, the State's sampling of soils, the State's preliminary efforts to evaluate alternative water supplies, and the State's personnel costs associated with the foregoing activities, the cost of negotiating this Order, the costs associated with overseeing, administering, or enforcing this Order, and the work performed and deliverables submitted by Respondents as required under this Order. In addition to the State Costs outlined above, effective from January 1, 2023 forward, Respondents shall also pay the following State Costs within sixty (60) Days of receipt of an invoice, in accordance with Appendix A: the Hoosick Area Community Participation Work Group ("CPWG") costs, the Agreed Percentage of Hoosick-area POET costs in accordance with Paragraphs III.B.1.a through III.B.1.d below, the State's personnel costs associated with the foregoing activities, the costs associated with negotiating, overseeing, administering, or enforcing this Order as amended, and the work performed and deliverables submitted by Respondents as required under this Order as amended.*

a. *Respondents shall pay fifty percent (50%) (the "Agreed Percentage") of costs associated with POET locations managed by the Department under HSF PFOA POET Spill Number 1511059 ("Hoosick-area POET costs"). The Department will accept payment of the Agreed Percentage in full satisfaction of Hoosick-area POET costs during the invoiced timeframe. Hoosick-area POET costs include, but are not limited to, costs of POET installation and maintenance in accordance with the applicable O&M Plan. The initial Agreed Percentage of fifty percent (50%) of Hoosick-area POET costs reflects the approximate costs for POETs in the Town of Hoosick where PFOA has been detected in raw water at or above 10 ppt PFOA. By agreeing to pay the Agreed Percentage, however, Respondents do not admit that they are liable or in any way responsible for the detection of PFOA in any particular wells, or for the costs associated with operating and maintaining any particular POET systems, and expressly reserve all rights and defenses with respect thereto.*

b. *Upon written request of the Department and/or either Respondent to discuss whether a change in the Agreed Percentage is warranted ("Request"), the Agreed Percentage shall be immediately suspended and the Department and Respondents shall discuss whether a change in the Agreed Percentage from the date of the Request forward is warranted. Such Request shall be made in accordance with Paragraph IV of this Order as amended. The Department and Respondents anticipate that they would agree to adjust the Agreed Percentage based on changes in one or more relevant factors such as the total number of active POET locations, raw water*

PFOA concentrations, final federal or state maximum contaminant levels, or the conceptual site model. The Department and Respondents further anticipate that they may need to adjust the Agreed Percentage when the Department issues the OU-03 ROD, to conform to requirements of the OU-03 ROD, if Respondents agree to implement the OU-03 ROD.

c. For each invoice, the Department and Respondents agree to waive any claims against one another concerning Hoosick-area POET costs that are paid through the Agreed Percentage in effect in accordance with Paragraphs III.B.1.a through III.B.1.d of this Order as amended.

d. In the event of any future disagreement relating to changing the Agreed Percentage, the Department reserves its rights to seek cost recovery of all POET costs from the date of the Request forward, and Respondents reserve their rights and defenses to contest any such action by the Department.

B. Paragraph III.B.3 of the Order is stricken and replaced with the following:

3. In satisfaction of the costs previously reserved by the Department under Paragraph III.B.3 of the Order through December 31, 2022, Respondents shall pay thirty million dollars (\$30,000,000.00) to the Department, to be deposited into the Inactive Hazardous Waste Remedial Fund ("State Superfund") and/or the Clean Water Infrastructure Act Hazardous Waste Fund. Such payment shall be made to the Department at the address identified in Paragraph VI.C of Appendix A, within sixty (60) Days after the effective date of this Amendment. In consideration of this payment, the Department releases and covenants not to sue, execute judgment, or take any civil, judicial or administrative action under any federal, state, local or common law (other than enforcement of this Order as amended) against the Respondents for the costs previously reserved by the Department under Paragraph III.B.3 of the Order through December 31, 2022.

C. Paragraph III.B.4 of the Order is amended as follows:

4. In addition to the bases for contesting invoiced costs set forth in the provisions of 6 NYCRR 375-1.5(b)(3)(v), Respondents may also contest an invoice pursuant to the dispute resolution provisions in Appendix A, under the additional basis that the costs sought are POET costs in excess of the Agreed Percentage under this Order as amended, pursuant to Paragraph III.B.1 above.

IV. Natural Resource Damages ("NRD")

A. Within sixty (60) Days after the effective date of this Amendment, Respondents shall pay five million dollars (\$5,000,000.00) to be deposited into the New

York State Department of Environmental Conservation's Natural Resource Damages Fund for use consistent with 42 U.S.C. § 9607. Such payment shall be made to the Department at the following address:

New York State Department of Environmental Conservation
Office of General Counsel
Attn: NRD Fund Manager, Nancy Allen
625 Broadway, 14th Floor
Albany, NY 12233-1500

B. In consideration of this payment, the Department, acting on behalf of the Commissioner in his capacity as Trustee for New York State's natural resources under applicable federal law, including the Comprehensive Environmental Response, Compensation and Liability Act, the Clean Water Act, and the Oil Pollution Act, as well as Article 12 of the New York Navigation Law and Article 3 of the ECL, releases and covenants not to sue, execute judgment, or take any civil, judicial or administrative action under any federal, state, local or common law (other than enforcement of this Order as amended) against the Respondents seeking additional NRD from Respondents for natural resource damages, as defined through 42 U.S.C. § 9601(6) and (16), resulting from per- or polyfluoroalkyl substance ("PFAS") contamination at or emanating (including air dispersion) from the McCaffrey Street or Liberty Street sites, including any future natural migration of such PFAS contamination.

C. This release does not apply to natural resource losses or injuries resulting from PFAS contamination of which the Department is unaware as of the effective date of this Amendment. For purposes of this paragraph, the Department is aware of all data the Department has provided to Respondents, and all data that the Department has collected or received from any person in accordance with a remedial program as defined at 6 NYCRR 375-1.1(ap).

D. The Department will select one or more appropriate NRD projects, following consultation with the Village of Hoosick Falls and the Town of Hoosick.

V. Communications

A. Several addressees for communication have been modified since the effective date of the Order. For convenience, the current addressees for communication are listed below.

1. Communication from Respondents shall be sent to:

Ian Beilby (1 hard copy (unbound for work plans) & 1 electronic copy)
New York State Department of Environmental Conservation
Division of Environmental Remediation

625 Broadway
Albany, NY 12233
ian.beilby@dec.ny.gov

Christine Vooris (electronic copy only)
New York State Department of Health
Bureau of Environmental Exposure Investigation
Empire State Plaza
Corning Tower Room 1787
Albany, NY 12237
christine.vooris@health.ny.gov

Caryn Bower, Esq. (correspondence only)
New York State Department of Environmental Conservation
Office of General Counsel
625 Broadway
Albany, NY 12233-1500
caryn.bower@dec.ny.gov

2. Communication from the Department to Respondents shall be sent to:

Respondent Honeywell:

Dale A. Desnoyers, Esq.
Allen & Desnoyers LLP
120 Defreest Drive
Troy, New York 12180
dale@allendesnoyers.com

Sasa Jazic
Senior Remediation Manager
Honeywell International Inc.
14 Columbia Circle, STE 103
Albany, NY 12203
sasa.jazic@honeywell.com

Chuck Anthony, Esq.
General Counsel – HSEPS
Honeywell International Inc.
855 S. Mint St.
Charlotte, NC 28202
charles.anthony@honeywell.com

Respondent Saint-Gobain:

Chris Angier
Environmental Project Manager
Saint-Gobain Corporation
14 McCaffrey Street
Hoosick Falls, NY 12090
christopher.angier@saint-gobain.com

Brett E. Slensky, Esq.
Environmental, Health & Safety Counsel
Saint-Gobain Corporation
20 Moores Road
Malvern, PA 19355
brett.e.slensky@saint-gobain.com

Christopher R. Gibson, Esq.
Archer & Greiner, P.C.
1025 Laurel Oak Road
Voorhees, NJ 08043
cgibson@archerlaw.com

VI. Miscellaneous

A. This Amendment shall not inure to the benefit of any third party. The existence of this Amendment or Respondents' compliance with it, shall not give rise to any presumption of law or finding of fact, or create any rights, or grant any cause of action, which shall inure to the benefit of any third party.

B. Except as set forth in this Amendment, the Order is unaffected and shall continue in full force and effect in accordance with its terms.

C. Appendix A to the Order shall be understood as Appendix A to the Order as amended. References within the Order or Appendix A to the "Order" shall be understood to reference the "Order as amended."

D. In the event of a conflict between the main body of this Order as amended and the terms of Appendix A, the main body of this Order as amended shall control.

E. This Amendment may be executed for the convenience of the parties hereto, individually or in combination, in one or more counterparts, each of which shall be deemed to have the status of an executed original and all of which shall together constitute one and the same.

F. The effective date of this Amendment is the day it is signed by the Commissioner or the Commissioner's designee.

DATED: 5/11/2023

BASIL SEGGOS
COMMISSIONER
NEW YORK STATE DEPARTMENT OF
ENVIRONMENTAL CONSERVATION

By: Andrew Guglielmi
Andrew O. Guglielmi, Director
Division of Environmental Remediation

CONSENT BY RESPONDENT HONEYWELL

Respondent Honeywell hereby consents to the issuing and entering of this Amendment to Order on Consent and Administrative Settlement, waives Respondent's right to a hearing herein as provided by law, and agrees to be bound by this Amendment to Order on Consent and Administrative Settlement.

Honeywell International Inc.

By: [Signature]

Title: Chief Sustainability Officer

Date: 5/3/2023

STATE OF

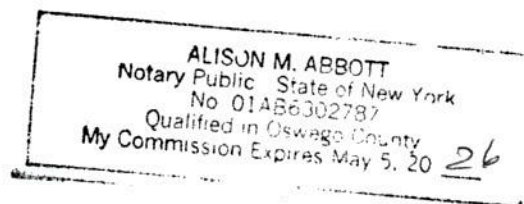
COUNTY OF

) New York
) ss:
) Onondaga

On the 3rd day of May in the year 2023, before me, the undersigned, personally appeared Evan van Houtk (full name) personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her capacity, and that by his/her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

Alison M. Abbott

Signature and Office of individual taking acknowledgement



CONSENT BY RESPONDENT SAINT-GOBAIN

Respondent Saint-Gobain hereby consents to the issuing and entering of this Amendment to Order on Consent and Administrative Settlement, waives Respondent's right to a hearing herein as provided by law, and agrees to be bound by this Amendment to Order on Consent and Administrative Settlement.

Saint-Gobain Performance Plastics Corporation

By: [Signature]

Title: CEO Life Sciences

Date: May 10, 2023

STATE OF MA)
COUNTY OF Middlesex) ss:

On the 10 day of MAY in the year 2023, before me, the undersigned, personally appeared Sung Hun YU (full name) personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her capacity, and that by his/her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

[Signature]
Signature and Office of individual taking acknowledgement



Nancy D Zaccone
NOTARY PUBLIC
Commonwealth of
Massachusetts
My Commission Expires
5/27/2027

AGREEMENT

This Agreement ("Agreement") is made and entered into by and between the Village of Hoosick Falls and Saint-Gobain Performance Plastics Corporation and Honeywell International Inc. (collectively, the "Parties").

RECITALS

WHEREAS, the Village of Hoosick Falls (the "Village") is a municipality incorporated and organized pursuant to the New York Village Law. The Village is located in the Town of Hoosick, Rensselaer County, New York.

WHEREAS, the Village owns and operates a municipal water supply system ("Village Water Supply System") that provides water to residents of the Village.

WHEREAS, Saint-Gobain Performance Plastics Corporation ("SGPP") is a corporation doing business in the State of New York.

WHEREAS, Honeywell International Inc. ("Honeywell") is a corporation doing business in the State of New York.

WHEREAS, SGPP owns a facility located on McCaffrey Street in the Village of Hoosick Falls. Due to the presence of Perfluorooctanoic Acid ("PFOA") in the soils and groundwater, the facility was designated as an Inactive Hazardous Waste Disposal Site by the New York State Department of Environmental Conservation ("DEC") in 2016, (hereinafter the "McCaffrey Street Site" or the "Site"). The Site was previously owned by Allied Signal Laminate Systems, Inc., a predecessor to Honeywell.

WHEREAS, the Village water supply system has been contaminated with PFOA.

WHEREAS, in June 2016, SGPP and Honeywell entered into an Order on Consent and Administrative Settlement with DEC (the "DEC Order"). Pursuant to the DEC Order, the

Companies installed a granular activated carbon (“GAC”) filtration system at the Village’s water treatment plant (the “GAC System”) for the purpose of removing PFOA contamination from the Village Water Supply System.

WHEREAS, DEC designated the Village’s “existing contaminated municipal water supply” as Operable Unit 2 (“OU-02”) for the McCaffrey Street Site.

WHEREAS, on December 3, 2021, DEC issued a Record of Decision (“ROD”) for OU-02 in which it determined that the remedy (hereinafter the “OU-02 Remedy”) will consist of the following elements:

- a. Development of two new groundwater supply wells consisting of existing test wells located south of Hoosick Falls which will be converted to production wells.
- b. Provide required redundancy by maintaining an existing Village supply well, referred to as “Well 7”, in order to provide a water source in the event of an outage or deficiency in supply from the new production wells.
- c. Construction of a water transmission line from the two new groundwater supply wells to the Hoosick Falls water treatment plant via existing public rights of way or by rights of way and easements to be acquired.
- d. Continued operation and maintenance of the public water supply treatment plant for removal of naturally occurring elements, disinfection and distribution to meet applicable water supply requirements; and
- e. Continued operation and maintenance of the GAC System to ensure that PFOA contamination is not present in the finished water in the Village Water Supply system.

WHEREAS, SGPP and Honeywell have jointly and individually determined to undertake the OU-02 Remedy as described in the ROD, a copy of which is attached and made a part hereof as Exhibit "A", subject to and dependent upon their entry into an acceptable agreement or Consent Order with DEC.

WHEREAS, the new groundwater supply wells and other associated hardware required by the ROD (including but not limited to pumps, power connections/sources, meters) and the construction of the new water line will all constitute improvements to the Village Water Supply System infrastructure (hereinafter "Improvements").

WHEREAS, the Village will be responsible for the operation and maintenance of the Improvements to the Village Water Supply System infrastructure and the GAC System, following completion of construction by SGPP and Honeywell and transfer of ownership of such Improvements to the Village.

WHEREAS SGPP, Honeywell and the Village are entering this Agreement to define the obligations and responsibilities of each with regard to the design and construction of the Improvements, the dedication of the Improvements and the GAC System to the Village, and to establish a protocol for reasonably determining the costs for the Village's operation and maintenance of the Improvements and the GAC System.

WHEREAS, SGPP and Honeywell acknowledge that operation and maintenance of the Improvements and the GAC will result in costs for the operation of the Village Water Supply System that are incremental to, or in addition to, the cost for the operation of the Village Water Supply System prior to the addition of the GAC System and the Improvements required by the ROD.

NOW, THEREFORE, IN CONSIDERATION OF THE FOREGOING RECITALS, the mutual covenants and undertakings of the parties hereto, and for other good and valuable consideration, the receipt and legal sufficiency of which is hereby acknowledged, and contingent only upon SGPP and Honeywell (the "Companies") entering into a related Order on Consent and Administrative Settlement (the "DEC Remedial Order") with DEC, SGPP, Honeywell, and the Village agree as follows:

1. RECITAL CLAUSES

The recital clauses set forth above are hereby incorporated in, and made a substantive part of this Agreement.

2. THE COMPANIES' OBLIGATIONS

- A. Subject to the terms of the DEC Remedial Order, the Companies shall be responsible for the design and construction of the Improvements required by the ROD.
- B. Pre-Design Investigation: The Companies shall submit to DEC, with a copy to the Village, a Scope of Work for all pre-design environmental investigations, surveying, and/or other investigative activities necessary to design and construct the Improvements. Upon DEC approval of the pre-design investigation scope of work, Honeywell and SGPP shall implement the scope of work. The Companies shall provide the results of the pre-design investigation to DEC, New York State Department of Health ("DOH"), and the Village in a pre-design investigation report.
- C. Design: The Companies will provide design documents for the implementation of the ROD to the Village. The design documents will be prepared at the various stages (e.g., 30%, 90%, and final) and provided to DEC, NYSDOH and the Village for review and comment. If necessary, representatives of the Companies and representatives of the

Village will meet and confer to resolve any issues and concerns raised by the Village in accordance with Section 4 below.

- D. Consultation: As provided in Section 3 herein below, the Village will undertake a timely review and provide any comments it may have with respect to the design documents.
- E. Construction: The Companies will undertake construction and completion of the Improvements in accordance with the terms of the DEC Remedial Order and the approved Final Design.

3. COOPERATION AND ASSISTANCE BY THE VILLAGE

In consideration of the Companies' commitment to undertake the Improvements required by the ROD, the Village agrees to work in a collaborative and cooperative manner with the Companies in furtherance of the timely design and construction of the Improvements. To this end, the Village will do as follows:

- A. Provide a copy of the Village's current, published design and construction specifications for projects of this nature, as applicable, and timely review and acknowledge as appropriate that the design and engineering of the Improvements meets the Village's published specifications for projects of this nature.
- B. During the design and construction phases, provide notice of any nonconformance with the Village published specifications promptly after discovering any such nonconformance.
- C. Promptly notify the Companies of any proposed change in the Village Code or specifications for projects of this nature that may impact the Village's acceptance of the Improvements. The parties shall discuss any such change in good faith and, subject to such discussions, the Companies will implement any such change relative to the remaining

portion of the project. The Village is not aware of any such changes being considered at the time of the execution of this agreement.

- D. Provide access to lands owned by the Village for those portions of the Improvements which will be located on property owned by the Village.
- E. Timely apply to DOH and any other relevant agencies for permit modifications relating to incorporating the Improvements into the Village Water Supply System.
- F. Issue all permits required from the Village to construct the Improvements upon timely applications submitted by the Companies.

4. PROJECT DESIGN REVIEW

As provided in Section 2 above, to the extent that the Village has comments on any design submission, the Village shall provide those comments, in writing, to the Companies and DEC in a timely manner. The Parties shall meet and work in good faith to resolve the Village's comments. To the extent that the Parties cannot agree on resolution of any such comments, the comments shall be referred to DEC and the Companies and the Village will confer with DEC to resolve the comments consistent with the requirements of the ROD. In the event that the Companies, the Village and DEC are unable to resolve the issues raised by the Village's comments, any Party hereto may terminate this Agreement by providing explicit notice of such termination to the other parties.

5. PROPERTY RIGHTS ACQUISITION

- A. If the Companies provide notice to the Village that the Companies have been unable to obtain easements or other property rights necessary for the construction of the Improvements on land that is not owned by the Village, the Village shall provide assistance to the Companies for the purpose of obtaining such easements and other property rights,

including the exercise of its powers of eminent domain to the extent permitted by law. The Companies shall reimburse the Village for all costs, including legal fees and expenses, associated with the Village's assistance in acquiring such rights, including those relating to the exercise of the power of eminent domain.

- B. For any property rights that the Companies have acquired, the Village shall accept the Companies' irrevocable offer of dedication pursuant to Section 10, and shall, upon acceptance, take title to such property rights.

6. TRANSACTIONAL COSTS

- A. **Project Review and Oversight Costs.** Implementation of the OU-02 remedy will result in transactional costs to the Village, including but not limited to: (1) the hiring of a qualified engineering consultant to provide oversight of the design; (2) the hiring of a qualified engineering consultant to provide construction inspection services during construction; (3) legal and technical costs associated with permitting with respect to the new public water supply; and (4) legal and technical costs associated with the acceptance of property rights and Improvements (collectively "Costs").
- B. **Project Review and Oversight Tasks.** The engineering consultant retained by the Village shall have responsibilities including the following:
1. Review the Design Plans developed by, or on behalf of the Companies for the Improvements to the Village Water Supply System infrastructure as required by the ROD and prepare comments regarding such plans.
 2. Engage in discussions with the representatives of the Companies, DEC and NYSDOH for the purpose of resolving any comments or concerns raised by the engineering consultant with respect to the plans for the Improvements.

3. To the extent that construction drawings for development of the Improvements are not included in the Design Plans, as referenced above, review and provide comments regarding such construction drawings.
 4. Engage in discussions with the representatives of the Companies, DEC and NYSDOH for the purpose of resolving any comments or concerns regarding the construction drawings.
 5. Monitor the construction of the Improvements on a reasonable schedule for the purpose of confirming that the construction is undertaken in conformity with the approved plans; such responsibility shall include periodic inspections of construction activities and observing the testing of all components comprising the Improvements.
 6. Review the Improvements as constructed and advise the Village during the procedures for the Village's acceptance of the Improvements as provided in Section 10, hereof.
- C. **Escrow Account.** The Companies agree to fund an escrow in the amount of \$80,000.00 ("Initial Escrow Amount") to cover the Village's Costs set forth in Paragraph 6A above. Such amount will be held in escrow by the Village's counsel (Escrow Agent) and quarterly accountings of disbursements from the escrow will be provided to the Companies. In the event that the initial payment is reduced to the amount of \$20,000.00, the Escrow Agent will provide notice to the Village and Companies. In such case, the Village agrees to provide the Companies an updated Cost Estimate within 30 days of such notice and the Companies agree to negotiate in good faith with the Village about a reasonable replenishment of the escrow account. Any replenishment of the escrow account is subject to the Companies' review and approval of the Village's Costs up to that point and the

updated Cost Estimate with reference to the Village's current Schedule of Rates ("Additional Escrow Amount"), such funding shall not be unreasonably withheld.

- D. **Escrow Agreement.** The establishment of the Escrow shall be the subject of a separate agreement to be executed with the escrow agent and said Escrow Agreement shall be consistent with the terms hereof.
- E. **Escrow Agent.** As a precondition for the funding of the Escrow Account, the designated Escrow Agent shall acknowledge the deposit and the establishment of the escrow account, and agree to hold and disburse funds only upon written request of the Village, with a copy to the Companies.
- F. **Final Release of Escrow Funds.** At the conclusion of construction activities, the Companies will submit a Construction Completion Report to DEC certifying that the construction has been completed in accordance with the Design. Once the DEC approves the Construction Completion Report and after payments have been tendered for all outstanding fees and costs, the Village agrees to execute a written release of the remainder of the Escrow Account ("**Final Release**") authorizing the remaining funds to be disbursed to the Companies by the Escrow Agent.

7. FINANCIAL ASSURANCES

The Companies shall maintain financial assurances, as required by DEC, for the performance of activities required by the DEC Remedial Consent Order and the Companies shall provide to the Village copies of all documents submitted to DEC relating to such financial assurances.

8. CALCULATION OF LONG-TERM COSTS

- A. Operation of the Improvements and the GAC System will result in incremental costs (i.e., those costs above the baseline operating costs the Village would have incurred to operate

the municipal water supply in the absence of PFOA, as identified in Section 8C below) to the Village on a continuing basis (the "Incremental Costs"). The Companies and the Village agree that calculation of the Incremental Costs can be reasonably calculated based upon: (1) the final design and projected operational characteristics of, and maintenance requirements of the Improvements; (2) the available data and information as to the costs associated with the operation and maintenance of the GAC System during the period 2016 to the present; (3) the cost of water quality sampling as may be required by DEC to monitor for the presence of PFOA and other perfluorinated substances (PFAS) in the supply wells; and (4) the available data of costs identified in Section 8C below.

- B. The Companies shall retain a qualified consultant or consultants to prepare a detailed analysis and calculation of the costs for operating and maintaining the Improvements and the GAC System on a long-term basis including necessary capital replacement costs for such assets based on industry standards for expected useful life of such assets.
- C. Within thirty (30) days following the approval of the final design of the Improvements, the Village will provide to the Companies the costs to operate and maintain the current water supply wells and supply lines during the period 2016 to the date of this Agreement.
- D. The Companies will provide to the Village the total cost and the Incremental Costs for the operation and maintenance of the Improvements and the GAC System on an annual basis and over ten (10), twenty-five (25), fifty (50), seventy-five (75), and one hundred (100) year periods beginning with calendar year 2025. The cost projections will be provided to the Village within ninety (90) days following the approval of the final design of the Improvements.

- E. In its sole discretion and at its sole cost, the Village may retain a qualified consultant or consultants to review the analysis and calculations required by the foregoing paragraph "D".

9. RESOLUTION OF LONG-TERM COSTS

- A. Based upon the calculations required under the terms of foregoing Section 8 hereof, the Companies and the Village agree to undertake good faith negotiations for the purpose of establishing the total amount and manner of payment by the Companies of such Incremental Costs and the cost to operate the GAC System.
- B. In the event that the parties reach an agreement on the amount and manner of payment of the Incremental Costs and the cost to operate the GAC System, the terms thereof shall be incorporated into and made a part of this Agreement.
- C. In the event that the parties cannot reach agreement on the amount and manner of payment of the Incremental Costs and the cost to operate the GAC System by the Companies to the Village within 180 days of the approval of the final design of the Improvements, or such longer period as the parties may agree to in writing, then (1) the Companies shall continue to pay the Village on a periodic basis the Incremental Costs and cost to operate the GAC System; and (2) the parties reserve all rights and defenses as set forth in Section 11 herein below.

10. DEDICATION

- A. The Companies irrevocably offer to the Village at no cost the dedication of the Improvements and the GAC System upon approval of the Construction Completion Report

for such Improvements and the Village agrees to accept such Improvements subject to its review and acceptance of the Construction Completion Report.

- B. The Companies covenant that one or both of SGPP and Honeywell will be seized of all premises being conveyed and will have good right to convey the same.
- C. At the time of such acceptance by the Village, title to such premises and Improvements shall be good and marketable and free from all liens and encumbrances, and in proof thereof, the Companies agree to furnish, at their expense, such searches of title or title policy and title insurance and surveys required by the Village.
- D. The Companies shall transfer all warranties that can be assigned to the Village prior to the dedication and the Village agrees that the Companies shall have no further responsibility for the costs of repair, replacement and maintenance of the Improvements and the GAC System unless the Companies and the Village do not achieve a resolution of permanent costs as provided in foregoing Section 9.

11. RESERVATION OF RIGHTS

- A. The payments provided for herein by the Companies shall not be construed as an admission by the Companies that the payment of such costs is required under any law, rule, regulation, or Order. Moreover, the Companies reserve all rights available to them, including the right to (jointly and/or individually) contest or challenge any claims by the Village not expressly resolved herein, and nothing in this Agreement shall waive, extinguish or modify any such rights. The Companies expressly reserve the right to enforce the provisions of this Agreement.
- B. Nothing contained in this Agreement or otherwise shall constitute a release, waiver or relinquishment by the Village of any rights, remedies, causes of action, or any other claims

unless expressly resolved herein. The Village expressly reserves the right to pursue any and all such rights, remedies, causes of action, or any other claim or claims. Without limitation, the Village expressly reserves the right to enforce the provisions of this Agreement.

12. ENTIRE AGREEMENT

This Agreement constitutes the entire agreement between the Parties with respect to the matters set forth herein, and it merges and supersedes all prior discussion, correspondence, proposals, agreements and understandings. This Agreement may not be modified, altered or amended except by a subsequent written instrument executed by the Parties.

13. GOVERNING LAW

This Agreement shall be construed, enforced and governed in accordance with the laws of the State of New York.

14. COOPERATION

The Parties agree to cooperate with one another and use all reasonable efforts to accomplish the terms and conditions of this Agreement. The Parties will attempt to resolve any disputes regarding this Agreement in good faith. If any Party reasonably believes the other Party to be in breach of the Agreement, that Party will promptly send written notice to the allegedly breaching Party detailing the nature of the alleged breach and providing a reasonable opportunity to cure.

15. REPRESENTATION

Each of the undersigned representatives of the Parties represents and warrants that he or she has full capacity and authority to enter into this Agreement and to legally bind his or her respective Party to the terms of the Agreement, that to the extent necessary this Agreement has been duly and validly authorized and approved by all requisite corporate, governmental or other

official action, and that no further action is necessary to make this Agreement valid and binding on the Party.

16. FINALITY AND MISTAKE

Each of the Parties to the Agreement has investigated the facts pertaining to it to the extent each Party deems necessary. In entering into this Agreement, each Party assumes the risk of mistake with respect to such facts. This Agreement is intended to be final and binding upon the Parties regardless of any claim of mistake. Each Party relies on the finality of this Agreement as a material factor inducing that Party's execution of this Agreement.

17. AUTHORIZATION TO ENTER INTO AGREEMENT

Each of the Parties has all necessary authority to enter into this Agreement, has authorized the execution and performance of this Agreement, and has authorized the Person signing this Agreement on its behalf to do so.

18. INTERPRETATION OF THIS AGREEMENT.

This Agreement was drafted jointly by the Parties and, in construing and interpreting this Agreement, no provision of this Agreement shall be construed or interpreted against any of the Parties based upon the contention that this Agreement or a portion of it was purportedly drafted or prepared by one of the Parties. The Parties agree that the language in all parts of this Agreement shall be construed as a whole, according to its fair meaning. Any captions, titles, headings, or subheadings in this Agreement have been inserted for convenience of reference only and shall have no effect upon the construction or interpretation of any part of this Agreement.

19. EXECUTION.

This Agreement may be executed in counterparts, including via electronic signature, and shall be binding once all Parties have executed the Agreement. The Parties further agree that

signatures provided by portable document format (PDF) or other electronic transmission shall have the same force and effect as original signatures.

20. AGREEMENT NULL AND VOID

The parties acknowledge and agree that, in the event that the Honeywell and SGPP do not enter into an Order on Consent with DEC for the design and implementation of the OU-02 ROD, this Agreement shall be null and void.

21. NOTICES

Any notice, demand, or other communication under this Agreement shall be in writing and shall be deemed duly given if it is addressed to the intended recipient as set forth below and personally delivered, sent by registered or certified mail (postage prepaid), sent by confirmed email, or delivered by reputable express overnight courier:

To the Village

Village of Hoosick Falls
Attn: Mayor Robert Allen
Municipal Building
24 Main Street
Hoosick Falls, NY 12090

With a copy to:

Gilchrist Tingley, P.C.
Attn: David Engel
251 River Street, Suite 201
Troy, NY 12180

To Companies

To Honeywell:

Honeywell International Inc.
Attn: Chuck Anthony
General Counsel – Health, Safety, Environment, Product Stewardship, and Sustainability
855 S. Mint St.
Charlotte, NC 28202

With a copy to:

Allen & Desnoyers LLP
Attn: Dale Desnoyers
120 Defreest Drive
Troy, New York 12180

To Saint-Gobain Performance Plastics Corporation:

Brett E. Slensky, Esq.
Environmental Counsel
Saint-Gobain Corporation
20 Moores Road
Malvern, PA 19355

With a copy to:

Archer & Greiner P.C.
Attn: David Edelstein
1025 Laurel Oak Road
Voorhees, NJ 08043

22. WAIVER

The provisions of this Agreement may be waived only by written agreement signed by the waiving party. The waiver by any Party of any breach of this Agreement shall not be deemed to be or construed as a waiver of any other breach of this Agreement.

23. SEVERABILITY

The provisions of this Agreement are not severable, except as provided in the Agreement.

24. THIRD-PARTY BENEFICIARIES

This Agreement does not create any third-party beneficiaries.

25. FORCE MAJEURE

The failure of any Party to perform any of its obligations hereunder shall not subject any Party to any liability or remedy for damages, or otherwise, where such failure is occasioned in

whole or in part by Acts of God, fires, accidents, pandemics, other natural disasters, interruptions or delays in communications or transportation, labor disputes or shortages, shortages of material or supplies, governmental laws, rules or regulations of other governmental bodies or tribunals, acts or failures to act of any third parties, or any other similar or different circumstances or causes beyond the reasonable control of such Party.

26. EXECUTED IN COUNTERPARTS

This Agreement may be executed in one or more counterparts, each of which when executed will be deemed to be an original but all of which when taken together will constitute one and the same Agreement.

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IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed as of the date first above written.

Saint-Gobain Performance Plastics Corporation

Dated:

By: 

Title: CEO Saint-Gobain Life Sciences

Honeywell International Inc.

Dated: 5/3/2023

By: 

Title: V.P. Product, Product

Village of Hoosick Falls

Dated: 5/10/23

By: 

Title: Mayer

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