

SETTLEMENT AGREEMENT  
BETWEEN  
CONSUMER ADVOCACY GROUP, INC.  
AND  
NORPRO INC. AND NORDIC PRODUCTS, INC.

Consumer Advocacy Group, Inc. (“CAG”), on the one hand, and Norpro Inc. and Nordic Products, Inc. (collectively referred to as “NORPRO”), on the other hand, enter into this agreement (“Settlement Agreement”) for the purpose of avoiding prolonged and costly litigation to settle CAG’s allegations that NORPRO violated Cal. Health & Safety Code § 25249.5 *et seq.* (“Proposition 65”). The effective date of this Settlement Agreement shall be the date upon which it is fully executed by all Parties hereto (the “Effective Date”). CAG and NORPRO are collectively referred to as the “Parties” and individually as a “Party.”

**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. NORPRO previously sold, at various times: 1) jar wrenches (“Jar Wrenches”) including but not limited to “Jar Wrench, “QUALITY NORPRO® FOR THE COOK,” UPC# 0 28901 00598 6; 2) apple machines with a vacuum base (“Apple Machines”), including but not limited to “Apple Master With Vacuum Base, Healthy Organic Living,” UPC # 0 28901 50866 1”; and 3) ceramic pie weights (“Ceramic Pie Weights), including but not limited to “NORPRO QUALITY FOR THE COOK,” UPC # 0 28901 03906 6.” Jar Wrenches, Apple Machines, and Ceramic Pie Weights are collectively referred to as “Covered Products.” The Covered Products are limited to those supplied by NORPRO only and do

not include any jar wrenches, apple machines, or ceramic pie weights supplied by an unrelated company.

**1.2** CAG alleges that Jar Wrenches and Apple Machines contain Di (2-ethylhexyl) phthalate (“DEHP”), also known as Diethyl Hexyl Phthalate and Bis (2-ethylhexyl) phthalate, and that NORPRO did not provide warnings under Proposition 65.

**1.3** 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 Notice of Intent To Sue For Violations Of The Safe Drinking Water And Toxic Enforcement Act of 1986” which is further described below.

**1.4** CAG alleges that Ceramic Pie Weights contain Lead and that NORPRO did not provide Proposition 65 warnings.

**1.5** On February 27, 1987, the Governor of California added lead to the list of chemicals known to the State to cause reproductive toxicity. Lead is known to the State to cause developmental, female, and male reproductive toxicity. On October 1, 1992, the Governor of California added lead and lead compounds to the list of chemicals known to the State to cause cancer. Pursuant to Health and Safety Code sections 25249.9 and 25249.10, twenty (20) months after addition of lead and lead compounds to the list of chemicals known to the State to cause cancer and reproductive toxicity, lead and lead compounds became fully subject to Proposition 65 warning requirements and discharge prohibitions.

**1.6** DEHP, lead, and diisononyl phthalate (“DINP”) are referred to hereafter as the “Listed Chemicals.”

**1.7** On or about September 27, 2013, CAG served Norpro Products Incorporated, Norpro Inc., Concord Equipment Co. 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 Jar Wrenches containing the DEHP.

**1.8** On or about March 27, 2015, CAG served Norpro Products, Inc., Norpro Inc., Ross Dress for Less, Ross Dress for Less, Inc., Ross Stores, Inc. 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 Apple Machines containing DEHP.

**1.9** On or about August 21, 2015, CAG served Norpro Products, Inc., Norpro Inc., Nordic Products, Inc., Ross Stores, Inc. 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 Ceramic Pie Weights containing Lead.

**1.10** The Parties enter into this Settlement Agreement to settle disputed claims between the Parties as set forth below concerning the Covered Products’ compliance with Proposition 65.

**1.11** 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 constitute or be construed as an admission by the Parties of any fact, conclusion of law, issue of law, violation of law, fault, wrongdoing, or liability, including without limitation, any admission concerning any alleged violation of Proposition 65. Nothing in this Settlement Agreement, nor compliance with its terms, shall constitute or be construed, considered, offered, or be admitted as evidence in any administrative or judicial proceeding or litigation in any court, agency, or forum, except with respect to an action seeking to

enforce the terms of this Settlement Agreement. 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 NORPRO may have against one another in any other pending legal proceeding as to allegations unrelated to the Notices or claims released herein.

## **2.0 Release**

This Settlement Agreement is a full, final, and binding resolution between CAG, acting in its individual capacity, on the one hand, and (a) NORPRO, and its owners, parents, subsidiaries, affiliates, sister and related companies, employees, shareholders, officers, directors, insurers, attorneys, predecessors, successors, and assigns (collectively “Releasees”) and (b) all entities to whom Releasees directly or indirectly provide, distribute, or sell the Covered Products, including but not limited to distributors, wholesalers, customers, retailers (including but not limited to Ross Stores, Inc. and Ross Dress for Less, Inc.), franchisees, cooperative members, and licensees, and their respective owners, parents, subsidiaries, affiliates, sister and related companies, employees, shareholders, owners, officers, directors, insurers, attorneys, predecessors, successors, and assigns (collectively referred to as “Downstream Releasees”), on the other hand, of any alleged violations of Proposition 65 or any statutory or common law claim that has been, could have been or may in the future be asserted against the Releasees and Downstream Releasees regarding any exposures to the Listed Chemicals and the failure to warn about any exposures to the Listed Chemicals in Covered Products manufactured, shipped, sold, and/or otherwise distributed by NORPRO prior to the Effective Date, even if sold by Downstream Releasees after the Effective Date. The Covered Products are limited to those supplied by NORPRO only and do not include any jar wrenches, apple machines, or ceramic pie weights supplied by an unrelated company. The Parties agree that NORPRO’s compliance with this Settlement Agreement shall

constitute compliance with Proposition 65 with respect to DEHP or DINP in Jar Wrenches and Apple Machines, and with respect to lead in Ceramic Pie Weights, that are manufactured, distributed and/or sold by Releasees or Downstream Releasees on and after the Effective Date.

CAG, on behalf of itself and 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 Releasees and/or Downstream Releasees that arise under Proposition 65 or any other statutory or common law claims concerning alleged exposures to, or failure to warn of, any Listed Chemicals in the Covered Products manufactured, distributed, or sold by NORPRO prior to the Effective Date. CAG, on behalf of itself and its past and current agents, representatives, attorneys, successors, and/or assignees, additionally provides a general release herein of all Claims of any nature, character or kind, known or unknown, suspected or unsuspected, against any Releasee and/or Downstream Releasee arising under Proposition 65, or any other statutory or common law, only to the extent that such Claims relate to NORPRO'S s alleged exposures to the Listed Chemicals contained in the Covered Products or failure to warn of exposures to the Listed Chemicals in the Covered Products manufactured, distributed, or sold prior to the Effective Date. 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, on behalf of itself and 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. The release in this section shall have no force or effect until the full amount of payments set forth in Section 4.0 below are paid in full.

### **3.0 NORPRO's Duties**

**3.1** NORPRO promises and represents that commencing on the Effective Date and continuing thereafter, any Jar Wrenches and Apple Machines that NORPRO sells in California, or distributes for sale in California, shall contain less than 1,000 parts per million ("ppm") by weight of DEHP or Diisononyl Phthalate ("DINP"), each.

**3.2** Commencing on the Effective Date and continuing thereafter, any Ceramic Pie Weights that NORPRO sells in California, or distributes for sale in California, shall contain less than 100 parts per billion ("ppb") by weight of lead.

**3.3** Jar Wrenches, Apple Machines, and Ceramic Pie Weights that NORPRO already put into the stream of commerce prior to the Effective Date are not subject to the requirements of Section 3.0, and are fully covered under the release of claims in Section 2.0.

### **4.0 Payments**

**4.1** NORPRO agrees to pay, within ten (10) days after the Effective Date, a total of seventy thousand dollars (\$70,000.00) by separate checks apportioned as follows:

**4.1.1 Attorneys' Fees and Costs:** Sixty thousand dollars (\$60,000.00) of such payment shall be paid to Yerousalmi & 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 NORPRO's attention. The check shall be delivered to: Reuben Yeroushalmi, Yeroushalmi & Associates, 9100 Wilshire Boulevard, Suite 240W, Beverly Hills, California 90212. By the Effective Date, Yeroushalmi & Associates shall provide NORPRO with its Employer Identification Number.

**4.1.2 Penalty:** NORPRO shall issue two separate checks for a total amount of ten thousand dollars (\$10,000.00) 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 thousand, five hundred dollars (\$7,500.00), representing 75% of the total penalty; and (b) one check to Consumer Advocacy Group, Inc. in the amount of two thousand, five hundred dollars (\$2,500.00), representing 25% of the total penalty. Both checks shall be delivered to: Reuben Yeroushalmi, Yeroushalmi & Associates, 9100 Wilshire Boulevard, Suite 240W, Beverly Hills, California 90212. Additionally, 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 \$7,500.00. The second 1099 shall be issued in the amount of \$2,500.00 to CAG and delivered to: Yeroushalmi & Associates, 9100 Wilshire Boulevard, Suite 240W, 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** NORPRO represents that its signatory to this Settlement Agreement has full authority to enter into and legally bind NORPRO 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 Downstream Releasees identified in Section 2.0.

**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 associated with such enforcement.

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 against NORPRO or any Downstream Releasee 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 Notices of Violation and the entity receiving the notice fails to comply with the requirements set forth in Section 11.3. Any notice to NORPRO must contain (a) the name of the product, (b) specific dates when the product was sold after the Effective Date in California without reformulation, (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.

**11.3** Within 30 days of receiving the notice described in Section 11.2, NORPRO shall either (1) send the store or other place at which the product was available for sale to the public a letter directing that the offending product be immediately removed from inventory and returned to NORPRO 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.

**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, Esq.  
YEROUSHALMI & ASSOCIATES  
9100 Wilshire Boulevard, Suite 240W  
Beverly Hills, CA 90212

For NORPRO:  
Sarah Esmaili, Esq.  
ARNOLD & PORTER LLP  
Three Embarcadero Center, 10th Floor  
San Francisco, CA 94111

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

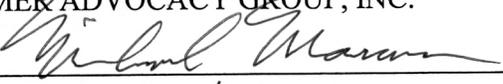
**13.0 Severability**

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.

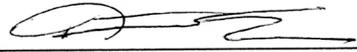
**14.0 Governing Law**

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 or is otherwise rendered inapplicable by reason of law generally, or as to the Listed Chemicals and/or the Covered Products, then NORPRO 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 Product are so affected.

Dated: 11/06/15

CONSUMER ADVOCACY GROUP, INC.  
By:   
Printed Name: Michael Marcus  
Title: Director

Dated: NOV 6, 2015

NORPRO INC. AND NORDIC PRODUCTS, INC.  
By:   
Printed Name: KIRSTEN MILLER  
Title: PRESIDENT