

SETTLEMENT AGREEMENT
SUSAN DAVIA AG NOTICES 2015-01197 and 2016-00409

1. INTRODUCTION

1.1 The Parties

This settlement agreement (“Agreement” or “Settlement Agreement”) is entered into by and between Susan Davia, (“Davia”) and Baumgarten’s Exclusive Imports, Inc. (hereafter, “Exclusive Imports”) with Davia and Exclusive Imports collectively referred to as the “Parties.”

1.2 Davia

Davia is an individual residing in the State of California who seeks to promote awareness of exposure to toxic chemicals and improve human health by reducing or eliminating hazardous substances contained in consumer products.

1.3 Baumgarten’s Exclusive Imports, Inc.

Baumgarten’s Exclusive Imports, Inc. is a person in the course of doing business for purposes of the Safe Drinking Water and Toxic Enforcement Act of 1986, California Health & Safety Code §§ 25249.6 *et seq.* (“Proposition 65”). Exclusive Imports is alleged to have been responsible for the manufacture or distribution of the products subject to this Agreement.

1.4 General Allegations

Davia alleges that Exclusive Imports participated in the manufacture (or other acquisition), distribution and/or sale, in the State of California, of vinyl ID Badge products, which products exposed users to di(2-ethylhexyl)phthalate (DEHP), di-isodecyl phthalate (DIDP) and di(isononyl)phthalate (DINP) without first providing “clear and reasonable warning” under Proposition 65. DEHP and DIDP are listed as reproductive and developmental toxicants pursuant to Proposition 65. DINP is listed as a carcinogen pursuant to Proposition 65. DEHP, DIDP and DINP shall hereinafter, where applicable, be referred to as the “Listed Chemical.”

1.5 Notices of Violation

On November 23, 2016, Davia served Exclusive Imports, FedEx Corporation, FedEx Office and Print Services, Inc. and various public enforcement agencies with a document entitled “60-Day Notice of Violation” that provided public enforcers and the noticed entities with notice of alleged violations of Health & Safety Code § 25249.6 for failing to warn consumers of the presence of DEHP, a toxic chemical found in Covered Products sold in California. On May 5, 2016, Davia served Exclusive Imports and various public enforcement agencies with a document entitled “Supplemental 60-Day Notice of Violation” that provided public enforcers and the noticed entities with notice of alleged violations of Health & Safety Code § 25249.6 for failing to warn consumers of the presence of DEHP, DIDP and DINP, toxic chemicals found in Covered Products sold in California. Exclusive Imports received the November 23, 2015, and May 5, 2016, 60-Day Notices of Violation.

Exclusive Imports represents that, as of the date it executes this Agreement, it is not aware of any public enforcer that is diligently prosecuting a Proposition 65 enforcement action related to DEHP, DIDP or DINP in the Covered Products, as identified in the 60-Day Notices.

1.6 No Admission

This Agreement resolves claims that are denied and disputed by Exclusive Imports. The Parties enter into this Agreement pursuant to a full and final settlement of any and all claims between the Parties for the purpose of avoiding prolonged litigation. Exclusive Imports denies the material factual and legal allegations contained in the Notice, maintains that it did not knowingly or intentionally expose California consumers to the Listed Chemical through the reasonably foreseeable use of the Covered Products and otherwise contends that, all Covered Products each has manufactured, distributed and/or sold in California have been and are in compliance with all applicable laws. Nothing in this Agreement shall be construed as an admission by Exclusive Imports of any fact, finding, issue of law, or violation of law, nor shall compliance with this Agreement constitute or be construed as an admission by the Exclusive Imports of any fact, finding, conclusion, issue of law, or violation of law, such being specifically denied by Exclusive Imports. However, notwithstanding the foregoing, this section shall not diminish or otherwise affect Exclusive Imports’ obligations, responsibilities, and duties under this Agreement.

1.7 Consent to Jurisdiction

For purposes of this Agreement only, the Parties stipulate that the Marin County Superior Court has jurisdiction over Exclusive Imports as to the allegations in the 60-Day Notice received from Davia, and this Agreement, that venue is proper in County of Marin, and that the Marin County Superior Court has jurisdiction to enforce the provisions of this Agreement. As an express part of this Agreement, the parties stipulate that this Agreement shall be construed as a written settlement agreement pursuant to Code of Civil Procedure Section 664.6 and that the Marin County Superior Court has jurisdiction over the parties to enforce the settlement until performance in full of the terms of the settlement.

2. DEFINITIONS

2.1 The term “Products” or “Covered Products” shall mean all Sicurix brand ID Badge Holders and straps made in whole or in part with vinyl including, but not limited to, Sicurix ID Badge Reel (including, but not limited to, #085288688843, #085288688515, #085288687693), Sicurix Horizontal Armband Badge Holder (including, but not limited to, #08528866814), Sicurix Proximity Badge Holder (including, but not limited to, #085288478208) and Sicurix ID Badge Strap Clips (including, but not limited to, #085288680120)

2.2 The term “Phthalate Free” Covered Products shall mean that each component of any Covered Product contains less than or equal to 1,000 parts per million (“ppm”) of DEHP, DBP, DINP, DIDP, DnHP and DIBP as determined by a minimum of duplicate quality controlled test results using Environmental Protection Agency (“EPA”) testing methodologies 3580A and 8270C.

2.3 “Effective Date” shall mean October 15, 2017.

3. INJUNCTIVE-TYPE RELIEF

3.1 Products No Longer in Exclusive Imports’ Control

No later than the Effective Date, Exclusive Imports shall send a letter, electronic or otherwise (“Notification Letter”) to (1) its primary contact at each wholesaler, including SP Richards, Co., to which it sold any Covered Product after January 1, 2016, (2) each California retail customer to which Exclusive

Imports supplied any Covered Products after January 1, 2016, and (3) any California retailer that Exclusive Imports reasonably believes had any inventory of Covered Products as of January 1, 2017. The Notification Letter shall advise the recipient that the Covered Products “contain DEHP, DIDP and DINP, chemicals known to the State of California to cause cancer, birth defects or other reproductive harm,” and request that the recipient either label the Covered Products (if such products are not already labeled) remaining in inventory for sale in California, or to California Customers, pursuant to Section 3.3(a) or return, at Exclusive Imports’ sole expense, all units of the Covered Product (that are not already labeled) to Exclusive Imports. The Notification Letter shall require a response from the recipient within 15 days, confirming whether the Covered Products will be labeled, if such products are not already labeled, or returned. Exclusive Imports shall maintain records of all correspondence or other communications generated pursuant to this Section for two years after the Effective Date and shall promptly produce copies of such records upon Davia’s written request. Davia agrees that copies of Notification Letters produced by Exclusive Imports shall be maintained as confidential and not disclosed to any third parties unless compelled by operation of law.

3.2 Product Reformulation Commitment

3.2.1 No later than the Effective Date, Exclusive Imports shall provide the Phthalate Free phthalate concentration standards of Section 2.2 to any existing or new manufacturer or vendors of any Covered Product and advise such vendor that Exclusive Imports would prefer them to produce a cost and function equivalent to each of its existing Covered Products that meets the Phthalate Free concentration standards of Section 2.2. Exclusive Imports shall maintain copies of all vendor correspondence relating to the phthalate concentration standards and shall produce such copies to Davia’s representative within fifteen (15) days of receipt of written request from Davia’s representative. Davia agrees that copies of Notification Letters produced by Exclusive Imports shall be maintained as confidential and not disclosed to any third parties unless compelled by operation of law.

3.2.2 As of the Effective Date, Exclusive Imports shall not sell or ship any Covered Product to a California customer or to any customer Exclusive Imports reasonably believes maintains any retail

outlet in California unless such Covered Product is either Phthalate Free or is labelled with a warning pursuant to Section 3.3(a).

3.3 Product Warnings

As of the Effective Date, Exclusive Imports shall not sell or ship any Covered Product to a California customer or retailer, or sell or ship any Covered Product to a customer or retailer that Exclusive Imports reasonably understands maintains retail outlets in California, unless such Covered Products are Phthalate Free or sold or shipped with one of the clear and reasonable warnings set forth hereafter.

Each warning shall be prominently placed with such conspicuousness as compared with other words, statements, designs, or devices as to render it likely to be read and understood by an ordinary individual under customary conditions *before* purchase or use. Each warning shall be provided in a manner such that the consumer or user understands to which *specific* Covered Product the warning applies, so as to minimize the risk of consumer confusion.

(a) **Product Labeling.** For all non-Phthalate Free Covered Product sold or shipped to any California customer or to any customer Exclusive Imports reasonably believes maintains any retail outlet in California, Exclusive Imports shall affix a warning to the labeling of the Covered Product that states either:

WARNING: This product contains chemicals known to the State of California to cause cancer and birth defects or other reproductive harm.

or

WARNING: This product can expose you to chemicals, including Di(2-ethylhexyl)phthalate (DEHP), which is known to the State of California to cause cancer and birth defects or other reproductive harm. For more information go to www.P65Warnings.ca.gov.

(b) **Catalog and Internet Sales.** For all Covered Products sold or offered for sale by

Exclusive Imports via catalog or the Internet to customers located in the United States, any such catalog or Internet site offering any Covered Product for sale shall include a warning in the catalog or within the website, identifying the specific Covered Product to which the warning applies, as specified in Sections 3.2(b)(i) and (ii) below.

(i) **Mail Order Catalog Warning.** Any warning provided in a mail order catalog must be in the same type size or larger than the Covered Product description text within the catalog. One of the following warning statements shall be provided on the same page and in the same location as the display and/or description of the Covered Product:

WARNING: This product contains chemicals known to the State of California to cause cancer and birth defects or other reproductive harm.

or

WARNING: This product can expose you to chemicals, including Di(2-ethylhexyl)phthalate (DEHP), which is known to the State of California to cause cancer and birth defects or other reproductive harm. For more information go to www.P65Warnings.ca.gov.

Where it is impracticable to provide the warning on the same page and in the same location as the display and/or description of the Covered Product, Exclusive Imports may utilize a designated symbol to cross reference the applicable warning and shall define the term “designated symbol” with one of the following warning statements on the inside of the front or back cover of the catalog or on the same page as any order form for the Covered Product(s):

WARNING: Certain products identified with this symbol ▼ contain chemicals known to the State of California to cause cancer and birth defects or other reproductive harm.

or

WARNING: Certain products identified with this symbol ▼ can expose you to chemicals, including Di(2-ethylhexyl)phthalate (DEHP), which is known to the State of California to cause cancer and birth defects or

other reproductive harm. For more information go to www.P65Warnings.ca.gov.

The designated symbol must appear on the same page and in close proximity to the display and/or description of the Covered Product. On each page where the designated symbol appears, Exclusive Imports must provide a header or footer directing the consumer to the warning language and definition of the designated symbol.

If Exclusive Imports elects to provide warnings in any mail order catalog, then the warnings must be included in all catalogs offering to sell one or more Covered Products printed after the Effective Date.

(ii) **Internet Website Warning.** A warning must be given in conjunction with the sale, or offer of sale, of any Covered Products by Exclusive Imports via the Internet, provided it appears either: (a) on the same web page on which a Covered Product is displayed; (b) on the same web page as the order form for a Covered Product; (c) on the same page as the price for any Covered Product; or (d) on one or more web pages displayed to a purchaser during the checkout process. One of the following warning statements shall be used and shall appear in any of the above instances adjacent to or immediately following the display, description, or price of the Covered Product for which it is given in the same type size or larger than the Covered Product description text:

WARNING: This product contains chemicals known to the State of California to cause cancer and birth defects or other reproductive harm.

or

WARNING: This product can expose you to chemicals, including Di(2-ethylhexyl)phthalate (DEHP), which is known to the State of California to cause cancer and birth defects or other reproductive harm. For more information go to www.P65Warnings.ca.gov.

Alternatively, the designated symbol may appear adjacent to or immediately following the

display, description, or price of the Covered Product for which a warning is being given, provided that one of the following warning statements also appears elsewhere on the same web page, as follows:

WARNING: Products identified on this page with the following symbol ▼ contain chemicals known to the State of California to cause cancer and birth defects or other reproductive harm.

or

WARNING: Products identified on this page with the following symbol ▼ can expose you to chemicals, including Di(2-ethylhexyl)phthalate (DEHP), which is known to the State of California to cause cancer and birth defects or other reproductive harm. For more information go to www.P65Warnings.ca.gov.

4. MONETARY PAYMENTS

4.1 Civil Penalty

As a condition of settlement of all the claims referred to in this Agreement, Exclusive Imports shall pay a total of \$12,500 in civil penalties in accordance with California Health & Safety Code § 25249.12(c)(1) & (d).

4.2 Augmentation of Penalty Payments

For purposes of the penalty assessment under this Agreement, Davia is relying entirely upon Exclusive Imports and its counsel for accurate, good faith reporting to Davia of the nature and amounts of relevant sales activity. If within nine (9) months of the Effective Date, Davia discovers and presents to Exclusive Imports evidence that the Covered Products have been distributed by Exclusive Imports in sales volumes materially (greater than 15%) different than those identified by Exclusive Imports prior to execution of this Agreement, then Exclusive Imports shall be liable for an additional penalty amount of \$10,000 or any other amount ordered by the Court. Exclusive Imports shall also be liable for any reasonable, additional attorney fees, up to a limit of \$10,000 or other amount set by the Court, expended by Davia in discovering such additional retailers or sales. Davia agrees to provide Exclusive Imports with a written demand for all such additional penalties and attorney fees under this Section. After service

of such demand, Exclusive Imports shall have thirty (30) days to agree to the amount of fees and penalties owing by Exclusive Imports and submit such payment to Davia in accordance with the method of payment of penalties and fees identified in Section 4.1 and 4.4. Should this thirty (30) day period pass without any such resolution between the parties and payment of such additional penalties and fees, Davia shall be entitled to file a formal legal claim for additional civil penalties pursuant to this section. The prevailing party on any claim filed pursuant to this section shall be entitled to its reasonable attorney's fees and costs.

4.3 Reimbursement of Davia's Fees and Costs

The Parties acknowledge that Davia and her counsel offered to resolve this dispute without reaching terms on the amount of fees and costs to be reimbursed to them, thereby leaving this fee issue to be resolved after the material terms of the agreement had been settled. Exclusive Imports then expressed a desire to resolve the fee and cost issue shortly after the other settlement terms had been finalized. The Parties then attempted to (and did) reach an accord on the compensation due to Davia and her counsel under general contract principles and the private attorney general doctrine codified at California Code of Civil Procedure section 1021.5, for all work performed in this matter, except fees that may be incurred on appeal. Under these legal principles, and pursuant to the payment procedures described in Section 4.4 below, Exclusive Imports shall pay Davia's counsel the total amount of \$37,500 for reasonable and necessary fees and costs incurred investigating, litigating and enforcing this matter.

4.4 Payment Procedures

Exclusive Imports shall pay civil penalties pursuant to Section 4.1 by a civil penalty check payable to "OEHHA" (Memo line "Prop 65 Penalties, 2016-00409"), in the amount of \$9,375 and a civil penalty check payable to "Susan Davia" (Memo line "Prop 65 Penalties, 2016-00409") in the amount of \$3,125.

Exclusive Imports shall pay any civil penalties pursuant to Section 4.2 by civil penalty checks payable to "OEHHA" and "Susan Davia" (Memo line "Prop 65 Penalties, 2016-00409"), in the amounts

agreed upon pursuant to Section 4.2 or as otherwise ordered by the Court.

Exclusive Imports shall pay attorney fees and costs pursuant to Section 4.3 by a check payable to "Sheffer Law Firm" (Memo line "2016-00409"), in the amount of \$37,500.

Exclusive Imports shall pay any attorney fees and costs pursuant to Section 4.2 by delivery of a check payable to "Sheffer Law Firm" (Memo line "2016-00409") in the amount determined pursuant to that section or as ordered by the Court.

All Section 4.1 civil penalty payments and Section 4.3 fee/cost reimbursement payments shall be delivered to plaintiff's counsel at the following address on or before November 1, 2017:

Sheffer Law Firm
Attn: Proposition 65 Controller
81 Throckmorton Ave., Suite 202
Mill Valley, CA 94941

All Section 4.2 civil penalty and attorney fee/cost payments shall be delivered to plaintiff's counsel at the following address on or before the date agreed upon pursuant to that section or as ordered by the Court:

Sheffer Law Firm
Attn: Proposition 65 Controller
81 Throckmorton Ave., Suite 202
Mill Valley, CA 94941

Exclusive Imports shall be liable for payment of interest, at a rate of 10% simple interest, for all amounts due and owing from it under this Section that are not received by Sheffer Law Firm within two business days of the due date for such payment.

4.5 Issuance of 1099 Forms

After this Agreement has been executed and the settlement funds have been transmitted to Davia's counsel, Exclusive Imports shall issue three separate 1099 forms, as follows:

- (a) The first 1099 shall be issued to the Office of Environmental Health Hazard Assessment, P.O. Box 4010, Sacramento, CA 95814 (EIN: 68-0284486) in the amount paid pursuant to Sections 4.1 and 4.2;
- (b) The second 1099 shall be issued to Davia in the amount paid pursuant to Sections 4.1 and 4.2, whose address and tax identification number shall be furnished upon request;

and

(c) The third 1099 shall be issued to the Sheffer Law Firm (EIN: 55-08-58910) in the amount paid pursuant to Section 4.2 and Section 4.3.

4.6 Delayed or Non-Payment of Civil Penalties or Attorney Fees

While the obligations of this agreement are binding upon execution, the Release of Exclusive Imports shall not become effective until after all Section 4.1 and Section 4.3 monetary payments have been made by Exclusive Imports and all funds have cleared.

5. RELEASES

5.1 DAVIA'S RELEASE OF EXCLUSIVE IMPORTS

5.1.1 This settlement agreement is a full, final and binding resolution between Davia, Exclusive Imports, of any violation of Proposition 65 that was or could have been asserted by Davia on behalf of herself, her representatives or attorneys, against Exclusive Imports, its directors, officers, employees, attorneys, and each entity to whom Exclusive Imports directly or indirectly distributes or sells Covered Products, including, but not limited, to Retailers, downstream distributors, wholesalers, customers, retailers, franchisees, cooperative members, and licensees, including but not limited to S.P. Richards Co., FedEx Corporation, FedEx Office and Print Services, Inc. ("Releasees"), based on their failure to warn about alleged exposures to phthalates contained in the Covered Products that were manufactured, distributed, sold and/or offered for sale by Exclusive Imports in California before the Effective Date. As between Davia and Exclusive Imports, it is agreed that compliance by Exclusive Imports with the terms of this agreement shall be deemed compliance with Proposition 65 as to exposures for the DEHP, DIDP and DINP.

5.1.2 In further consideration of the promises and agreements herein contained, Davia on behalf of herself, her past and current representatives and attorneys, hereby waives all Davia's rights to institute or participate in, directly or indirectly, any form of legal action and releases all claims that Davia 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, but exclusive of fees and costs on appeal -- limited to and arising under proposition 65 with respect to the Listed Chemical in the Covered Products manufactured, distributed, sold and/or offered for sale by Exclusive Imports before the Effective Date (collectively "claims"), against Exclusive Imports and Releasees.

5.1.3 Davia also, in her individual capacity, provides a general release herein which shall be effective as a full and final accord and satisfaction, as a bar to all actions, causes of action, obligations, costs, expenses, attorneys' fees, damages, losses, claims, liabilities and demands of Davia, of any nature, character or kind, known or unknown, suspected or unsuspected, arising out of the subject matter of the Notice as to Covered Products manufactured, distributed or sold by Exclusive Imports or Releasees before the Effective Date. Davia acknowledges that she is familiar with section 1542 of the California 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.

Davia, in her individual capacity expressly waives and relinquishes any and all rights and benefits that she may have under, or which may be conferred on her by the provisions of Section 1542 of the California Civil Code as well as under any other state or federal statute or common law principle of similar effect, to the fullest extent that he may lawfully waive such rights or benefits pertaining to the released matters. In furtherance of such intention, excepting Section 4.2, the release hereby given shall be and remain in effect as a full and complete release notwithstanding the discovery or existence of any such additional or different claims or facts arising out of the released matters.

The Parties understand and agree that no obligation of either Party under this Agreement shall be released by this section. The Parties further understand and agree that this Section 5.1 release shall not extend upstream to any entities, other than Exclusive Imports, that manufactured the Covered Products or any component parts thereof, or any distributors or suppliers who sold the Covered Products

or any component parts thereof to Exclusive Imports.

5.2 Exclusive Imports' Release of Davia

The Release by Davia is mutual. Exclusive Imports, its past and current agents, representatives, attorneys, successors, and/or assignees, hereby waive any and all claims against Davia and her attorneys and other representatives, for any and all actions taken or statements made (or those that could have been taken or made) by Davia and her attorneys and other representatives, whether in the course of investigating claims, otherwise seeking to enforce Proposition 65 against it in this matter, or with respect to the Products. Exclusive Imports acknowledges that it is familiar with Section 1542 of the California 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.

Exclusive Imports expressly waives and relinquishes any and all rights and benefits which it may have under, or which may be conferred on him by the provisions of Section 1542 of the California Civil Code as well as under any other state or federal statute or common law principle of similar effect, to the fullest extent that he may lawfully waive such rights or benefits pertaining to the released matters. In furtherance of such intention, the release hereby given shall be and remain in effect as a full and complete release notwithstanding the discovery or existence of any such additional or different claims or facts arising out of the released matters.

6. POST EXECUTION CONVERSION TO CONSENT JUDGMENT

Within twelve months of the execution of this Settlement Agreement Exclusive Imports may ask Davia, in writing, to file a complaint, incorporate the terms of this Settlement Agreement into a proposed consent judgment, and to seek the court's approval of the consent judgment pursuant to Health and

Safety Code section 25249.7, or as may be otherwise allowed by law. If so requested, Davia agrees to reasonably cooperate with Exclusive Imports and to use her best efforts, and that of her counsel, to support the entry of a consent judgment by a superior court in California. Pursuant to Code of Civil Procedure sections 1021 and 1021.5, Exclusive Imports shall reimburse Davia and her counsel for their reasonable and necessary fees and costs incurred in filing the complaint, converting the Settlement Agreement into a proposed consent judgment and seeking judicial approval of the consent judgment, in an amount not to exceed \$12,000, exclusive of fees and cost that may be incurred on appeal. Exclusive Imports will remit payment to the Sheffer Law Firm, at the address set forth in Section 9 below. Such additional fees shall be paid by Exclusive Imports, within ten days after its receipt of an itemized invoice from Davia for work performed under this paragraph. Exclusive Imports understands no motion to approve any proposed consent judgment will be filed absent payment for the work performed under this paragraph. All payments owed to Davia, pursuant to Section 6 shall be made payable to "Sheffer Law Firm" (Memo Line "2016-00409") and delivered to the following payment address:

Sheffer Law Firm
Attn: Proposition 65 Controller
81 Throckmorton Ave., Suite 202
Mill Valley, CA 94941

Any failure by Exclusive Imports to timely pay Davia invoices under this Section shall result in the assessment of ten percent (10%) interest on any outstanding balance.

7. SEVERABILITY

If any of the provisions of this Agreement are found by a court to be unenforceable, the validity of the enforceable provisions remaining shall not be adversely affected, unless the Court finds that any unenforceable provision is not severable from the remainder of the Agreement.

8. GOVERNING LAW

The terms of this Agreement shall be governed by the laws of the State of California.

9. NOTICES

When any Party is entitled to receive any notice under this Agreement, the notice shall be sent by certified mail and electronic mail to the following:

For Exclusive Imports, to:

David Baumgarten, Vice President
Baumgarten's Exclusive Imports, Inc.
144 Ottley Drive NE
Atlanta, GA 30324-3925

With a copy to their counsel:

Thomas Downey, Esq.
Burnham Brown PLC
1901 Harrison Street, 14th Floor
Oakland, CA 94612-3501

For Davia to:

Proposition 65 Coordinator
Sheffer Law Firm
81 Throckmorton Ave., Suite 202
Mill Valley, CA 94941

Any Party may modify the person and address to whom the notice is to be sent by sending each other Party notice by certified mail and/or other verifiable form of written communication.

10. COMPLIANCE WITH HEALTH & SAFETY CODE § 25249.7(F)

Davia agrees to comply with the reporting form requirements referenced, in California Health & Safety Code §25249.7(f).

11. MODIFICATION

This Agreement may be modified only by written agreement of the Parties or court order.

12. ENTIRE AGREEMENT

This Agreement contains the sole and entire agreement and understanding of the Parties with respect to the entire subject matter hereof, and any and all prior discussions, negotiations, commitments,

and understandings related hereto. No representations, oral or otherwise, express or implied, other than those contained herein have been made by any Party hereto. No other agreements not specifically referred to herein, oral or otherwise, shall be deemed to exist or to bind any of the Parties. No supplementation, modification, waiver, or termination of this Agreement shall be binding unless executed in writing by the Party to be bound. No waiver of any of the provisions of this Agreement shall be deemed or shall constitute a waiver of any of the other provisions whether or not similar, nor shall such waiver constitute a continuing waiver

13. ATTORNEY'S FEES

13.1 Should either of the Parties prevail on any motion, application for order to show cause or other proceeding to enforce a violation of this Agreement, so long as that Party engaged in a good faith meet and confer attempt regarding the dispute, such Party shall be entitled to its reasonable attorney fees and costs incurred as a result of such motion, order or application, consistent with C.C.P. section 1021.5.

13.2 Except as otherwise specifically provided herein, each Party shall bear its own costs and attorney's fees in connection with the Notice.

13.3 Nothing in this Section shall preclude a Party from seeking an award of sanctions pursuant to law.

14. NEUTRAL CONSTRUCTION

Both Parties and their counsel have participated in the preparation of this Agreement and this Agreement is the result of the joint efforts of the Parties. This Agreement was subject to revision and modification by the Parties and has been accepted and approved as to its final form by all Parties and their counsel. Accordingly, any uncertainty or ambiguity existing in this Agreement shall not be interpreted against any Party as a result of the manner of the preparation of this Agreement. Each Party to this Agreement agrees that any statute or rule of construction providing that ambiguities are to be resolved against the drafting Party should not be employed in the interpretation of this Agreement and, in this regard, the Parties hereby waive California Civil Code Section 1654.

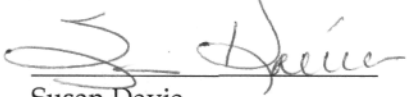
15. COUNTERPARTS, FACSIMILE SIGNATURES

This Agreement may be executed in counterparts and by facsimile or portable document format (PDF), each of which shall be deemed an original, and all of which, when taken together, shall constitute one and the same document.

16. AUTHORIZATION

The undersigned parties and their counsel are authorized to execute this Agreement on behalf of their respective Parties and have read, understood, and agree to all of the terms and conditions of this Agreement.

IT IS SO AGREED

<p>Dated: October __, 2017</p> <p>_____ David Baumgarten, Vice President Baumgarten's Exclusive Imports, Inc.</p>	<p>Dated: October <u>12</u>, 2017</p> <p> _____ Susan Davia</p>
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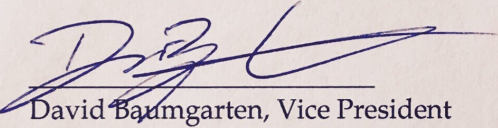
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16. AUTHORIZATION

The undersigned parties and their counsel are authorized to execute this Agreement on behalf of their respective Parties and have read, understood, and agree to all of the terms and conditions of this Agreement.

IT IS SO AGREED

<p>Dated: October <u>10</u>, 2017</p>  <p>David Baumgarten, Vice President Baumgarten's Exclusive Imports, Inc.</p>	<p>Dated: October __, 2017</p> <hr/> <p>Susan Davia</p>
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