

SETTLEMENT AGREEMENT

BETWEEN

CONSUMER ADVOCACY GROUP, INC.

AND

DOLGENCORP, LLC, DOLLAR GENERAL CORPORATION, AND DOLGEN CALIFORNIA, LLC

Consumer Advocacy Group, Inc. (“CAG”) and Dolgencorp, LLC, Dollar General Corporation, and Dolgen California, LLC (collectively, “Dollar General”), (CAG and Dollar General collectively referred to as, the “Parties”) enter into this agreement (“Settlement Agreement”) for the purpose of avoiding prolonged and costly litigation to settle CAG’s allegations that Dollar General violated 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”).

**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 Dollar General previously sold, at various times, (a) Pet Accessories containing plastic materials that bear a brand or trademark owned or licensed by Dollar General, including but not limited to ““EverPet™ TIE-OUT CABLE; A secure tether for your dog; length (6m) 20ft; up to 60lb; DISTRIBUTED BY DOLGENCORP, LLC, 100 MISSION RIDGE, GOODLETTSVILLE, TN 37072; Barcode: 4 895153 308358” (“Pet Accessories”); (b) “DOLLAR GENERAL®

Girls “Must Have” For the Season; Pink Children’s Sandals with white spots and PVC strap; MHS14; DEPT 350; SIZE 13; \$5; 85414L13; Barcode: 4 30000 31229 0,” SKU 13372709 (“Sandals”); and (c) “CLOVER VALLEY® Long Grain Brown Rice, NET WT 32 OZ (2 LB) 907g, “DISTRIBUTED BY DOLGENCORP, LLC 100 MISSION RIDGE GOODLETTSVILLE, TN 37072”, “PRODUCT OF U.S.A.”, E0093, Barcode: 7 20579 79132 0,” SKU 10157001 (“Clover Valley Rice”) (Pet Accessories, Sandals, and Clover Valley Rice collectively referred to throughout as the “Covered Products”).

1.3 CAG alleges that the Pet Accessories and Sandals contain Di (2-ethylhexyl) phthalate (“DEHP”), also known as Diethyl Hexyl Phthalate and Bis (2-ethylhexyl) phthalate, and that the Clover Valley Rice contains Arsenic, and that Dollar General 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 Notice of Intent To Sue For Violations Of The Safe Drinking Water And Toxic Enforcement Act of 1986” which is further described below.

1.5 On February 27, 1987, the Governor of California added arsenic (inorganic arsenic compounds) and arsenic (inorganic oxides) to the list of

chemicals known to the State to cause both cancer and reproductive toxicity (*Cal. Code Regs.* tit. 27, § 27001(c)). 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.

1.6 DEHP and Arsenic are referred to hereafter as the “Listed Chemicals”.

1.7 On or about July 24, 2014, CAG served, Dollar General 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 Clover Valley Rice containing Arsenic.

1.8 On or about September 12, 2014, CAG served, Dollar General 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 Pet Accessories and Sandals containing DEHP.

1.9 The Sixty-Day Notices in Sections 1.7 and 1.8 above (referred to as “Notices”) alleged that Dollar General and the other noticed parties violated Proposition 65 by failing to warn consumers in California that use of Covered Products exposes persons to the Listed Chemicals.

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

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 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 Dollar General, its officers, directors, employees, or parents, subsidiaries or affiliated corporations, 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 Dollar General 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**

This Settlement Agreement is a full, final, and binding resolution between CAG, acting in its individual capacity, on the one hand, and (a) Dollar General, 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 who distribute, or sell the Covered Products, including but not limited to suppliers, distributors, wholesalers, customers, retailers, franchisees, cooperative members, and licensees

(“Downstream Releasees”), on the other hand, of any violation(s) or claimed violation(s) 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 exposing persons to the Listed Chemical and the failure to warn about exposure to the Listed Chemical arising only in connection with the Covered Products manufactured, shipped, and/or otherwise distributed prior to the Effective Date, even if sold by Downstream Releasees after the Effective Date.

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 Releasees and/or Downstream Releasees that arise under Proposition 65 or any other statutory or common law claims that were or could have been asserted in respect of any Covered Products sold up to the Effective Date, including without limitation to the extent that such claims relate to Releasees’ and/or Downstream Releasees’ alleged exposure of persons to the Listed Chemical contained in the Covered Products or any failure by Releasees and Downstream Releasees to warn about exposures to the Listed Chemical contained in the Covered Products. The Covered Products are limited to those sold by Dollar General.

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 Dollar General's Duties**

3.1 Dollar General agrees, promises, and represents that it shall reformulate any Pet Accessories offered for sale in California manufactured on or after June 1, 2015 to a point where the level of DEHP in the Pet Accessories does not exceed 0.1% by weight.

3.2 Dollar General agrees, promises, and represents that after the Effective Date Dollar General shall cease selling the Sandals and/or reformulate the Sandals to a point where the level of DEHP in the Covered Products does not exceed 0.1% by weight.

3.3 Dollar General agrees, promises, and represents that after the Effective Date Dollar General shall cease selling the Clover Valley Rice.

#### **4.0 Payments**

4.1 Dollar General agrees, to pay a total of seventy thousand dollars (\$70,000) no later than March 1, 2015, by separate checks apportioned as follows:

4.1.1 Payment to CAG: Seven thousand five-hundred dollars (\$7,500) shall be paid to Consumer Advocacy Group, Inc. The check shall be delivered to: Reuben Yeroushalmi, Yeroushalmi & Associates, 9100 Wilshire Boulevard, Suite 240W, Beverly Hills, California 90212. By the Effective Date, CAG shall provide Dollar General with CAG's Employer Identification Number.

4.1.2 Attorneys' Fees and Costs: Fifty-five thousand dollars (\$55,000) 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 Dollar General'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 Dollar General with its Employer Identification Number.

4.1.3 Penalty: Dollar General shall issue two separate checks for a total amount of seven thousand five-hundred dollars (\$7,500) 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 five thousand six-hundred twenty-five dollars (\$5,625), representing 75% of the total penalty; and (b) one check to Consumer Advocacy Group, Inc. in the amount of one thousand eight-hundred seventy-five dollars (\$1,875), 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 \$5,625. The second 1099 shall be issued in the amount of \$1,875 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 Dollar General represents that its signatory to this Settlement Agreement has full authority to enter into and legally bind Dollar General 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 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 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 Dollar General 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 11.3 below. Any notice to Dollar General 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, Dollar General shall either (1) remove the product from sale in California, 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 Dollar General:

Legal Department  
Dollar General Corporation  
100 Mission Ridge  
Goodlettsville, TN 37072

With a copy to:

Jeffrey Margulies, Esq.  
Norton Rose Fulbright US LLP  
555 South Flower Street, Forty-First Floor,  
Los Angeles, California 90071

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 Chemical and/or the Covered Products, then Dollar General 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: Feb 12, 2015

By:  MM

Printed Name: Michael Marcus

Title: Director

DOLGENCORP, LLC,

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

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

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

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

DOLLAR GENERAL CORPORATION

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

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

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

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

reason of law generally, or as to the Listed Chemical and/or the Covered Products, then Dollar General 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: \_\_\_\_\_

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

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

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

DOLGENCORP, LLC,

Dated: 2-13-2015

By: 

Printed Name: Dave D'Arezzo

Title: EVP CMO

DOLLAR GENERAL CORPORATION

Dated: 2-13-2015

By: 

Printed Name: Dave D'Arezzo

Title: EVP CMO

DOLGEN CALIFORNIA, LLC

Dated: 2-13-2015

By: 

Printed Name: Dave D'Arezzo

Title: EVP CMO