

SETTLEMENT AGREEMENT

BETWEEN

CONSUMER ADVOCACY GROUP, INC.

AND

TRANSNATIONAL FOODS LLC, TRANSNATIONAL FOODS INC.

Consumer Advocacy Group, Inc. (“CAG”) and Transnational Foods LLC, a Delaware limited liability company and, and Transnational Foods Inc., a Florida corporation (collectively referred to as “TRANSNATIONAL”), (CAG and TRANSNATIONAL 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 TRANSNATIONAL 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 TRANSNATIONAL previously sold in the State of California, at various times, Instant Coffee, identified as “PAMPA INSTANT COFFEE ‘café instantanio’” 100% Instant Coffee “Distributed by Transnational Foods Inc.”, “KA-Kosher”, (NET WT 1.76 OZ 50g), Production Lot Numbers: 2240-2241,

Settlement Agreement Between
Consumer Advocacy Group, Inc. and Transnational Foods LLC and Transnational Foods
Inc.

2241-2255-2292, 2292-2335, 2336-3043, 3044-3106, 3105-3128-3129, 3129-3144-3145, 3148-3187, 3187-3261, 3261-3223, 3323-3332, 4090-4147-4148, 3332-4058, 4058-4090, 4148-4217-4218, 4218-4260-4261, 4261-4334, 4334-4362, 4362-4363-5031, 5031-5099-5100, 5100-5198, 5198-5231, 5231-5295-5296, 5296-5364 (referred to throughout as the “Covered Products”). The Covered Products are further limited to those directly sold, licensed, distributed, manufactured, processed, shipped, transported, imported, exported, delivered, supplied, purveyed, provided or otherwise handled (the foregoing collectively, “Provided”) by TRANSNATIONAL or any Releasees (as defined below).

1.3 CAG alleges, and TRANSNATIONAL denies, that the Covered Products contain Lead and that TRANSNATIONAL 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 February 27, 1987, the Governor of California added lead to the list of chemicals known to the State to cause reproductive toxicity in both males and females, and on October 1, 1992, the Governor added lead and lead compounds to the list of chemicals known to the State to cause cancer. 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 is further described below.

1.5 Lead is referred to hereafter as the “Listed Chemical”.

1.6 On or about August 19, 2014 CAG served Transnational Foods Headquarters, Transnational Foods Asia, Transnational Foods South America and Super Bargain 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 The Sixty-Day Notices (referred to as the “Notices”) alleged, and TRANSNATIONAL denies, that TRANSNATIONAL and the other noticed parties violated Proposition 65 by failing to warn consumers in California that use of Covered Products allegedly exposes persons to the Listed Chemical at impermissibly elevated levels.

1.8 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 as to the alleged exposure of any persons to the Listed Chemical and any alleged failure to warn about exposure to the Listed Chemical arising only in connection with the Covered Product (the “Dispute”).

1.9 By execution of this Settlement Agreement, the Parties do not admit any facts, any conclusions of law or any other matter, 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, violation of law or any other matter. Nothing in this Settlement Agreement, nor compliance with its terms, shall constitute or be construed, deemed to be, considered, offered, or admitted as evidence of an admission or evidence of fault, wrongdoing, or liability of any kind or description with respect to any matter (including, without limitation, with respect to any matter related directly or indirectly to the Dispute) by TRANSNATIONAL, or any of its officers, directors, employees, parents, subsidiaries or affiliates for any purpose whatsoever, including without limitation, in any governmental, administrative or judicial proceeding or litigation in any court, agency, governmental or other forum or in any other proceeding of any kind or description. 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 TRANSNATIONAL 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 and each CAG Party (as defined below), on the one hand, and (a) TRANSNATIONAL, and each of its owners, parents, subsidiaries, affiliates, sister and related companies, employees, shareholders, agents, partners, officers, directors, insurers, attorneys, predecessors, successors,

and assigns (collectively, including TRANSNATIONAL, the “Releasees”) and (b) all entities to whom Releasees directly or indirectly Provide, or have Provided, the Covered Product, including but not limited to 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 or any Downstream Releasees relating, directly or indirectly, to any alleged exposure of any persons to the Listed Chemical, any alleged failure to warn about exposure to the Listed Chemical arising only in connection with the Covered Product Provided prior to the Effective Date (even if sold by Downstream Releasees after the Effective Date), or any other matter relating directly or indirectly to (or arising out of) the Dispute..

CAG, on behalf of itself and its past and current agents, representatives, attorneys, subsidiaries, affiliates, officers, related parties, directors, employees, partners, owners, successors, and/or assignees, (collectively, the “CAG Parties”), hereby waives, releases and forever discharges 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 any Releasee and/or Downstream

Releasee relating directly or indirectly to the Dispute or that arise directly or indirectly under Proposition 65 or any other statutory or common law, or any other claims of any kind or description 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/or Downstream Releasees to warn about exposures to the Listed Chemical contained in the Covered Products. 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.

Having carefully considered the foregoing and consulted with its attorney, CAG, on behalf of itself and each CAG Party, expressly waives and relinquishes any and all rights and benefits which it may have under, or which may be conferred on any of them 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 any of them may lawfully waive such rights or benefits pertaining to the released matters. Except as provided for enforcement in Section 11 below, this Settlement Agreement may be pled, or otherwise proffered, as a complete

defense in any action or proceeding of any kind against any Releasee or any Downstream Releasee relating, directly or indirectly, to the Dispute. 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 TRANSNATIONAL's Duties

3.1 TRANSNATIONAL agrees, promises, and represents that, as of the Effective Date, it will cease distributing and/or selling the Covered Products to any Releasees, Downstream Entities of any kind after the Effective Date, whatsoever.

4.0 Payments

4.1 Within ten business days of the Effective Date, TRANSNATIONAL agrees to pay a total of Thirty-five Thousand dollars (\$35,000.00) by separate checks apportioned as follows:

4.1.1 Payment to CAG: One thousand Five hundred dollars (\$1,500.00) 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 TRANSNATIONAL with CAG's Employer Identification Number.

4.1.2 Attorneys' Fees and Costs: Thirty-Two thousand dollars (\$32,000.00) 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 TRANSNATIONAL'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 TRANSNATIONAL with its Employer Identification Number. A 1099 shall be issued in the amount of \$32,000.00 to CAG and delivered to: Yeroushalmi & Associates, 9100 Wilshire Boulevard, Suite 240W, Beverly Hills, California 90212.

4.1.3 Penalty: TRANSNATIONAL shall issue two separate checks for a total amount of One thousand Five hundred dollars (\$1,500.00) 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 One thousand one hundred twenty-five dollars (\$1,125.00), representing 75% of the total penalty; and (b) one check to Consumer Advocacy Group, Inc. in the amount of Three-hundred seventy-five dollars (\$375.00), 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 \$1,125.00. The second 1099 shall be issued in the amount of \$375.00 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 and each CAG Party to this Settlement Agreement.

5.2 TRANSNATIONAL represents that its signatory to this Settlement Agreement has full authority to enter into and legally bind TRANSNATIONAL 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 are superseded hereby and of no further force or effect. 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, the CAG Parties, 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 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 TRANSNATIONAL, any Releasees or any Downstream Releasees 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 below. Any notice to TRANSNATIONAL, any Releasees or any Downstream Releasees must contain (a) the name of the product, (b) specific dates when the product was sold after the Effective Date in California, (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 60 days of receiving the notice described in Section 11.2, TRANSNATIONAL, the applicable Releasee or the applicable Downstream Releasee (as the case may be) 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 TRANSNATIONAL, the applicable Releasee or the applicable Downstream Releasee (as the case may be) for full credit, including shipping costs (it being understood and agreed by all Parties that the foregoing (a) shall satisfy in full the obligations of TRANSNATIONAL, the applicable Releasee or the applicable Downstream Releasee (as the case may be) hereunder and under all applicable laws with respect to the subject matter of the notice described in Section 11.2 and (b) shall not for any purpose constitute, be construed as, be deemed to be, be considered, be offered, or be admitted as evidence of an admission of any fact, conclusion of law, issue of law, violation of law, fault, wrongdoing, or liability of any kind or description with respect to any matter) 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 TRANSNATIONAL:

Jeffrey M. Goldman
Pepper Hamilton LLP
Suite 1200
4 Park Plaza
Irvine, CA 92614-2524

With a copy to:
AnnMarie Sanford
Pepper Hamilton LLP
Suite 1800
4000 Town Center
Southfield, Michigan 48075-150

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 TRANSNATIONAL shall provide written notice to CAG of any asserted change in the law, and TRANSNATIONAL shall have no further obligations pursuant to this Settlement Agreement with respect to, and to the extent that, the Listed Chemical or the Covered Products are so affected.

CONSUMER ADVOCACY GROUP, INC.

Dated: 02/09/16


By: Michael Marcus

Printed Name: Michael Marcus

Title: Director, CAG

TRANSNATIONAL FOODS LLC
TRANSNATIONAL FOODS INC

Dated: 2/5/16.

By: 

Printed Name: TRANSNATIONAL FOODS, INC.
Juan M. Iribarne
Title: C.F.O.