

SETTLEMENT AGREEMENT
BETWEEN
CONSUMER ADVOCACY GROUP, INC.
AND
RAIN BIRD CORPORATION

Consumer Advocacy Group, Inc. (“CAG”) and Rain Bird Corporation (referred to as “RAIN BIRD”), (CAG and RAIN BIRD collectively referred to as the “Parties” and each individually as a “Party”) enter into this agreement (“Settlement Agreement”) for the purpose of settling claims and avoiding prolonged and costly litigation to settle CAG’s allegations that RAIN BIRD 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. The products covered by this Settlement Agreement are Spray Head Pull Up Tools, including but not limited to, “Rain Bird® Spray Head Pull Up Tool PTC-1 N89900-04 09/10, 5023989 UPC# 077985 00140 7” (referred to throughout as the “Covered Product”). The Covered Product is limited to those sold by RAIN BIRD only.

1.2 CAG alleges that the Covered Product contains Di Isononyl Phthalate (“DINP”), also known as diisononyl phthalate and that RAIN BIRD 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”)). RAIN BIRD denies that it violated Proposition 65 as alleged by CAG.

1.3 On December 20, 2013, the Governor of California added DINP to the list of chemicals known to the State to cause cancer. These additions took place more than twelve (12) 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 DINP is referred to hereafter as the “Listed Chemical”.

1.5 On or about June 22, 2015, CAG served Rain Bird Corporation, Ganahl Lumber Co. 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 the Covered Product containing the Listed Chemical.

1.6 The Sixty-Day Notice (referred to as the “Notice”) alleged that RAIN BIRD and the other noticed parties violated Proposition 65 by failing to warn consumers in California that use of Covered Product exposes persons to the Listed Chemical.

1.7 The Parties enter into this Settlement Agreement to settle disputed claims between the Parties as set forth below concerning the Parties' and the Covered Product's compliance with Proposition 65 (the "Dispute").

1.8 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, be considered 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, nor shall this Settlement Agreement, or compliance with its terms, be construed, considered, offered, or admitted as evidence of an admission or evidence of fault, wrongdoing, or liability by RAIN BIRD, 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 RAIN BIRD may have against one another in any other 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, acting in its individual capacity, its past and current agents,

representatives, attorneys, successors, and/or assignees on the one hand, and, on the other hand, (a) RAIN BIRD and each entity to whom RAIN BIRD has directly or indirectly provided, distributed, or sold the Covered Product, including but not limited to Ganahl Lumber Co Inc. and Orgill, Inc.; (b) all distributors, wholesalers, customers, retailers, franchisees, cooperative members, and licensees of the entities identified in (a) above; and (c) all past and current owners, parents, subsidiaries, affiliates, sister and related companies, employees, shareholders, officers, directors, insurers, agents, attorneys, predecessors, successors, and assigns of Rain Bird and the other entities and individuals identified in (a) and (b) above (the released entities and individuals identified in (a), (b), and (c) above are collectively referred to as “Releasees”) of any violation(s) or alleged 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 regarding exposing persons to the Listed Chemical and/or the failure to warn about exposure to the Listed Chemical arising in connection with the Covered Product manufactured, shipped, and/or otherwise distributed prior to the Effective Date, even if sold by Releasees after the Effective Date.

2.2 CAG, its past and current agents, representatives, attorneys, successors, and/or assignees, hereby waive with respect to the Covered Product all rights to institute or participate in, directly or indirectly, any form of legal action and release all claims that they may have, 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 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 Product manufactured, shipped, and/or otherwise distributed prior to the Effective Date, even if sold by Releasees after the Effective Date, including without limitation to the extent that such Claims relate to Releasees' alleged exposure of persons to the Listed Chemical contained in the Covered Product or any failure by Releasees to warn about exposures to the Listed Chemical contained in the Covered Product.

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. 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 RAIN BIRD's Duties

3.1 RAIN BIRD, promises, and represents that within sixty (60) days of the Effective Date, RAIN BIRD shall reformulate any Covered Product manufactured thereafter that are offered for sale in California so as to not contain more than 0.1% by weight (1,000 parts per million) of the Listed Chemical or it shall otherwise cease selling or distributing the Covered Product in California.

3.2 RAIN BIRD agrees, promises, and represents that within sixty (60) days, as of the Effective Date, to the extent it ships or sells any Covered Product in existing inventory that contain more than 0.1% by weight(1,000 parts per million) of the Listed Chemical, it will provide warnings for such Covered Product that are offered for sale in California to 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: "WARNING: This product contains chemicals known to the State of California to cause cancer and birth defects, or other reproductive harm" shall constitute compliance with Proposition 65 with respect to the Listed Chemical in the Covered Product for any Covered Product in existing inventory that had not been reformulated and were distributed and/or sold by Releasees after 60 days of the Effective Date.

3.3 CAG and RAIN BIRD agree that compliance with the terms of this Settlement Agreement by Rain Bird shall constitute compliance with Proposition 65 with respect to any exposure to the Listed Chemical in the Covered Product.

4.0 Payments

4.1 RAIN BIRD agrees to pay a total of thirty-six thousand dollars (\$36,000.00) by separate checks, within ten (10) business days of the Effective Date, apportioned as follows:

4.1.1 Payment to CAG: Five thousand dollars (\$5,000.00) 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 RAIN BIRD with CAG's Employer Identification Number.

4.1.2 Attorneys' Fees and Costs: Twenty-six thousand dollars (\$26,000.00) 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 RAIN BIRD'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 RAIN BIRD with its Employer Identification Number.

4.1.3 Penalty: RAIN BIRD shall issue two separate checks for a total amount of Five thousand dollars (\$5,000.00) 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 Three thousand Seven hundred Fifty dollars (\$3,750.00), representing 75% of the total penalty; and (b) one check to Consumer Advocacy Group, Inc. in the amount of One thousand Two hundred Fifty dollars (\$1,250.00), 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 \$3,750.00. The second 1099 shall be issued in the amount of \$1,250.00 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 RAIN BIRD represents that its signatory to this Settlement Agreement has full authority to enter into and legally bind RAIN BIRD 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 Effective Date.

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 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 Product may be

served or filed against RAIN BIRD 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 Parties fail to resolve the dispute after complying with the requirements set forth in Section 11.3 below. Any notice to RAIN BIRD must contain (a) the name of the product, (b) specific dates when the product was sold by Rain Bird after the Effective Date in California without reformulation or warning in accordance with Section 3.2, (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, the Parties shall meet and confer either in person or by telephone to attempt to resolve the Dispute. RAIN BIRD may, at its sole option, resolve the dispute by either (1) sending 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 RAIN BIRD in accordance with the terms of the applicable distribution agreement for such store, 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 Consumer Advocacy Group, Inc.:

Reuben Yeroushalmi, Esq.
Yeroushalmi & Yeroushalmi
9100 Wilshire Boulevard, Suite 240W
Beverly Hills, CA 90212

For Rain Bird Corporation:

President
RAIN BIRD CORPORATION
970 West Sierra Madre Avenue
Azusa, CA 91702

With a copy to:

Peter Duchesneau, Esq.
MANATT, PHELPS & PHILLIPS LLP
11355 W. Olympic Blvd.
Los Angeles, CA 90064

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.

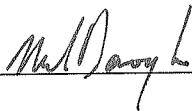
14.0 GOVERNING LAW

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 RAIN BIRD 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.

CONSUMER ADVOCACY GROUP, INC.

Dated: 12/28/15 By: 
Printed Name: Michael Marcus
Title: Director

RAIN BIRD CORPORATION

Dated: 12/22/15 By: 
Printed Name: MIKE DONOHUE
Title: VICE PRESIDENT