

SETTLEMENT AGREEMENT

1. INTRODUCTION

1.1 **The Parties.** This Settlement Agreement is entered into by and between Ecological Alliance, LLC (“Ecological”) and Hydrasearch Company, Inc. (“Hydrasearch”), a wholly-owned subsidiary of Dixon Valve & Coupling Company (“Dixon”). Together, Ecological and Hydrasearch are collectively referred to as the “Parties.” Ecological seeks to promote awareness of exposures to toxic chemicals and to improve human health by reducing or eliminating hazardous substances contained in consumer products. Hydrasearch is alleged to be a person in the course of doing business for purposes of the Safe Drinking Water and Toxic Enforcement Act of 1986, Health & Safety Code § 25249.6, *et seq.* (“Proposition 65”).

1.2 **General Allegations.** Ecological alleges that Hydrasearch has imported, distributed and/or sold in the State of California intake strainers that contain Lead without providing a requisite Proposition exposure 65 warning. Lead is listed as a chemical known to the State to cause cancer and reproductive toxicity.

1.3 **Product Description.** The products covered by this Settlement Agreement are brass fittings, including intake strainers that contain Lead (the “Product” or “Products”) that have been manufactured, distributed, or sold in California by Hydrasearch.

1.4 **Notice of Violation.** On October 19, 2017, Ecological served Hydrasearch and various public enforcement agencies with a Notice of Violation (the “Notice”) that alleged that Hydrasearch was in violation of California Health & Safety Code § 25249.6, for failing to warn individuals that the Product exposed users in California to Lead. No public enforcer has diligently prosecuted the allegations set forth in the Notice.

1.5 **No Admission.** Hydrasearch denies the material factual and legal allegations contained in the Notice and maintains that, to the best of its knowledge, all products that are or have been sold and distributed in California, including the Products, have been and are in compliance with all laws. Nothing in this Settlement Agreement shall be construed as an admission by Hydrasearch 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 Hydrasearch of any fact, finding, conclusion, issue of law or violation of law, such being specifically denied by Hydrasearch. However, Paragraph 1.5 shall not diminish or otherwise affect the obligations, responsibilities and duties under this Settlement Agreement. Notwithstanding the allegations in the Notice, Hydrasearch maintains that it has not knowingly manufactured, or caused to be manufactured, the Products for sale in California in violation of Proposition 65.

1.6 **Effective Date.** For purposes of this Settlement Agreement, the term “Effective Date” shall mean the date this Agreement is last executed by the Parties.

2. **PRIOR CONSENT JUDGMENT.**

2.1 On January 21, 2015, Elise Roskopf commenced an action against Dixon in Los Angeles Superior Court, alleging that Dixon exposed individuals in California to lead from brass plumbing products without providing a clear and reasonable warning as required by Proposition 65. *Elise Roskopf v. Dixon Valve & Coupling Company, et al.*, Case No. BC570028.

2.2 On November 3, 2015, the court entered a consent judgment in the *Roskopf* matter (“Consent Judgment”), resolving Roskopf’s claims regarding exposure to lead from brass fittings, including brass couplings, adapters, valves, and connectors (“Covered Products”). In the Consent Judgment Dixon agreed to provide Proposition 65 warnings for Covered Products and to inform distributors of the need to provide warnings for Covered Products sold in California. Dixon asserts that it has in all respects complied with the Consent Judgment except that, due to an oversight, it neglected to provide notification to distributors of Covered Products manufactured or distributed by Hydrasearch of the need to provide a Proposition 65 warning for those products.

2.3 Following receipt of the Notice, Dixon provided all distributors of Covered Products manufactured or distributed by Hydrasearch with the notification required by the Consent Judgment.

3. **INJUNCTIVE RELIEF**

3.1 Hydrasearch shall continue to comply with the Consent Judgment.

4. PENALTIES PURSUANT TO HEALTH & SAFETY CODE § 25249.7(b)

4.1 In settlement of all the claims referred to in this Settlement Agreement, Hydrasearch shall pay a total of \$500 as a civil penalty in accordance with this Section. The civil penalty payment shall be allocated in accordance with California Health & Safety Code § 25249.12(c)(1) and (d), with 75% of the funds remitted to the California Office of Environmental Health Hazard Assessment (“OEHHA”) and the remaining 25% of the penalty remitted to Ecological. The Civil Penalty payment(s) shall be delivered to the addresses identified in Paragraph 4.3, below.

4.2 Within ten (10) business days of the Effective Date, Hydrasearch shall issue two separate checks for the civil penalty payment to (a) “OEHHA” in the amount of \$375; and (b) Ecological Alliance in the amount of \$125. The civil penalty payments shall be delivered to the addresses identified in Paragraph 3.2, below.

4.3 Payments shall be delivered as follows:

4.3.1 The payment to Ecological shall be delivered to the following address:

Vineet Dubey
Custodio & Dubey
448 S. Hill Street, Suite 612
Los Angeles, CA 90013

4.3.2 The payment to OEHHA (EIN: 68-0284486) shall be delivered directly to OEHHA (Memo Line “Prop 65 Penalties”) at the following addresses:

For United States Postal Service Delivery:
Mike Gyurics
Fiscal Operations Branch Chief
Office of Environmental Health Hazard Assessment
P.O. Box 4010
Sacramento, CA 95812-4010

For Non-United States Postal Service Delivery:

Mike Gyurics
Fiscal Operations Branch Chief
Office of Environmental Health Hazard Assessment
1001 I Street
Sacramento, CA 95814

5. REIMBURSEMENT OF FEES AND COSTS

Hydrasearch shall reimburse Ecological's counsel for fees and costs incurred as a result of investigating and bringing this matter to Hydrasearch attention, and negotiating a settlement in the public interest. Within ten (10) business days of the Effective Date, Hydrasearch shall issue a check payable to "Custodio & Dubey LLP" in the amount of \$10,000 for delivery to the address identified in Paragraph 4.3.1, above:

6. RELEASE OF ALL CLAIMS

6.1 **Release of Hydrasearch and Downstream Customers and Entities.** This Settlement Agreement is a full, final and binding resolution between Ecological, acting on its own behalf, and Hydrasearch, of any violation of Proposition 65 that was or could have been asserted by Ecological or on behalf of its past and current agents, representatives, attorneys, successors, and/or assigns ("Releasers") for failure to provide warnings for alleged exposures to Lead contained in the Products, and Releasers hereby release any such claims against Hydrasearch and its parents, subsidiaries, affiliated entities, shareholders, marketplaces, directors, officers, agents, employees, attorneys, successors and assignees, and each entity to whom Hydrasearch directly or indirectly distributes or sells the Products, including but not limited to, downstream distributors, wholesalers, customers, retailers, and their respective subsidiaries, affiliates and parents, franchisees, cooperative members and licensees, (collectively, the "Releasees"), from all claims for violations of Proposition 65 through the Effective Date based on their failure to warn about alleged exposures to Lead from the Products.

In further consideration of the promises and agreements herein contained, and for the payments to be made pursuant to Sections 4 and 5 above, Ecological, on behalf of itself, its past and current agents, representatives, attorneys, successors and/or assignees, hereby covenants not to sue and waives any right to institute, participate in, directly or indirectly, any form of legal action and releases all claims that it may have, including without limitation, all actions and causes of action in law and in equity, all obligations, expenses (including without limitation all attorneys' fees, expert fees, and investigation fees, and costs), damages, losses, liabilities and demands against 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 the chemical Lead in the Products.

6.2 **Hydrasearch's Release of Ecological.** Hydrasearch, on behalf of itself, its past and current agents, representatives, attorneys, successors and/or assignees, hereby waives any and all claims against Ecological, its attorneys and other representatives, for any and all actions taken or statements made (or those that could have been taken or made) by Ecological 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.

6.3 **California Civil Code § 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. Ecological on behalf of itself only, on one hand, and Hydrasearch, 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 Paragraphs 6.1 and 6.2, above, may include unknown claims, and nevertheless waive California Civil Code § 1542 as to any such unknown claims. California Civil Code § 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.

Ecological and Hydrasearch each acknowledge and understand the significance and consequences of this specific waiver of California Civil Code § 1542.

7. **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 but only to the extent the deletion of the provision deemed unenforceable does not materially affect, or otherwise result in the effect of the

Settlement Agreement being contrary to the intent of the Parties in entering into this Settlement Agreement.

8. 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.

9. 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) first-class (registered or certified mail) return receipt requested; or (ii) overnight or two-day courier on any party by the other party to the following addresses:

For Hydrasearch:

Charles Athey
Compliance Manager
Dixon Valve & Coupling Company
800 High Street
Chestertwon, MD 21620

With a copy to:

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

For Ecological:

Vineet Dubey
Custodio & Dubey
448 S. Hill Street, Suite 612
Los Angeles, CA 90013

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.

10. **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.

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

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

12. **MODIFICATION**

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

13. **ENTIRE AGREEMENT**

This Settlement Agreement contains the sole and entire agreement of the Parties and any and all prior negotiations and understandings related hereto shall be deemed to have been merged within it. No representations or terms of agreement other than those contained herein exist or have been made by any Party with respect to the other Party or the subject matter hereof.

14. **AUTHORIZATION**

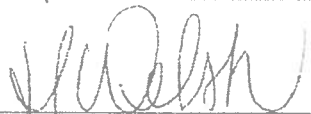
The undersigned are authorized to execute this Settlement Agreement and have read, understood and agree to all of the terms and conditions contained of this Settlement Agreement.

AGREED TO:

AGREED TO:

Date: 2/22/2015

Date: _____

By: 
Ecological Alliance, LLC

By: _____
Hydrasearch Co., Inc.

10. COUNTERPARTS: SIGNATURES

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

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14. AUTHORIZATION

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

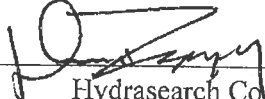
AGREED TO:

AGREED TO:

Date: _____

Date: 2-23-18

By: _____
Ecological Alliance, LLC

By:  _____
Hydrasearch Co., Inc.