SETTLEMENT AND RELEASE AGREEMENT

1. INTRODUCTION

1.1. Ecological Alliance, LLC and American Crafts, L.C.

This Settlement Agreement is entered into by and between Ecological Alliance, LLC ("Ecological"), on the one hand, and American Crafts, L.C. ("American Crafts"), on the other hand, with Ecological and American Crafts collectively referred to as the "Parties."

1.2. General Allegations

Ecological alleges that American Crafts manufactured and distributed and offered for sale in the State of California pens and cases containing Di(2-ethylhexyl)phthalate [DEHP] and that such sales have not included warnings pursuant to the Safe Drinking Water and Toxic Enforcement Act of 1986, California Health & Safety Code sections 25249.6 *et seq.* ("Proposition 65"). California has identified and listed DEHP under Proposition 65 as a chemical known to the State of California to cause cancer.

1.3. Product Description

The products that are covered by this Settlement Agreement are defined as pens and cases that American Crafts has or caused to be sold, offered for sale, or distributed in California and that contain DEHP. All such items shall be referred to herein as the "Products."

1.4. Notice of Violation

On August 22, 2019, Ecological served American Crafts, Burlington Coat Factory Direct Corporation, and the requisite public enforcement agencies eligible to initiate Proposition 65 actions on behalf of the People of the State of California with a document entitled "60-Day Notice of Violation" ("Notice") that provided American Crafts and such public enforcers with notice that American Crafts was allegedly in violation of California Health & Safety Code

section 25249.6 for failing to warn consumers and customers that the Products exposed users in California to DEHP. To the best of the Parties' knowledge, no public enforcer has commenced or is diligently prosecuting the allegations set forth in the Notice.

1.5. No Admission

The parties enter into this Settlement Agreement to settle disputed claims between them as set forth herein and in the Notice concerning American Crafts's compliance with Proposition 65. Specifically, American Crafts denies the material factual and legal allegations contained in Ecological's Notice and maintains that all products that it has manufactured for sale and distribution in California, including the Products, have been and are in compliance with Proposition 65 and any other statutory, regulatory, common law or equitable doctrine. Nothing in this Settlement Agreement shall be construed as an admission by American Crafts 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 American Crafts of any fact, finding, conclusion, issue of law, or violation of law, such being specifically denied by American Crafts. However, nothing in this section shall diminish or otherwise affect the obligations, responsibilities, and duties of American Crafts under this Settlement Agreement.

1.6. Effective Date

For purposes of this Settlement Agreement, the term "Effective Date" shall mean the date this Settlement Agreement is fully executed.

2. INJUNCTIVE RELIEF: WARNING

2.1. Warning

Commencing no later than 120 days after the Effective Date, American Crafts shall only sell or offer for sale in California Products that are accompanied by a warning as described in

Section 2.2 below unless the Product contains no more than 1,000 parts per million DEHP. The warning requirement shall not apply to Products that are already in the stream of commerce as of the Effective Date or that American Crafts places into the stream of commerce within 120 days of the Effective Date.

2.2. Warning Language

Where required, American Crafts shall provide Proposition 65 warnings as follows:

(a) American Crafts may use any of the following warning statements in full compliance with this Section:

(1) ⚠ **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. For more information go to www.P65Warnings.ca.gov.

(2) ⚠ **WARNING**: Cancer– www.P65Warnings.ca.gov.

(b) The warning shall also include a symbol consisting of a black exclamation point in a yellow equilateral triangle with a bold black outline. Where the sign, label or shelf tag for the product is not printed using the color yellow, the symbol may be printed in black and white. The symbol shall be placed to the left of the text of the warning, in a size no smaller than the height of the word "WARNING".

(c) The requirements for warnings, set forth in subsection (a) above are imposed pursuant to the terms of this Settlement Agreement. The Parties recognize that these are not the exclusive methods of providing a warning under Proposition 65 and its implementing regulations.

(d) If Proposition 65 warnings for DEHP or the Products should no longer be required, American Crafts shall have no further obligations pursuant to this Settlement Agreement.

3. PENALTIES PURSUANT TO HEALTH & SAFETY CODE SECTION 25249.7(b)

In settlement of all the claims referred to in this Settlement Agreement, American Crafts shall pay a total of $250 in civil penalties in accordance with this Section. The penalty payment will be allocated in accordance with California Health & Safety Code section 25249.12(c)(1) & (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. Ecological's counsel shall be responsible for delivering OEHHA's and Ecological's portions of any penalty payment made under this Settlement Agreement.

4. REIMBURSEMENT OF FEES AND COSTS

The Parties reached an accord on the compensation due to Ecological and its counsel under the private attorney general doctrine and principles of contract law. Under these legal principles, American Crafts shall reimburse Ecological's counsel for fees and costs, incurred as a result of investigating and bringing this matter to American Crafts's attention. American Crafts shall pay Ecological's counsel $17,000 for all attorneys' fees, expert and investigation fees, and related costs associated with this matter and the Notice.

5. PAYMENT INFORMATION

On or before December 4, 2019, American Crafts shall make a total payment of Seventeen Thousand Two Hundred Fifty Dollars ($17,250) for the civil penalties and attorney's fees / costs by wire transfer to Plaintiff's counsel Custodio & Dubey LLP:

Bank: Bank of America, N.A.

Routing No.: 026009593

Account No.: 325104702031

Beneficiary: Custodio & Dubey LLP

Other than this payment, each side is to bear its own attorneys' fees and costs.

6. RELEASE OF ALL CLAIMS

6.1. Claims Covered

This Settlement Agreement is a full, final, and binding resolution between Ecological, on behalf of itself and *not* on behalf of the public, on the one hand, and (a) American Crafts, and its owners, parents, subsidiaries, affiliates, sister and related companies, employees, shareholders, members, officers, directors, insurers, agents, attorneys, representatives, predecessors, successors, and assigns (collectively, the "Releasees"), and (b) all entities to whom Releasees directly or indirectly provide, distribute, or sell the Products, including but not limited to distributors, wholesalers, customers, retailers, franchisees, cooperative members, and licensees, including, but not limited to, Burlington Coat Factory Warehouse Corporation and/or Burlington Coat Factory Direct Corporation, ("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 and/or Downstream Releasees regarding exposing persons to DEHP and the failure to warn about exposure to DEHP arising in connection with the Products manufactured, shipped, and/or otherwise distributed prior to the Effective Date, even if sold by Downstream Releasees after the Effective Date. The Parties agree that compliance with the terms of this Settlement Agreement by American Crafts shall be deemed to be in compliance with Proposition 65 by Releasees and

Downstream Releasees with respect to any exposures to DEHP in the Products manufactured, distributed, or sold by American Crafts after the Effective Date, including any Products that have not been sold but are already in the stream of commerce.

6.2. Release of American Crafts, Downstream Customers and Upstream Vendors

In further consideration of the promises and agreements herein contained, and for the payments to be made pursuant to Sections 3 and 4 above, Ecological, in its representative capacity, and on behalf of itself, its past and current agents, representatives, attorneys, successors and/or assignees, hereby waives all rights to institute or participate in, directly or indirectly, any form of legal action and releases all claims relating to the Products, 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) of any nature whatsoever, whether known or unknown, fixed or contingent (collectively "Claims"), against (a) American Crafts, (b) the Downstream Releasees (including, but not limited to, Burlington Coat Factory Warehouse Corporation and/or Burlington Coat Factory Direct Corporation), and (c) the Releasees.

Ecological also, in its capacity, on behalf of itself, its past and current agents, representatives, attorneys, successors, and/or assignees and *not* in its representative 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 any nature, character or kind, known or unknown, suspected or unsuspected, against American Crafts, the Downstream Releasees, and

the Releasees. Ecological acknowledges that it is familiar with California Civil Code section 1542, which provides as follows:

> A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY.

Ecological, in its capacity only, and on behalf of itself, 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 California Civil Code section 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.

6.3. American Crafts's Release of Ecological

American Crafts 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 its attorneys and other representatives, whether in the course of investigating claims or otherwise seeking enforcement of Proposition 65 against it in this matter, and/or with respect to the Products.

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.

8. GOVERNING LAW

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 or is otherwise rendered inapplicable by reason of law generally, or as to the Products, then American Crafts shall have no further obligations pursuant to this Settlement Agreement.

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 courier on any party by the other party at the following addresses:

For American Crafts: Colin R. Higgins, Esq.
Snell & Wilmer L.L.P.
600 Anton Boulevard, Suite 1400
Costa Mesa, CA 92626-7689

For Ecological: Vineet Dubey, Esq.
Custodio & Dubey LLP
448 S. Hill St., Suite 615
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; FACSIMILE/E-SIGNATURES

This Settlement Agreement may be executed in counterparts and by facsimile or e-signatures, 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 SECTION 25249.7(f)

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

12. ENTIRE AGREEMENT

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 either of the Parties.

13. MODIFICATION

This Settlement Agreement may be modified only by a written agreement signed by both Parties.

14. AUTHORIZATION

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

[SIGNATURES ON NEXT PAGE]

AGREED TO:	AGREED TO:
Date: November 21, 2019	Date: November __, 2019
By: _____ On Behalf of Ecological Alliance, LLC	By: _____ On Behalf of American Crafts, L.C.

AGREED TO:	AGREED TO:
Date: November __, 2019	Date: ~~November~~ December 2, 2019 BKG
By: _____ On Behalf of Ecological Alliance, LLC	By: _____ On Behalf of American Crafts, L.C.