

**LEGAL SERVICES AGREEMENT
BETWEEN
THE CITY OF SOUTH SAN FRANCISCO & SHER EDLING LLP
REGARDING PCB LITIGATION**

1. **IDENTIFICATION OF PARTIES.** This Agreement is made between Sher Edling LLP (hereafter referred to as “Attorney”) and the City of South San Francisco, California (hereafter referred to as “Client”). For purposes of this Agreement, “City Attorney” means the Client’s retained counsel regarding municipal law matters, Meyers Nave, LLP, or any other attorney designated by Client as its representative.

This Agreement is required by California Business and Professions Code section 6147 and is intended to fulfill the requirements of that section.

For reference purposes, this Agreement is dated as of **November 28, 2022**.

2. **RETENTION OF FIRM RATHER THAN PARTICULAR ATTORNEY.** Client is retaining the law firm of Sher Edling LLP, not any particular attorney, and attorney services to be provided to Client will not necessarily be performed by any particular attorney.

3. **AUTHORIZED REPRESENTATIVE OF CLIENT.** The City Attorney is the authorized representative to direct Attorney. The primary individual to communicate with Attorney regarding the subject matter of Attorney’s representation of Client under this Agreement is Interim City Manager, Sharon Ranals, unless another representative is named by the Client or the City Attorney. This designation is intended to establish a clear line of authority between Client and Attorney but not to preclude communication between Attorney and other representatives of Client.

4. **LEGAL SERVICES TO BE PROVIDED.** The legal services to be provided by Attorney to Client are as follows: Representation of Client with respect to the following matters (collectively, the “PCB Action”):

a. Contamination related to (i) polychlorinated biphenyls (PCBs); and/or (ii) other contaminants of concern identified by Client and approved by Attorney (collectively, the “Contaminants”).

b. Claims and/or actions seeking equitable and legal relief, including but not limited to an abatement fund, and/or damages sustained by Client as a result of actual or threatened contamination, and the past, present, and any future cost incurred to remove the Contaminants, including all writs and appeals related thereto, including specifically and without limitation the action entitled *County of San Mateo, et al., v. Monsanto Company, et al.*, Case No. 22-CIV-01667 (San Mateo Cty. Sup. Ct.), any proceedings upon removal or appeal of such action, and any writ proceedings related to such action.

5. **LEGAL SERVICES SPECIFICALLY EXCLUDED.** It is the intent of the parties that Attorney will represent Client in a civil action or actions seeking equitable and legal

relief, including but not limited to an abatement fund, damages, and/or injunctive relief in the appropriate court or courts of the State of California and/or a United States District Court, as well as, if requested by Client and agreed to by Attorney (such agreement not to be unreasonably withheld), in any proceeding by writ or appeal related to that action. Legal services that are not to be provided by Attorney under this Agreement specifically include, but are not limited to, the following:

- a. Proceedings before any state or federal administrative or governmental agency, department, or board. However, with Client's permission Attorney may elect to appear at administrative proceedings to protect Client's rights in this litigation, without Client being assessed any additional attorney's fee in connection with such appearance. This exclusion would not apply to any proceeding determined necessary to exhaust administrative remedies.
- b. Defending any legal action(s) against Client or its employees commenced by any person, with the exception of any cross complaints or counter claims filed in the PCB Action described in Paragraph 4. This exclusion would not apply to any legal action filed against Client or Client's employees arising out of the PCB Action.
- c. Execution proceedings on any judgment.
- d. Any action with respect to any dispute arising under or concerning this Agreement.

If Client wishes to retain Attorney to provide any legal services for matters excluded from this Agreement, a separate written agreement between Attorney and Client may be required which may require compensation to Attorney in addition to that set forth in Paragraph 8. Alternatively, Client would always have the option to engage other counsel to provide such legal services.

6. RESPONSIBILITIES OF ATTORNEY AND CLIENT. Attorney shall perform the legal services called for under this Agreement, keep Client informed of material progress and developments, and respond to Client's inquiries and communications.

Attorney shall work at all times under the direction and control of the City Attorney, who has the power to control and supervise the litigation. The City Attorney, as the Client's chief legal officer, and subject to the review and approval, to the extent required, by the City Manager and the City of South San Francisco's City Council, retains complete and final authority and control over all aspects of the PCB Action, including specifically (but not limited to) the following:

- decisions regarding settlement of the case;
- the course and conduct of the PCB Action;
- the exercise of veto power over any decisions made by Attorney.

In addition, any defendant in the PCB Action may contact City Attorney directly, without having to confer with Attorney, and attorneys from the City Attorney's office with supervisory authority are to be personally involved in overseeing the litigation at all times.

Client will be truthful and cooperative with Attorney and keep Attorney informed of developments. Attorney will present status reports to Client as events reasonably warrant or at the reasonable request of Client. Attorney and Client mutually acknowledge that Attorney needs to be informed about Client's plans and anticipated decisions that may materially affect the PCB Action. Attorney and Client mutually acknowledge that nothing in this Agreement is intended to interfere with Client's decisions or judgments concerning the design, operation, or maintenance of its remediation decisions. Accordingly, Attorney and Client will work to assure that each keeps the other fully and timely informed about matters that affect the other. Attorney and Client will work to assure that each keeps the other fully and timely informed about matters that affect the other and Attorney shall consult in advance with and obtain the prior approval of the City Attorney concerning all substantive aspects of the PCB Action. Additionally, Attorney shall not make or distribute any press releases without the express permission and consent of the City Attorney.

7. **CLIENT RETENTION OF DOCUMENTS.** Client acknowledges its responsibility to undertake all necessary effort to identify, preserve, and retain documents concerning potential claims or defenses related to the PCB Action. Additionally, Client will suspend all document destruction policies and implement a litigation hold as necessary to ensure the preservation of relevant documents as advised by Attorney. This litigation hold applies to hard-copy documents; electronically stored data, including backup tapes, legacy systems, and metadata; calendars and planners; and data from text messaging, blogs and social networking sites. This includes preserving all relevant data, regardless of whether it is contained on business or personal computers, personal digital assistants, cell phones etc. The documents need to be preserved in the form in which they currently exist. Client represents that it has not altered or destroyed any relevant documents relating to the subject matter of the litigation since the time it first suspected that litigation on its behalf was likely. Client shall cooperate with Attorney in locating, preserving, and reproducing its records which may be material to the investigation, discovery, prosecution, and trial in the PCB Action.

8. **CONTINGENCY FEE.** The compensation that Attorney will receive for the legal services to be provided under this Agreement is set forth in this Paragraph 8 (collectively, the "Contingency Fee").

a. **Contingency Percentage.**

Attorney will receive the following percentage of any Net Recovery (as defined below) (the applicable percentage, the "Contingency Percentage"):

- (i) If a settlement is obtained on or before the date that is 6 months after the complaint is filed, seven- and one-half percent (7.5%) of the Net Recovery;
- (ii) If the Net Recovery is obtained after the date that is 6 months after the complaint is filed and before the first formal designation of exchange of expert witnesses, fifteen percent (15%) of the Net Recovery. Attorney shall provide Client with reasonable notice of the date on which the first formal designation of exchange of expert witnesses is required in the case; or

- (iii) Thereafter, eighteen percent (18%) of any Net Recovery.

*Attorney's Contingency Fee = Contingency Percentage * Net Recovery*

b. **Definition of Net Recovery.**

“Net Recovery” means the total present value of any Recovery (as defined below), whether by settlement, arbitration award, or court judgment, after the deduction of Costs (as defined in Paragraph 10 of this Agreement) at the Conclusion of Services (as defined in Paragraph 16). Net Recovery does not include any court awarded costs or attorney’s fees received by Client from any third party, except as otherwise provided in Paragraph 8(g) below. The Net Recovery is multiplied by the Contingency Percentage (set forth in Paragraph 8(a)) to calculate the Contingency Fee.

Net Recovery = Cash Recovery + Value of Non-Cash Recovery – Costs

c. **Definition of Recovery; Contested Judgment and Settlement.**

“Recovery” means the sum of any Cash Recovery and Non-Cash Recovery (as those terms are defined below) without reduction or adjustment for Costs (as defined in Paragraph 10). “Contested Judgment” means any final (including conclusion of any appeals) contested court order, judgment, or contested arbitration award; “Settlement” means a Recovery obtained pursuant to any voluntary agreement, whether by settlement, mediation, or court stipulation.

d. **Cash Recovery.**

“Cash Recovery” means, without limitation, the total monetary amount received (whether by Contested Judgment or Settlement) as a result of the PCB Action, including an abatement fund, funded by defendant(s), arising out of an equitable judgment or settlement. “Partial Cash Recovery” means any Cash Recovery obtained prior to the complete resolution of the PCB Action.

- (i) A Partial Cash Recovery is to be used, first, to pay unreimbursed Costs advanced up to the date of such Partial Cash Recovery and, second, to pay any fees that Client owes to Attorney up to the date of such Partial Cash Recovery.
- (ii) Unless Attorney and Client agree otherwise in writing, any remaining Partial Cash Recovery received prior to the final resolution of the PCB Action is to be placed in a trust account administered by Attorney for the benefit of Client. The funds in the trust account may be drawn upon by Attorney to pay for any future Costs incurred in the PCB Action and/or for any future fees owed by Client to Attorney.

e. **Non-Cash Recovery.**

“Non-Cash Recovery” means, without limitation, the fair market value of any property delivered or potentially to be delivered to Client, services provided or potentially to be provided

for Client's benefit, and any other non-cash benefit, including but not limited to injunctive and/or equitable relief (other than an abatement fund, which is included in the definition of Cash Recovery above), conferred on Client as a result of the PCB Action.

- (i) Client understands that a resolution of the PCB Action may involve defendants agreeing to provide Client with one or more non-monetary goods and services, for example (by way solely of illustration), an agreement to build green infrastructure, provide consulting services, or to provide other goods and/or services. The terms of a Contested Judgment or Settlement may be that such non-monetary goods and services are only to be delivered to Client in the event that certain circumstances come to pass (e.g., the Contaminants exceed certain minimum thresholds). However, even if there is no certainty that the non-monetary goods and services will ever be delivered, Client understands that any agreement or requirement for defendants to provide such non-monetary goods and services has value to Client (analogous to an insurance contract) and that Attorney will be entitled to a Contingency Fee on that value.
- (ii) Before the acceptance of any settlement offer that involves a Non-Cash Recovery, Attorney shall provide Client with an estimate of the value of the settlement offer and a calculation of the fee due on the settlement offer. Client will respond in writing, indicating whether or not Client accepts Attorney's estimate of the value of the settlement of the offer and the calculation of the fee due. If Client wishes to pursue the settlement offer further but chooses not to accept the provided estimate and calculation of the fee due, the parties shall proceed as set forth in Paragraph 8(i) (Disagreements Concerning Value of Recoveries).

f. **Payments Outside of Net Recovery**

Recovery is intended to alleviate and offset the Client's anticipated regulatory and remediation costs related to PCBs, which would otherwise be paid from public funds. However, even with a net fiscal benefit, payment from public funds may present logistical challenges. This provision is intended to address those concerns. This scenario only arises if Attorneys' fees cannot be paid directly from the Recovery.

In the event that any judgment and interpretation of this Agreement results in the Client having to pay a Contingency Fee from its own funds, rather than out of the Net Recovery and Client's Contingency Fee is greater than either \$10 million dollars in any given year or \$20 million dollars in total, then Attorney and Client will meet in good faith to reach an agreement that minimizes the financial burden on Client while ensuring Attorney receives the fee provided by this Agreement. Should the parties fail to reach an agreement, Attorney and Client agree to mediation pursuant to Paragraph 8(h) before resorting to litigation or any other dispute resolution procedure.

Should Recovery be secured in aggregate for a group of plaintiffs, Attorney will not be involved in the allocation of the Recovery among the group of plaintiffs. To the extent the

Contingency Fee must be paid from Client's own funds on a portion of an aggregate recovery (rather than collected from the Net Recovery itself prior to disbursement to the group of plaintiffs), Client shall use reasonable efforts to agree on the allocation of funds among the group of plaintiffs within six (6) months after the settlement or judgment and will inform Attorney in writing of the allocation so that the corresponding Contingency Fee(s) may be determined.

g. **Fees on Future Recovery following Contested Judgment.**

Should Recovery following a Contested Judgment (whether Cash, Non-Cash, or a combination of the two) provide for payment or performance in the future (which may consist of one or more payments, or performance over a period of time), Client shall select one of the following options for payment of the Contingency Fee. Client shall make its selection in writing. If Client fails to elect an option within 30 days after the resolution of the Contested Judgment, the lump sum provision (subparagraph (i) of this paragraph) will apply.

For purposes of calculating the net present value ("NPV") of any Cash Recovery or Non-Cash Recovery under this Agreement, the discount rate used will be the interest rate for the 91-day treasury bill, as such interest rate is reported by the United States Federal Reserve in the weekly Federal Reserve Statistical Release closest in time to the date the terms of the Recovery for which the NPV is being calculated are known.

- (i) **Lump Sum:** Client will pay the Contingency Fee in a lump sum, with the amount due determined by applying the Contingency Percentage to the NPV of the sum of the Cash Recovery and the Non-Cash Recovery less Costs.

Lump sum payment = (Contingency Percentage) * (NPV of Cash Recovery + NPV of Non-Cash Recovery – Costs)

- (ii) **Annual Installments Over Three Years:** Client will pay the Contingency Fee in three (3) annual installments, each comprising one-third of the total Contingency Fee due, with the annual installment determined by dividing by 3 the result obtained by applying the Contingency Percentage to the NPV of the sum of the Cash Recovery and the Non-Cash Recovery less Costs. The parties may mutually agree on a different payout term in writing.

Annual payment over three years = [Contingency Percentage * (NPV of Cash Recovery + NPV Value of Non-Cash Recovery – Costs)] ÷ 3

- (iii) **Payment on Periodic Recovery with Ten Year Due Date:** If Recovery is structured as a series of annual or other periodic awards (Cash or Non-Cash) to Client, upon receipt Client will pay 30% of each such periodic award to Attorney as a partial payment of the Contingency Fee until the Contingency Fee is paid in full, with the total amount due to Attorney determined by applying the Contingency Percentage to the NPV of the sum of the Cash Recovery and the Non-Cash Recovery less Costs.

Periodic payment = 30% * (Periodic Cash and Non-Cash Recovery Received by Client); provided, however, the sum of all periodic payments to Attorney may not exceed the total Contingency Fee

Notwithstanding the foregoing, Client's deadline to pay the Contingency Fee in full is the tenth anniversary of the Conclusion of Services. If the Contingency Fee is not paid in full by that time, the last payment made on or prior to the tenth anniversary of the Conclusion of Services must include the remaining Contingency Fee outstanding (the "Remainder").

Remainder = Total Contingency Fee – Contingency Fee Already Paid

Each year, the parties will agree upon and confirm, in writing, the value of all Recovery received, all Recovery remaining, the total Contingency Fee paid, and the total Contingency Fee outstanding.

h. **Reasonable Fee if Contingency Fee Unenforceable.**

In the event the contingency fee portion of this Agreement is determined to be unenforceable for any reason or Attorney is prevented from representing Client on a contingency fee basis, Client shall pay a reasonable fee for the services rendered. The parties shall use best efforts to negotiate a reasonable fee. If they cannot do so, the fee shall be determined by mediation proceedings before the Judicial Arbitration and Mediation Services (JAMS), with any costs of such proceedings born equally by the Client and Attorney, or, if mediation proves unsuccessful, by appropriate court action in accordance with Paragraph 26. Such reasonable fee shall take into account, among other things, the specific expertise of Attorney with regard to the PCB Action as well as the risk that Attorney took on by agreeing to represent Client and advance all litigation Costs in return for a contingency fee.

i. **Disagreements Concerning Value of Recoveries.**

In the event the parties disagree with respect to the value of any Cash or Non-Cash Recovery, they shall proceed as follows: Each party shall within 45 days select an appraiser qualified to conduct an appraisal of the value of the Recovery or settlement offer. The selected appraisers will then confer and within 30 days select a third qualified appraiser. The third appraiser will then be tasked with determining the value of the Recovery within 90 days. The third appraiser's valuation will be final and binding on the parties regardless of the fact that such valuation may be an estimate or may be subject to further refinement or analysis. Client and Attorney shall each bear the expense of its own selected appraiser, and Client and Attorney shall share equally the expenses of the third appraiser.

j. **Court-Awarded Attorneys' Fees.**

Client may obtain an award from the court of attorneys' fees and/or Costs in the PCB

Action. For example, certain claims may arise under statutes that provide for an award of attorneys' fees. Attorney agrees that if such an award is allowed for under the law then Attorney will endeavor to pursue such an award from the court on behalf of Client and defend Client against any claims that it owes defendants' attorney fees. Any order awarding fees and/or Costs will not affect Client's obligation to pay the Contingency Fee in accordance with this Agreement.

Any attorney's fee awarded by the court in connection with the PCB Action will not be considered part of the Net Recovery for purposes of calculating the Contingency Fee. Any Court-awarded Costs will also not be considered part of the Net Recovery for purposes of calculating the Contingency Fee. Any court award of fees received by Attorney will be applied as a credit against Client's obligation to pay the Contingency Fee under this Agreement, and any court award of Costs to Attorney will be applied as a credit against Client's obligation to reimburse Attorney for Costs under this Agreement. If the court-awarded fees exceed the fee to which Attorney would otherwise be entitled, the Contingency Fee will be the amount of the court-awarded fee.

k. **Negotiated Fee.**

Client understands that the attorney's fee set forth in this Agreement is not set by law but rather is negotiable between Attorney and Client.

9. **CO-COUNSEL.**

a. Attorney may decide to retain another attorney or law firm as associate counsel. Such other attorney or law firm may be compensated by Attorney for the reasonable value of the services performed on an hourly or per diem basis and not necessarily on a contingency basis. Such payment is the sole responsibility of Attorney and will not be charged back to Client as a Cost or otherwise. Client understands that under the Rules of Professional Conduct of the State Bar of California, the division of a fee for legal services may be made only with Client's written consent after a full disclosure to Client in writing that a division of fees will be made, the identity of the lawyers or law firms that are parties to the division, and the terms of the division.

A decision by Attorney to retain associate counsel is subject to Client's approval, which will not be unreasonably withheld.

b. Client has the authority to retain additional outside consultants, including additional legal counsel, to assist the City Attorney with the PCB Action. Any such retention will be at Client's sole expense and will not be considered a part of Costs, as defined in paragraph 10.

10. **COSTS.**

a. Definition. "Costs" means costs reasonably and actually incurred by Attorney in connection with Attorney's representation of Client under this Agreement, including but not limited to:

- (i) Court filing fees;

- (ii) Deposition costs;
- (iii) Expert, consultant and investigator fees and expenses;
- (iv) Investigation costs;
- (v) Transportation;
- (vi) Meal and lodging for out-of-town travel;
- (vii) Messenger service fees
- (viii) Photocopying expenses
- (ix) Process server fees

“Costs” does not include the following: the cost of full or part-time employees of Attorney (e.g., paralegals and law clerks). In addition, “Costs” does not include Client expenses incurred in providing information to counsel or defendants, damages claimed by others in the litigation, or other parties’ costs, if any, that Client is ultimately required to pay, all of which Client must pay without contribution by Attorney.

Attorney shall advance Costs incurred in connection with Attorney’s representation of Client under this Agreement.

b. **Authorized costs.** The Client authorizes Attorney to incur reasonable Costs and to retain consultants or expert witnesses reasonably necessary in Attorney’s and City Attorney’s judgment. Costs must be specific and confined to representation of Client. Attorney account for Costs as they are incurred by Attorney. No mark-up is to be attached to Costs. As such, Attorney and Client are jointly incentivized to keep Costs to a minimum.

Regarding expert costs, Attorney and Client shall meet and confer regarding selection and retention of experts in the PCB Action and Attorney shall inform Client of the persons chosen and their charges. Client shall not unreasonably withhold approval of the selection and retention of such experts.

c. **In the event of Recovery for Client, Client will reimburse Costs.** In the event Client obtains Recovery (whether by settlement, arbitration, judgment or otherwise) and pursuant to Paragraph 16 (Conclusion of Services), Client shall pay Costs within sixty (60) days after a final accounting provided by Attorney, unless otherwise agreed by the parties in writing. Any Client funds in the Attorney trust account may be put towards any unpaid balance of Costs.

d. **In the event of judgment for defendants, Attorney bears risk of costs.** To the extent permitted by law and to the extent not based on the conduct of Client or City Attorney, Attorney will bear the risk of any defense costs taxed against Client in the event of an adverse ruling (such as sanctions for spoliation of evidence) or Contested Judgment for defendants

in the PCB Action. As used in this section, “conduct” means (1) the failure to perform the terms of this Agreement; or (2) any intentional, reckless, or negligent conduct that diverges from the Attorney’s recommended course of action and results in either an adverse ruling or a Contested Judgment for defendants. The application of this provision as to a discrete adverse ruling does not necessarily implicate this provision as to a Contested Judgment.

e. **Periodic statements of costs.** Attorney shall provide Client with periodic statements of Costs incurred in the PCB Action at approximately quarterly intervals or at such other frequency as mutually agreed between Client and Attorney. At any time, Client may communicate with Attorney regarding Attorney’s estimates with regard to Costs that may be incurred in the future.

f. **Client expenses.** Expenses incurred by Client in connection with retention of additional consultants, including outside counsel and/or experts, shall be paid for by Client and will not be considered Costs for purposes of this Agreement.

11. **REPRESENTATION OF ADVERSE INTERESTS.** If Attorney had a relationship with another party involved in the PCB Action, or with someone who would be substantially affected by the PCB Action, the Rules of Professional Conduct would require Attorney to disclose that to Client so that Client could evaluate whether that relationship causes Client to have any concerns over Attorney’s loyalty, objectivity or ability to protect Client’s confidential information.

Client understands that currently, and from time to time, Attorney represents other municipalities, governmental agencies, governmental subdivisions, or other public or private individuals and/or entities in other actions or similar litigation where the defendants may be the same or similar to the defendants in the PCB Action, and that such work is a focus of Attorney’s practice. Client understands that Attorney would not take on this engagement if it required Attorney to forego representations like those described above. However, Client understands that damages collected from one or more of the same defendants in other suits prosecuted by Attorney could, theoretically, reduce the amount of money available from these same defendants in the PCB Action. Client was given an opportunity to confer with its own separate and independent counsel about this matter and has determined that it is in its own best interests to waive any and all potential or actual conflicts of interest which may occur as the result of Attorney’s current and continuing representation of cities and other public and/or private entities in similar litigations, because it enables Client to obtain the benefits of Attorney’s expertise. Therefore, Client consents that Attorney may continue to handle such work, and may take on similar new clients and matters, without disclosing each such new matter to Client or seeking the consent of Client while representing Client. Attorney may not take on such other work if it requires Attorney to be directly adverse to Client while Attorney was still representing Client in the PCB Action. In the event that Attorney represents other plaintiffs in similar litigation, costs that are incurred for the joint benefit of several plaintiffs shall be allocated, if possible, between the cases pro rata based on each plaintiff’s share of the recovery, or if such pro rata cost sharing based on recovery is not possible, then on a reasonable pro rata basis agreed upon between Client and Attorney.

12. **SETTLEMENT.** Decisions regarding settlement of the case are reserved

exclusively to the discretion of Client and City Attorney. Attorney may not settle Client's claim without the approval of Client, which has the absolute right to accept or reject any settlement. Attorney shall notify Client of the terms of any settlement offer received by Attorney.

13. ORDER OR AGREEMENT FOR PAYMENT OF ATTORNEY'S FEES OR COSTS BY ANOTHER PARTY. The court may order, or the parties to the dispute may agree, that another party will pay some or all of Client's attorney's fees, costs, or both. Any such order or agreement will not affect Client's obligation to pay contingency fees and Costs under this Agreement. However, in accordance with Paragraph 8 (Attorney's Fees), any such amounts actually received by Attorney will be credited against the Contingency Fee or Costs, as applicable, incurred by Client.

14. DISCHARGE OF ATTORNEY. Client may discharge Attorney at any time by written notice effective when the notice is received by Attorney. Unless specifically agreed by Attorney and Client, Attorney will provide no further services and advance no further Costs on Client's behalf after receipt of the notice. If Attorney is Client's attorney of record in any proceeding, Client will execute and return a substitution-of-attorney form immediately on its receipt from Attorney.

In the event Attorney is discharged without cause before the termination of the litigation, Client shall (1) reimburse Attorney for any and all Costs advanced by Attorney not later than thirty (30) days after receipt of a final cost accounting from Attorney, and (2) upon termination of the litigation, pay Attorney a fee consisting of the reasonable value of Attorney's services performed up to the point of the discharge. Nothing herein may be construed to limit Client's rights and remedies in the event of a discharge of Attorney for cause.

15. WITHDRAWAL OF ATTORNEY. Attorney may withdraw from representation of Client: (a) with Client's consent, (b) upon court approval, or (c) if no court action is filed, for good cause upon reasonable notice to Client. Good cause includes, but is not limited to, Client's breach of this Agreement, Client's refusal to cooperate with Attorney, or any other fact or circumstance that would render Attorney's continuing representation unlawful or unethical. Notwithstanding Attorney's withdrawal for cause, Client will remain obligated to pay Attorney out of the Recovery a reasonable Attorney's fee for all services provided, and to reimburse Attorney for all reasonable Costs advanced before the withdrawal.

Attorney may terminate this Agreement at any time, without cause, by giving to Client not less than sixty (60) days prior written notice of termination, said notice to specify the effective date of the termination. Where Attorney terminates this Agreement without cause, Attorney shall not be entitled to the recovery of any Attorney fee or Costs, regardless of the status of the PCB Action, and regardless of whether or not any amounts of Recovery have been or are subsequently received by Client.

16. CONCLUSION OF SERVICES. The "Conclusion of Services" means when Attorney's services conclude, whether by completing the terms of this Agreement or by discharge (under Paragraph 14) or withdrawal (under paragraph 15). Subject to Paragraphs 8 and 10, at the Conclusion of Services, all unpaid charges will immediately become due and payable, unless

otherwise provided herein. Attorney shall notify Client in writing of the Conclusion of Services and provide an accounting of Costs, fees, and other charges due. Attorney is authorized to apply any Client funds held in Attorney's client trust account to pay unreimbursed advanced Costs.

17. **LIEN.** Except in situations where Attorney withdraws or is discharged, such situations being governed by Sections 14 and 15, Client hereby grants Attorney a lien on any and all claims or causes of action that are the subject of Attorney's fee and/or Costs advanced under this Agreement. Attorney's lien will be for any sums owing to Attorney for any unpaid Costs (under Paragraph 10) or fees (under Paragraph 8) at the conclusion of Attorney's services. The lien will attach to any Recovery Client may obtain, whether by arbitration award, judgment, settlement or otherwise.

18. **RELEASE OF CLIENT'S PAPERS AND PROPERTY.** At the termination of services under this Agreement, Attorney will release to Client on request all of Client's papers and property. Client's papers and property include correspondence, deposition transcripts, exhibits, experts' reports, legal documents, physical evidence, and other items in possession of Attorney reasonably necessary to Client's representation.

19. **CONFIDENTIALITY.** This Agreement establishes the relationship of attorney-client between the parties hereto. Attorney shall hold all money and property of Client in trust for Client's benefit, with all funds deposited and managed in Attorney's client trust account as required by law, shall not divulge Client's confidences, and shall be entitled to the candid cooperation of all Client's employees in all matters related to the assigned files and any related actions. This Agreement is privileged and confidential and is subject to Business and Professions Code section 6149 and Evidence Code section 952 and 954.

20. **DISCLAIMER OF GUARANTEE.** Although Attorney may offer an opinion about possible results regarding the subject matter of this Agreement, Attorney cannot guarantee any particular result. Client acknowledges that Attorney has made no promises about the outcome and that any opinion offered by Attorney in the future will not constitute a guaranty.

21. **ENTIRE AGREEMENT.** This Agreement contains the entire agreement of the parties. No other agreement, statement, or promise made on or before the effective date of this Agreement is binding on the parties.

22. **SEVERABILITY IN EVENT OF PARTIAL INVALIDITY.** If any provision of this Agreement is held in whole or in part to be unenforceable for any reason, the remainder of that provision and of the entire agreement will be severable and remain in effect.

23. **MODIFICATION BY SUBSEQUENT AGREEMENT.** This Agreement may be modified by subsequent agreement of the parties only by an instrument in writing, approved and executed in the same manner as the initial Agreement.

24. **MEDIATION CLAUSE.** If a dispute arises out of or relating to any aspect of this Agreement between Client and Attorney, or the breach thereof, and if the dispute cannot be settled through negotiation, Attorney and Client agree to mediation pursuant to Paragraph 8(g) before

resorting to litigation, or any other dispute resolution procedure.

25. **NO AWARD OF ATTORNEY’S FEES OR COSTS IN ACTION ON AGREEMENT.** Each party shall bear its own attorney’s fees and costs incurred in any action or proceeding concerning or arising out of this Agreement, or efforts to negotiate the matter, and the parties shall share equally the costs of any arbitrator, mediator, or other decision maker in any forum.

26. **GOVERNING LAW.** The terms and provisions of this Agreement and the performance of the parties hereunder are governed by the laws of the State of California. The venue of any action to enforce this agreement is the Superior Court in and for the County of San Mateo.

27. **EFFECTIVE DATE OF AGREEMENT.** This Agreement is effective on the date last executed below. Once effective, this Agreement will, however, apply to services provided by Attorney on this matter before its effective date.

28. **AUTHORITY OF PARTIES.** Each of the signatories to this Agreement warrants that he or she has the authority to enter into and execute this Agreement and to bind the entity or entities on whose behalf they sign.

29. **EXECUTION.** This Agreement may be executed in duplicate counterparts. This Agreement and future documents relating to this Agreement may be digitally signed in accordance with California law. Any party to this Agreement may revoke such agreement to permit digital signatures at any time by providing written notice to the other party.

The foregoing is agreed to by:

CITY OF SOUTH SAN FRANCISCO
(Client)

Dated:

By _____
Sharon Ranals
Interim City Manager

SHER EDLING LLP (Attorney)

Dated:

By _____
Matthew K. Edling
Partner

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