

SETTLEMENT AGREEMENT

1. INTRODUCTION

1.1 Ecological Rights Foundation & Kikkerland Design, Inc.

This Settlement Agreement is entered into by and between Ecological Rights Foundation ("ERF") and Kikkerland Design, Inc. ("Kikkerland"), collectively referred to as the "Parties." ERF is an organization with its principal place of business in the State of California. For purposes of this settlement only, Kikkerland stipulates that it is a person in the course of doing business for purposes of the Safe Drinking Water and Toxic Enforcement Act of 1986, Health & Safety Code section 25249.6, et seq. ("Proposition 65").

1.2 General Allegations

ERF alleges that Kikkerland has distributed, marketed and/or sold in the State of California charcoal grills and hibachis that are used primarily for cooking. ERF further contends that when California residents use charcoal grills and hibachis, they are exposed to carbon monoxide, a chemical known to the State of California to cause reproductive toxicity. For purposes of this Settlement Agreement, "Covered Products" means charcoal grills and hibachis that are or will be marketed in California by Kikkerland.

1.3 Notice of Violation

On August 11, 2017, ERF served Kikkerland and various public enforcement agencies with a Notice of Violations of Proposition 65 (the "Notice"). The Notice provided Kikkerland and others, including public enforcers, with notice that alleged that Kikkerland was in violation of California Health & Safety Code § 25249.5, for failing to warn California consumers and customers that the Products expose users to carbon monoxide. No public enforcer has diligently prosecuted the allegations set forth in the Notice.

1.4 No Admission

Kikkerland denies the material factual and legal allegations contained in the Notice. Nothing in this Settlement Agreement shall be construed as an admission by Kikkerland of any fact, finding, issue of law, or violation of law; nor shall compliance with this Settlement Agreement constitute or be construed as an admission by Kikkerland of any fact, finding, conclusion, issue of law or violation of law, such being specifically denied by Kikkerland. However, this section shall not diminish or otherwise affect the obligations, responsibilities and duties of any party under this Settlement Agreement. Notwithstanding the allegations in the Notice, Kikkerland maintains that it has not violated Proposition 65, knowingly, intentionally or otherwise.

1.5 Effective Date

For purposes of this Settlement Agreement, the term "Effective Date" shall mean the date on which all parties have signed this Settlement Agreement.

2. INJUNCTIVE RELIEF

2.1 Clear and Reasonable Warnings

No later than 120 days after the Effective Date, Covered Products distributed, or offered for sale in California shall include one of the following warning statements:

WARNING: Chemicals known to the state of California to cause birth defects or other reproductive harm, including carbon monoxide, are produced by combustion of propane, charcoal or wood when used with this product.

Or,

WARNING: This product can expose you to carbon monoxide, which is a combustion byproduct known to the State of California to cause birth defects or other reproductive harm. For more information go to www.P65Warnings.ca.gov.

The warning statements shall be affixed to or printed on packaging for Covered Products, as well as printed in the Covered Products' instruction booklets (if any). The warnings shall be displayed with such conspicuousness, as compared with other words, statements,

designs, or devices as to render them likely to be read and understood by an ordinary individual under customary conditions of purchase or use. Warnings may be contained in the same section of the instruction booklets that contains other safety warnings concerning the use of the Covered Products. The type size of the warning must be legible, and no smaller than any other warning provided with the Covered Products. The word “**WARNING:**” shall be in upper case letters and bold text. Defendant may utilize a symbol consisting of a black exclamation point in a yellow equilateral triangle with a bold black outline or a black exclamation point in a white triangle with black border if no yellow is used in the section of the packaging, print or online material regarding the Covered Products that contains other warning language regarding use of the Covered Products.

3. REIMBURSEMENT OF FEES AND COSTS

Kikkerland shall reimburse ERF’s counsel for \$17,500 in ERF’s fees and costs incurred as a result of investigating and bringing this matter to Kikkerland’s attention, and negotiating a settlement in the public interest. The payment shall be made payable to Ecology Law Center and sent no later than 10 days after the Effective Date via USPS certified mail, return receipt requested, to the following addresses: and delivered to the following address:

Fredric Evenson
Ecology Law Center
P.O. Box 1000
Santa Cruz, CA 95061

4. RELEASE OF ALL CLAIMS

4.1 Release of Kikkerland

ERF acting on its own behalf and on behalf of its past and current agents, representatives, attorneys, successors and/or assignees (all of whom, collectively, are defined as the “ERF Releasers”), releases Kikkerland, and its respective parents, subsidiaries, affiliated entities, marketplaces directors, officers, agents, employees,

attorneys and each entity to whom Kikkerland directly or indirectly distribute or sell the Covered Products, including but not limited to, downstream distributors, wholesalers, customers, retailers, franchisees, cooperative members and licensees and all other upstream and downstream entities in the distribution chain, and the predecessors, successors, and assigns of any of them (collectively, the “Releasees”), from all claims for violations of Proposition 65 through the Effective Date based on failure to warn about alleged exposures to carbon monoxide from use of the Covered Products. This settlement is a full, final and binding resolution of all claims that were or could have been asserted against Kikkerland and/or the Releasees for failure to provide warnings for alleged exposures to chemicals contained in the Covered Products.

In further consideration of the promises and agreements herein contained, and for the payment to be made pursuant to Section 3 above, the ERF Releasors provide a 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 against Kikkerland and/or any of the Releasees of any nature, character, or kind, whether known or unknown, suspected or unsuspected, limited to and arising out of the alleged or actual exposure to Proposition 65 chemicals from use of the Covered Products.

4.2 Kikkerland’s Release of ERF

Kikkerland, on behalf of itself, its past and current agents, representatives, attorneys, successors and/or assignees, hereby waive any and all claims against ERF, its attorneys and other representatives, for any and all actions taken or statements made (or those that could have been taken or made) by ERF and/or its attorneys and other representatives, whether in the course of investigating claims or otherwise seeking to enforce Proposition 65 against it in this matter or with respect to the Products.

4.3 California Civil Code Section 1542

It is possible that other claims not known to the Parties arising out of the facts alleged in the Notice and relating to the Products will develop or be discovered. ERF on behalf of itself only, on one hand, and Kikkerland, on the other hand, acknowledge that this Agreement is expressly intended to cover and include all such claims up through the Effective Date, including all rights of action therefor. The Parties acknowledge that the claims released in Sections 4.1 and 4.2 above may include unknown claims, and nevertheless waive California Civil Code section 1542 as to any such unknown claims.

California Civil Code section 1542 reads 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.

ERF and Kikkerland each acknowledge and understand the significance and consequences of this specific waiver of California Civil Code section 1542.

5. SEVERABILITY

If, subsequent to the execution of this Settlement Agreement, any of the provisions of this Settlement Agreement are deemed by a court to be unenforceable, the validity of the enforceable provisions remaining shall not be adversely affected.

6. GOVERNING LAW

The terms of this Settlement Agreement shall be governed by the law of the State of California and apply within the State of California. In the event that Proposition 65 is repealed or is otherwise rendered inapplicable by reason of law generally, or as to the Covered Products, Kikkerland shall provide written notice to ERF 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, a Covered Product is so affected.

7. NOTICES

Unless specified herein, all correspondence and notices required to be provided pursuant to this Settlement Agreement shall be in writing and personally delivered or sent by: (i) USOS Priority Mail; or (ii) overnight or two-day courier on any party by the other party to the following addresses:

For Kikkerland Design, Inc.:

Jan van der Lande
Kikkerland Design, Inc.
666 Broadway 4th Fl
New York, NY 10012

with a copy to:

Chuck H Jew
236 West Portal Ave. Ste. 533
San Francisco, CA 94127

For Ecological Rights Foundation:

Fredric Evenson
Ecology Law Center
P.O. Box 1000
Santa Cruz, CA 95061

Any party, from time to time, may specify in writing to the other party a change of address to which all notices and other communications shall be sent.

8. COUNTERPARTS: SIGNATURES

This Settlement Agreement may be executed in counterparts and by facsimile or .pdf signature, each of which shall be deemed an original, and all of which, when taken together, shall constitute one and the same document.

9. COMPLIANCE WITH HEALTH & SAFETY CODE § 25249.7(f)

ERF agrees to comply with the reporting requirements referenced in Health & Safety Code section 25249.7(f).

10. MODIFICATION

This Settlement Agreement may be modified only by a written agreement of the Parties.

11. AUTHORIZATION

The undersigned are authorized to execute this Settlement Agreement and have read, understood and agree to all the terms and conditions contained of this Settlement Agreement.

AGREED TO:

AGREED TO:

Date: JANUARY 9, 2018

Date: 12/11/2017

Ecological Rights Foundation

[Signature]

By: James Lamport, EXEC. DIR.

By: [Signature]

James Lamport, Executive Director
Ecological Rights Foundation

Kikkerland Design, Inc.