

SETTLEMENT AGREEMENT

BETWEEN

CONSUMER ADVOCACY GROUP, INC.

AND

UNITED COMPOST & ORGANICS INC. dba FOXFARM SOIL & FERTILIZER
COMPANY

Consumer Advocacy Group, Inc., on behalf of itself and in the public interest pursuant to Health and Safety Code section 25249.7, subdivision (d) ("CAG") and United Compost & Organics Inc. dba FoxFarm Soil & Fertilizer Company ("FoxFarm") (collectively, the "Parties") enter into this agreement ("Settlement Agreement") to settle this case of alleged Proposition 65 violations for the purpose of avoiding prolonged and costly litigation. The effective date of this Settlement Agreement shall be the date upon which it is fully executed by all Parties hereto (the "Effective Date").

1.0 Introduction

1.1 CAG is a California-based entity that seeks to promote awareness of exposures to toxic chemicals and improve human health by reducing or eliminating hazardous substances contained in consumer and industrial products.

1.2 The product covered by this Settlement Agreement is FoxFarm bat guano fertilizers, including but not limited to Happy Frog® Bat Guano Fertilizer 0-5-0 ("Covered Product").

1.3 CAG alleges that the Covered Product contains cadmium and further alleges that FoxFarm did not conform to the standards set forth in the California Safe Drinking Water and Toxic Enforcement Act (Cal. Health & Safety Code §§ 25249.5, et seq. ("Proposition 65")). Cadmium is a chemical known to the State to cause cancer. On October 1, 1987, which was more than twenty months before CAG served its Notice discussed below, the Governor of California added cadmium to the list of chemicals known to the State to cause cancer. Cadmium is also a chemical known to the State of California to cause reproductive toxicity, developmental and male. On May 1, 1997, which was more than twenty months before CAG served its Notice discussed below, the Governor of California added cadmium to the list of chemicals known to the State to cause reproductive toxicity, developmental and male.

1.4 On or about October 14, 2010, CAG served FoxFarm and public enforcement agencies with a document entitled "Sixty-Day Notice Of Intent To

Sue For Violations Of The Safe Drinking Water And Toxic Enforcement Act of 1986" ("Notice"). The Notice alleged that FoxFarm violated Proposition 65 by failing to warn consumers in California that use of the Covered Product exposes persons to cadmium.

1.5 FoxFarm denies the factual and legal allegations contained in the Notice and maintains that all Covered Product that it sold and distributed in California have been and are in compliance with all laws, including Proposition 65.

1.6 The Parties enter into this Settlement Agreement to settle disputed claims between the Parties as set forth below, including but not limited to the existence and sufficiency of any purportedly Proposition 65-compliant warnings as to cadmium in the Covered Product ("Dispute").

1.7 By execution of this Settlement Agreement, the Parties do not admit any facts or conclusions of law, including, but not limited to, any facts or conclusions of law regarding any violation of Proposition 65, or any other statutory, regulatory, common law, or equitable doctrine. Nothing in this Settlement Agreement shall be construed as an admission by the Parties of any fact, conclusion of law, issue of law, or violation of law. Nothing in this Settlement Agreement, nor compliance with its terms, shall constitute or be construed, considered, offered, or admitted as evidence of an admission or evidence of fault, wrongdoing, or liability by FoxFarm, its officers, directors, employees, or parent, subsidiary or affiliated corporations, in any administrative or judicial proceeding or litigation in any court, agency, or forum. Except for the cause of action and allegations settled and compromised, nothing in this Settlement Agreement shall prejudice, waive, or impair any right, remedy, argument, or defense that CAG and FoxFarm may have against one another in any other pending legal proceeding as to allegations unrelated to those alleged in the Dispute.

2.0 Release

2.1 CAG, on behalf of itself, its past and current agents, representatives, attorneys, successors and/or assignees, and in the interest of the general public, hereby releases and discharges FoxFarm, its subsidiaries, affiliates, predecessors, successors and assigns, vendors, suppliers, distributors, retailers, and customers and all officers, directors, employees, agents and shareholders of them (collectively, "Released Parties") from any and all claims asserted, or that could have been asserted, in this litigation arising from the alleged failure to provide Proposition 65 warnings for the Covered Product regarding the exposure of individuals to cadmium in the Covered Product, including its constituents. CAG, on behalf of itself only, hereby releases and discharges the Released Parties from any and all known and unknown past, present, and future rights, claims, causes of action, damages, suits, penalties, liabilities, injunctive relief, declaratory relief, and attorneys' fees, costs, and expenses related to or arising out of the facts and

claims asserted, or that could have been asserted, under state or federal law or the facts alleged in CAG's Proposition 65 Notice relating to any and all claims concerning exposure of any person to cadmium in the Covered Product. Compliance with the terms of this Settlement Agreement shall constitute compliance by the Released Parties with Proposition 65 with respect to exposures to cadmium contained in the Covered Product. This release does not limit or affect the obligations of any party created under this Settlement Agreement.

2.2 It is possible that other injuries, damages, liabilities, or claims not now known by the Parties arising out of the facts alleged in the Notice and relating to the Covered Product will develop or be discovered, and this Settlement Agreement is expressly intended to cover and include all such injuries, damages, liabilities, and claims, including all rights of action therefor. CAG has full knowledge of the contents of Section 1542 of the Civil Code. CAG acknowledges that the claims released in section 2.1 above may include unknown claims and waives Section 1542 as to any such unknown claims. Section 1542 reads as follows:

"A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR."

CAG acknowledges and understands the significance and consequences of this specific waiver of California Civil Code Section 1542.

3.0 Claims Covered

3.1 This Settlement Agreement is a final and binding resolution between CAG and the Released Parties of the following claims and cause of action:

All Proposition 65 claims and any and all other claims that were or could have been asserted in the Dispute arising from or related to allegations that the Released Parties knowingly and intentionally exposed users of the Covered Product and others to cadmium, a chemical designated by the State of California to cause cancer and reproductive toxicity, developmental and male, without first giving clear and reasonable warning of such to persons exposed up to the effective date of this Settlement Agreement.

3.2 The Parties intend and agree that this Settlement Agreement shall be given full effect for purposes of precluding claims regarding the Products against FoxFarm and/or the Released Parties under Proposition 65 as covered by this release. **If requested in writing by FoxFarm, CAG shall file a complaint and**

seek approval of this Settlement Agreement through a court approved consent judgment incorporating the terms of this Settlement Agreement pursuant to California Health and Safety Code section 25249.7, or as may be otherwise allowed by law, and CAG and its counsel shall fully cooperate with FoxFarm to support the entry of a consent judgment incorporating the terms of this Settlement Agreement for approval by a superior court in California. Within ten (10) business days of entry of the consent judgment, FoxFarm shall pay CAG and its counsel a total amount of Fifteen Thousand Dollars (\$15,000) to reimburse CAG and its counsel for the costs, including attorney's fees, incurred in converting this Settlement Agreement to a consent judgment. No fees or costs under this paragraph will be due and owing to CAG or its counsel unless a written request is made by FoxFarm.

4.0 Defendant's Duties

4.1 FoxFarm agrees, promises, and represents that upon execution of this Settlement Agreement, it will not sell or distribute the Covered Product in California unless the Covered Product contains the following warning language:

This product contains chemicals known to the state of California to cause cancer, birth defects, or other reproductive harm.

This Proposition 65-compliant warning shall be placed on the label of the Covered Product in such a fashion that the warning is conspicuously and reasonably visible to the consumers. Nothing in this Settlement Agreement requires FoxFarm or the Released Parties to place a warning on any Covered Product that is already in the stream of commerce on the Effective Date.

5.0 Payments

5.1 Within ten business (10) days after the Effective Date, FoxFarm shall pay a total of forty-three thousand dollars (\$43,000) by separate checks apportioned as follows:

5.1.1 Payment to CAG: four thousand dollars (\$4,000.00) shall be paid to Consumer Advocacy Group, Inc. The check shall be delivered to: Reuben Yeroushalmi, Yeroushalmi & Associates, 9100 Wilshire Boulevard, Suite 610E, Beverly Hills, California 90212.

5.1.2 Attorneys' Fees and Costs: thirty-eight thousand dollars (\$38,000.00) of such payment shall be paid to Yeroushalmi & Associates, as CAG's attorneys, for reasonable investigation fees and costs, attorneys' fees, and any other costs incurred as a result of investigating, bringing this

matter to FoxFarm's attention and negotiating a settlement in the public interest. The check shall be delivered to: Reuben Yeroushalmi, Yeroushalmi & Associates, 9100 Wilshire Boulevard, Suite 610E, Beverly Hills, California 90212.

5.1.3 Civil Penalty: FoxFarm shall issue two separate checks for a total amount of one thousand dollars (\$1,000.00) as civil penalties pursuant to Health & Safety Code § 25249.12: (a) one check made payable to the State of California's Office of Environmental Health Hazard Assessment (OEHHA) in the amount of \$750.00, representing 75% of the total penalty; and (b) one check to Consumer Advocacy Group, Inc. in the amount of \$250.00, representing 25% of the total penalty. Two separate 1099s shall be issued for the above payments: The first 1099 shall be issued to OEHHA, P.O. Box 4010, Sacramento, CA 95184 (EIN: 68-0284486) in the amount of \$750.00. The second 1099 shall be issued in the amount of \$250.00 to CAG and delivered to: Yeroushalmi & Associates, 9100 Wilshire Boulevard, Suite 610E, Beverly Hills, California 90212.

6.0 Authority to Enter Into Settlement Agreement

6.1 CAG represents that its signatory to this Settlement Agreement has full authority to enter into this Settlement Agreement on behalf of CAG and to bind legally CAG. FoxFarm represents that its signatory to this Settlement Agreement has full authority to enter into this Settlement Agreement on behalf of FoxFarm and to bind legally FoxFarm. The undersigned have read, understand and agree to all of the terms and conditions of this Settlement Agreement.

7.0 Report of the Settlement Agreement to the Office of the Attorney General Of California

7.1 CAG shall report this Settlement Agreement to the Attorney General's Office within five (5) days of the Parties' execution of this Settlement Agreement.

8.0 Execution in Counterparts and Facsimile

8.1 This Settlement Agreement may be executed in counterparts, which taken together shall be deemed to constitute the same document. A facsimile or portable document format (PDF) signature shall be as valid as the original.

9.0 Modification of Settlement Agreement

9.1 Any modification to this Settlement Agreement shall be in writing by the Parties.

10.0 Application of Settlement Agreement

10.1 This Settlement Agreement shall apply to, be binding upon, and inure to the benefit of, CAG, its predecessors, successors, any affiliated company or individual, assigns and all officers, directors, and employees of any of the releasing entities, and the Released Parties identified in Section 2.1 above.

11.0 Notification Requirements

11.1 Any notice required or permitted hereunder shall be effective only if in writing and delivered in person or sent by telecopy, certified or registered mail return receipt requested, or traceable overnight delivery service, to the following designees:

For CAG:

Reuben Yeroushalmi
YEROUSHALMI & ASSOCIATES
9100 Wilshire Boulevard, Suite 610 E
Beverly Hills, CA 90212
Fax: (310) 623-1930

For FoxFarm:

Peg Carew Toledo
MENNEMEIER, GLASSMAN &
STROUD LLP
980 9th Street, Suite 1700
Sacramento, CA 95814
Facsimile: (916) 553-4011

12.0 Enforcement of Settlement Agreement

12.1 Any party may file suit before the Superior Court of the County of Los Angeles, consistent with the terms and conditions set forth in paragraphs 12.2 and 12.3 of this Settlement Agreement, to enforce the terms and conditions contained in this Settlement Agreement. The prevailing party shall be entitled to its reasonable attorneys' fees and costs associated with such enforcement.

12.2 No action to enforce this Settlement Agreement may be commenced or maintained, and no notice of violation related to the Covered Product may be served or filed against FoxFarm by CAG, unless the party seeking enforcement or alleging violation notifies the other party of the specific acts alleged to breach this Settlement Agreement at least 90 days before serving or filing any action or Notice of Violation and the entity receiving the notice fails to comply with the requirements set forth in Section 12.3 below. Any notice to FoxFarm must contain (a) the name of the product, (b) specific dates when the product was sold in violation of Paragraph 4.1, (c) the store or other place at which the product was available for sale to consumers, and (d) any other evidence or other support for the allegations in the notice.

12.3 Within 30 days of receiving the notice described in Section 12.2, FoxFarm shall either (1) withdraw the product for sale to the public, or (2) refute the information provided under Section 12.2. Should the Parties be unable to resolve the dispute, any party may seek relief under Section 12.1

13.0 Severability

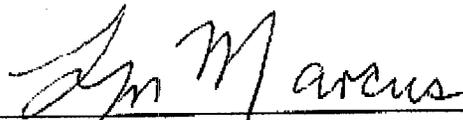
12.1 If, subsequent to the execution of this Settlement Agreement, any of the provisions of this Settlement Agreement are held by a court to be unenforceable, the validity of the enforceable provisions remaining shall not be adversely affected.

14.0 GOVERNING LAW

13.1 The terms of this Settlement Agreement shall be governed by the laws of the State of California and apply within the State of California. In the event that Proposition 65 is repealed, preempted or is otherwise rendered inapplicable by reason of law generally, or as to the Listed Chemical and/or the Covered Product, then FoxFarm shall provide written notice to CAG of any asserted change in the law, and shall have no further obligations pursuant to this Settlement Agreement with respect to, and to the extent that, the Covered Products are so affected.

CONSUMER ADVOCACY GROUP, INC.

Dated: 9/23/11

By: 
Lyn Marcus, President

UNITED COMPOST & ORGANICS INC.
dba FOXFARM SOIL & FERTILIZER COMPANY

Dated: _____

By: _____
William Winer, President & CEO

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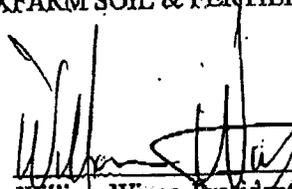
CONSUMER ADVOCACY GROUP, INC.

Dated: _____

By: _____
Lyn Marcus, President

UNITED COMPOST & ORGANICS INC.
dba FOXFARM SOIL & FERTILIZER COMPANY

Dated: 9-23-11

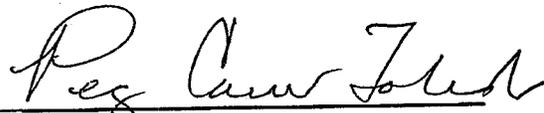
By:  _____
William Winer, President & CEO

As to form only:

Dated: 9/23/11

By: 
Reuben Yeroushalmi
Attorneys for
Consumer Advocacy Group, Inc.

Dated: 9-23-11

By: 
Peg Carew Toledo, Esq.
Attorneys for FoxFarm