

SETTLEMENT AGREEMENT  
BETWEEN  
CONSUMER ADVOCACY GROUP, INC.  
AND  
CITRUS INTERNATIONAL, INC.

Consumer Advocacy Group, Inc. ("CAG") and Citrus International, Inc. (hereto referred to as "Citrus"), (CAG and Citrus are collectively referred to as, the "Parties") enter into this agreement ("Settlement Agreement") to settle CAG's allegations that Citrus violated Proposition 65. The effective date of this Settlement Agreement, which is for the purpose of avoiding prolonged and costly litigation, 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 Citrus previously sold, and continues to sell, various bath tub mats, including, but not limited to, (1) Citrus Bath Collection Pebbles Tub Mat, 27.16 X 13.78 in (69 X 35 cm), in assorted colors, Item No. CIT5010, UPC Nos. 883113202451, 883113311818, 883113577528, and 8831130052063; (2) Citrus Bath Collection Cobblestone Tub Mat, 27.16 X 13.78 in (69 X 38 cm), in assorted colors, Item No. CIT5014, UPC Nos. 883113749864, 8311303030986, 883113219848, 8831135900374, 883113433541, and

883113749864; (3) Citrus Bath Collection Massage Tub Mat, in assorted colors, UPC Nos. 883113274731, 88313161437, 883113018731, and 883113872074; and (4) Citrus Bath Collection Bubble Bath Mat, Oval (15 X 27.5 in) in assorted colors, UPC No. 883113127907. These, and all other bath mats sold by Citrus are hereinafter referred to collectively as the "Covered Products". The Covered Products are limited to those sold by Citrus only.

1.3 CAG alleges that the Covered Products contain Di (2-ethylhexyl) phthalate (DEHP), also known as Diethyl Hexyl Phthalate and Bis (2-ethylhexyl) phthalate, and that Citrus did not provide a required warning in compliance with the California Safe Drinking Water and Toxic Enforcement Act (*Cal. Health & Safety Code § 25249.5, et seq.* ("Proposition 65")).

1.4 On January 1, 1988, the Governor of California added DEHP to the list of chemicals known to the State to cause cancer, and on October 24, 2003, the Governor added DEHP to the list of chemicals known to the State to cause developmental male reproductive toxicity. These additions took place more than twenty (20) months before CAG served its "Sixty-Day Notices of Intent To Sue For Violations Of The Safe Drinking Water And Toxic Enforcement Act of 1986" which are further described below.

1.5 DEHP is referred to hereafter as the "Listed Chemical".

1.6 On or about July 12, 2012, CAG served Citrus, The TJX Companies, Inc., dba T.J. Maxx, T.J. Maxx of CA, LLC (collectively, "TJX") and certain relevant public enforcement agencies with documents entitled "Sixty-Day Notice Of Intent To Sue For Violations Of The Safe Drinking Water And Toxic

Enforcement Act of 1986” regarding Covered Products containing the Listed Chemical.

1.7 On or about March 25, 2013, CAG served Citrus, Ross Stores, Inc. dba dd’s Discounts, Inc. (collectively, “Ross”), and certain relevant public enforcement agencies with documents entitled “Sixty-Day Notice Of Intent To Sue For Violations Of The Safe Drinking Water And Toxic Enforcement Act of 1986” regarding Covered Products containing the Listed Chemical.

1.8 CAG alleged in these two Sixty-Day Notices (collectively, the “60-Day Notices”) that Citrus, TJX, and Ross violated Proposition 65 by failing to warn consumers in California that use of Covered Products exposed persons to the Covered Chemical.

1.9 The Parties enter into this Settlement Agreement to settle disputed claims between the Parties as set forth below concerning compliance with Proposition 65 with respect to the Covered Products (the “Dispute”).

1.10 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. Citrus, in fact, denies all such allegations, and contends it provided proper Proposition 65 warnings on the packaging of all Covered Products sold in California. 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 Citrus, TJX, or Ross, or any of their past or present owners, direct and indirect parent companies, corporate affiliates, subsidiaries, upstream and downstream suppliers, distributors, manufacturers, or customers, direct and indirect retailers, clients, and each of their respective officers, directors, attorneys, representatives, shareholders, agents, insurers, employees, successors, and assigns, in any administrative or judicial proceeding or litigation in any court, agency, or forum. Except for the allegations settled and compromised, nothing in this Settlement Agreement shall prejudice, waive, or impair any right, remedy, argument, or defense that CAG or Citrus may have against one another in any other pending legal proceeding as to allegations unrelated to the Dispute or claims released herein.

## **2.0 Release**

2.1. This Settlement Agreement is a full, final, and binding resolution between CAG, on the one hand, and (a) Citrus, and its officers, directors, attorneys, representatives, shareholders, agents, insurers, employees, predecessors successors, assigns, franchisees, cooperative members, licensees, owners, parents, subsidiaries, affiliates, sister and related companies, (collectively, "Releasees") and (b) all entities to whom Releasees directly or indirectly sold, distributed, or otherwise provided Covered Products, including but not limited TJX and Ross, and any of their past or present owners, direct and indirect parent companies, corporate affiliates, subsidiaries, upstream and downstream suppliers, distributors, manufacturers, or customers, direct and indirect

retailers, clients, and each of their respective officers, directors, attorneys, representatives, shareholders, agents, insurers, employees, successors, and assigns, and all other distributors, wholesalers, customers, retailers, franchisees, cooperative members, and/or licensees ("Downstream Releasees"), on the other hand, of any violation or claimed violation of Proposition 65, or any statutory or common law claim that has been or could have been asserted against the Releasees and/or the Downstream Releasees regarding exposing persons to the Listed Chemicals, or failing to warn about exposure to the Listed Chemical, in connection with the sale or distribution of Covered Products, even if sold by the Releasees or the Downstream Releasees after the Effective Date. Citrus's compliance with this Settlement Agreement shall constitute compliance with Proposition 65 with respect to the Listed Chemical in the Covered Products for both the Releasees and the Downstream Releasees for all Covered Products distributed and/or sold by Releasees or Downstream Releasees before or after the Effective Date.

2.2 CAG, its past and current agents, representatives, attorneys, successors, and/or assignees, hereby waives and releases, with respect to the Covered Products, all rights to institute or participate in, directly or indirectly, any form of legal action, including, without limitation, all actions, and causes of action, in law or in equity, suits, liabilities, demands, obligations, damages, costs, fines, penalties, losses, or expenses (including, but not limited to, investigation fees, expert fees, and attorneys' fees) (collectively "Claims"), against the Releasees and the Downstream Releasees that arise or are based upon Proposition 65, or any

other statutory or common law claim that were or could have been asserted, relating to the Listed Chemical in the Covered Products.

2.3 CAG acknowledges that it is familiar with Section 1542 of Civil Code, which provides 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, its past and current agents, representatives, attorneys, successors, and/or assignees expressly waives and relinquishes any and all rights and benefits which it may have under, or which may be conferred on it by the provisions of Civil Code § 1542, as well as under any other state or federal statute or common law principle of similar effect, to the fullest extent that it may lawfully waive such rights or benefits pertaining to the released matters.

### **3.0 Citrus's Duties**

3.1 Citrus agrees, promises, and represents that other than Covered Products that have already been placed in the stream of-commerce, are in process, are ready for distribution or sale, are in Citrus' inventory, or that were ordered prior to the Effective Date ("Exempt Covered Products"), Citrus shall hereafter cause all

Covered Products to be reformulated such that the level of DEHP does not exceed 0.1%.

3.2 Citrus agrees, promises, and represents that as of the Effective Date, to the extent it ships or sells any Covered Product or Exempt Covered Products for purchase by consumers in California that have not been reformulated, it will provide warnings that comply with Proposition 65. The warnings shall be provided in such a conspicuously and prominent manner that will assure the message is made available and likely to be read, seen, or heard by the consumer prior to or at the time of the sale or purchase. The Parties agree that product labeling stating that "This product contains chemicals known to the State of California to cause cancer, or birth defects, or other reproductive harm" shall constitute compliance with Proposition 65 with respect to the Listed Chemical in the Covered Products for any Covered Products that has not been reformulated, and is distributed and/or sold by Releasees or Downstream Releasees after the Effective Date. CAG agrees that the Proposition 65 warnings that have previously been placed by Citrus on the packaging of the Covered Products, exemplars of which have been provided by Citrus to CAG, and a photograph of which is attached hereto, shall satisfy this warning requirement.

3.3 As long as Citrus complies and remains in compliance with the requirements of sections 3.1 and 3.2, the Covered Products, and Exempt Covered Products, shall be deemed to comply with Proposition 65 with respect to DEHP.

#### 4.0 Payments

4.1 Citrus agrees, to pay a total of thirty thousand dollars (\$30,000.00) within fifteen (15) days of the Effective Date by separate checks payable as follows:

4.1.1 Payment to CAG: One thousand (\$1,000.00) 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. By the Effective Date, CAG shall provide Citrus with CAG's Employer Identification Number.

4.1.2 Attorneys' Fees and Costs: Twenty-eight thousand dollars (\$28,000.00) 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 and bringing this matter to Citrus's attention. The check shall be delivered to: Reuben Yeroushalmi, Yeroushalmi & Associates, 9100 Wilshire Boulevard, Suite 610E, Beverly Hills, California 90212. By the Effective Date, Yeroushalmi & Associates shall provide Citrus with its Employer Identification Number.

4.1.3 Penalty: Citrus shall issue two separate checks for a total amount of one thousand dollars (\$1,000.00) as 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 seven hundred and fifty dollars (\$750.00), representing 75% of



the total penalty; and (b) one check to Consumer Advocacy Group, Inc. in the amount of two hundred and fifty dollars (\$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.

**5.0 Authority to Enter Into Settlement Agreement**

5.1 CAG represents that its signatory to this Settlement Agreement has full authority to enter into and legally bind CAG to this Settlement Agreement.

5.2 Citrus represents that its signatory to this Settlement Agreement has full authority to enter into and legally bind Citrus to this Settlement Agreement.

**6.0 Report of the Settlement Agreement to the Office of the Attorney General Of California**

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

**7.0 Execution in Counterparts and Facsimile**

7.1 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.

**8.0 Entire Agreement**

8.1 This Settlement Agreement contains the sole and entire agreement and understanding of the Parties with respect to the entire subject matter hereof, and all related prior discussions, negotiations, commitments, and understandings. No other agreements, oral or otherwise, exist to bind any of the Parties.

**9.0 Modification of Settlement Agreement**

9.1 Any modification to this Settlement Agreement shall be in writing and signed 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 and the Releasees and the Downstream Releasees identified in Section 2 above.

**11.0 Enforcement of Settlement Agreement**

11.1 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 11.2 and 11.3 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 in connection with any such action.

11.2 No action to enforce this Settlement Agreement may be commenced or maintained, and no notice of violation related to the Covered Products may be served or filed by CAG against Citrus, or any of the Releasees or Downstream

Releasees, unless CAG notifies Citrus in writing, by certified United States mail, return receipt requested, of the specific acts alleged to constitute a breach of this Settlement Agreement. Such notice must be mailed at least 90 days before serving or filing any action or Notice of Violation, and Citrus' failure to comply with the requirements set forth in Section 11.3 below. Any notice to Citrus must contain (a) the name of the Covered Product, (b) the specific dates when the Covered Products were sold in violation of this Settlement Agreement, (c) the store or other place at which the Covered Products were offered for sale in violation of this Settlement Agreement, and (d) any other evidence or other support for the allegations in the notice.

11.3 Within 30 days of receiving the notice described in Section 11.2, Citrus shall either (1) send the store or other place at which the Covered Product was available for sale to the public a letter directing that the offending product be immediately removed from inventory and returned to Citrus for full credit, including shipping costs, or (2) refute the information provided under Section 11.2. Should the parties be unable to resolve the dispute, any party may seek relief under Section 11.1.

11.4. In the event another Proposition 65 enforcer sends a 60-Day Notice to Citrus, TJX, Ross, or any other Releasee or Downstream Releasee, with respect to any claim or potential claim that has been settled by this Settlement Agreement, CAG shall contact such Proposition 65 enforcer, and advise him, her, or it of this settlement, and indicate that no action for violation of Proposition 65 can or may

be brought for any claim or potential claim that has been released in this Settlement Agreement.

**12.0 Notification Requirements**

12.1 Any notice required or permitted hereunder shall be effective only if given in writing and delivered in person, 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 610E  
Beverly Hills, CA 90212

For Citrus:

Kenneth E. Chyten  
LAW OFFICES OF KENNETH E. CHYTEN  
300 East Esplanade Drive, Suite 900  
Oxnard, CA 93036

Any party may change its designee(s) for purposes of notification by providing written notice of such change pursuant to this section.

**13.0 SEVERABILITY**

13.1 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**

14.1 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, modified, or otherwise rendered inapplicable or inapposite, in whole or in part, generally, or as to the Listed Chemical and/or the Covered Products, then Citrus 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 and/or Listed Chemical are so affected.

CONSUMER ADVOCACY GROUP, INC.

Dated: 7-24-13

By: 

Printed Name: Michael Sassoon

Title: Executive Director

CITRUS INTERNATIONAL, INC.

Dated: \_\_\_\_\_

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

Printed Name: Andy Khaitan

Title: President

the State of California and apply within the State of California. In the event that Proposition 65 is repealed, preempted, modified, or otherwise rendered inapplicable or inapposite, in whole or in part, generally, or as to the Listed Chemical and/or the Covered Products, then Citrus 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 and/or Listed Chemical are so affected.

CONSUMER ADVOCACY GROUP, INC.

Dated: \_\_\_\_\_

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

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

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

CITRUS INTERNATIONAL, INC.

Dated: 7/29/13

By: 

Printed Name: Andy Khaitan

Title: President

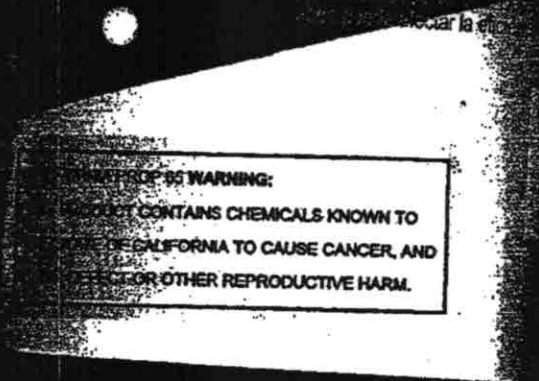
# EXHIBIT A

x 35cm)

Carte n° 571  
Museum  
Paris

REPRODUCTION

Associer la photo





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**PROP 65 WARNING:**  
CONTAINS CHEMICALS KNOWN TO  
OF CALIFORNIA TO CAUSE CANCER, AND  
OR OTHER REPRODUCTIVE HARM.

Item No.  
  
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