SETTLEMENT AGREEMENT

1. INTRODUCTION

1.1 The Parties

This Settlement Agreement is hereby entered into by and between Evelyn Wimberley ("Wimberley") and Stump Chunks LLC (hereinafter "Stump Chunks"), with Wimberley and Stump Chunks collectively referred to as the "Parties" and each of them as a "Party." Wimberley is an individual residing in California who seeks to promote awareness of exposures to toxic chemicals and improve human health by reducing or eliminating hazardous substances contained in consumer products.

1.2 Allegations and Representations

(a) Wimberley alleges that Stump Chunks is a person in the course of doing business for purposes of Proposition 65, Cal. Health & Safety Code § 25249.6 et seq., and offered for sale in the State of California and that Stump Chunks has sold in California "Stump Chunks Kindling & Fire Starter" that when used as intended produce combustion byproducts carbon monoxide and soot, and that such sales have not been accompanied by Proposition 65 warnings. Soot is listed under Proposition 65 as a chemical known to the State of California to cause cancer. Carbon Monoxide is listed under Proposition 65 as a chemical known to cause birth defects and other reproductive harm. Wimberley has cited Stump Chunks's Kindling & Fire Starter as one specific example of the Stump Chunks Kindling & Fire Starters that are the subject of her allegations.

(c) Stump Chunks does not admit and denies the material, factual and legal allegations contained in the Notices, and maintains that all products sold, distributed or offered for sale in California have been and are in compliance with all laws, including, without limitation, Proposition 65.

(d) The Parties enter into this Settlement Agreement to resolve all Proposition 65 claims concerning Stump Chunks's products set forth in Wimberley's Notice, including claims against Stump Chunks's customers, distributors and retailers, including but not limited to Ace Hardware

Corporation ("Ace Hardware") who received the Notice alleging violations of Proposition 65 resulting from their distribution and/or sale of Stump Chunks's products in California.

1.3 Covered Products

The products that are covered by this Settlement Agreement are defined as Stump Chunks Kindling & Fire Starters, including but not limited to the items included as Exhibit "A" to this Settlement Agreement. All Stump Chunks Kindling and Fire Starters shall be referred to herein as the "Products."

1.4 Notice of Violation

On or about September 17, 2019, Wimberley served Stump Chunks, ACE Hardware, and all 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" (the "Notice") that provided Stump Chunks, Ace Hardware and such public enforcers with notice that alleged that Stump Chunks and Ace Hardware were in alleged violation of Proposition 65 for failing to warn consumers and customers that the Products exposed users in California to carbon monoxide and soot. No public enforcer diligently prosecuted the claims threatened in the Notice within sixty days plus service time relative to the provision of the Notice to them by Wimberley.

1.5 No Admission

Stump Chunks denies the material allegations contained in Wimberley's Notice and complaint and maintains that it has not violated Proposition 65. Nothing in this Settlement Agreement shall be construed as an admission by Stump Chunks 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 Stump Chunks of any fact, finding, conclusion, issue of law, or violation of law, such being specifically denied by Stump Chunks. However, this section shall not diminish or otherwise affect the obligations, responsibilities, and duties of Stump Chunks under this Settlement Agreement.

1.6 Execution Date

1.6.1 For purposes of this Settlement Agreement, the term "Execution Date" shall mean

the date this Settlement Agreement is fully executed.

1.6.2 For purposes of this Settlement Agreement, the term 'Effective Date" shall mean the date that Prop 65 warnings shall be implemented pursuant to Article 2.

2. COMPLIANCE

2.1 The Products shall be deemed to comply with Proposition 65 with regard to soot and carbon monoxide if the Products from which exposures to soot and carbon monoxide is accompanied by a safe harbor warning in compliance with Proposition 65 regulations then in effect or one of the following Proposition 65 warnings:

(a) "⚠**Warning**: Combustion (burning) of this product produces carbon monoxide, soot, and other substances known by the state of California to cause cancer, birth defects or reproductive harm. For more information go to www.P65Warnings.ca.gov."

(b) "⚠**WARNING:** This product can expose you to chemicals including carbon monoxide and soot, which are 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."

(c) "⚠**WARNING:** Cancer and Reproductive Harm – www.P65Warnings.ca.gov" (on-product warning).

2.2 Compliance with the terms of this Settlement Agreement constitutes compliance with Proposition 65 with respect to exposures to carbon monoxide and soot from the Products.

2.3 For Products sold in or into California, the warning provided pursuant to Section 2.1 shall, within 90 days of the Execution Date ("Effective Date"), be affixed to or prominently displayed on the Product or its packaging or labeling with such conspicuousness, as compared with other words, statements, or designs as to render it

likely to be read and understood by an ordinary individual prior to sale. The warning may be contained in the same section that states other safety warnings concerning the use of the product, if any, and shall be at least the same size as those other safety warnings. The above warning requirement shall not apply to Products that are already in the stream of commerce as of the Effective Date or that Stump Chunks places into the stream of commerce within 90 days of the Effective Date.

3. CIVIL PENALTY & REIMBURSEMENT OF FEES AND COSTS

3.1 Payment Pursuant to Health & Safety Code Section 25249.7(b). Stump Chunks Shall pay a Civil Penalty of $250.00 to be apportioned in accordance with California Health & Safety Code Section 25192, with 75% of these funds remitted to the State of California's Office of Environmental Health Hazard Assessment (CCR Title 11 Div 4-Proposition 65 Private Enforcement) and the remaining 25% of the penalty remitted to Wimberley, as provided by California Health & Safety Code Section 25249.7.

3.2 Stump Chunks shall pay Wimberley's counsel $17,750.00 for attorneys' fees, expert and investigation fees, and related costs associated with this matter and the Notice and incurred as a result of investigating, bringing this matter to Stump Chunks's attention, and negotiating a settlement. Stump Chunks shall provide said monies via bank wire to the "Law Offices of Stephen Ure, PC" (tax identification number 42-1641673) in the following manner:

November 27, 2019: $10,000.00

January 2, 2020: $5,000.00

February 3, 2020: $3,000.00

The Law Offices of Stephen Ure, PC will provide Stump Chunks with tax identification and bank wire information on the Execution Date. Other than the payment specified hereunder, each side is to bear its own attorneys' fees and costs.

3.3 Other than payment specified hereunder, each side is to bear its own attorney's fees or costs. Time is of the essence with regard to the receipt of payments specified in Article 3. If payments are not made as agreed, this agreement shall, in its entirety, be null and void.

4. CLAIMS COVERED AND RELEASED

4.1 Release of Stump Chunks and Downstream Customers

Wimberley, on behalf of herself, releases Stump Chunks, and all entities and persons from whom they obtain and to whom they directly or indirectly distribute or sell the Products, including but not limited to each of its manufacturers, distributors, marketplace hosts, wholesalers, licensors, licensees, auctioneers, retailers, franchisees, dealers, customers, owners, purchasers, and users, and their respective parent companies, corporate affiliates, subsidiaries, officers, directors, attorneys, representatives, shareholders, agents, successors, and employees, and sister entities (collectively "Releasees") from all claims for violations of Proposition 65 up through the Effective Date based on exposure to soot and carbon monoxide from the Products as set forth herein and in her Notice of Violation.

In addition to the foregoing, Wimberley, on behalf of herself, her past and current agents, representatives, attorneys, and successors and/or assignees, and *not* in her representative capacity, hereby waives all rights to institute or participate in, directly or indirectly, any form of legal action and releases any other claims, actions, causes of action, demands, rights, suits, liabilities, damages, losses, costs, expenses, and attorney's fees, of any nature whatsoever, known or unknown, in law or equity, fixed or contingent, now or in the future that she could make against Stump Chunks or the other Releasees relating to the alleged violations of Proposition 65 related to or arising from the Products. With respect to the foregoing waiver and release in this paragraph, Wimberley hereby specifically waives any and all rights and benefits which she now has, or in the future may have, conferred by virtue of Section 1542 of the California Civil Code, which provides:

> **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.**

4.2 **STUMP CHUNKS's Release of Wimberley**

Stump Chunks waives any and all claims against Wimberley, her attorneys and other representatives, for any and all actions taken or statements made by Wimberley and her attorneys and other representatives in the course of investigating the claims or otherwise seeking enforcement of Proposition 65 against it in this matter with respect to the Products.

4.3 **FUTURE CLAIMS**

In the event that any other private enforcer should bring claims under California's Proposition 65 against Stump Chunks alleging that the Covered Product exposes California consumers to carbon monoxide and soot after the date of the execution of this Settlement Agreement, Wimberley and Stump Chunks will seek court approval of a mutually acceptable consent judgment.

5. **SEVERABILITY AND MERGER**

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

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.

6. **GOVERNING LAW**

6.1 This Settlement Agreement shall be interpreted in accordance with the plain English meaning of its terms and the construction thereof shall be governed by the laws in force in the State of California, USA without regard to conflicts of law principles. This Settlement Agreement resolves any issue, now or in the future, with the requirements of Proposition 65 with respect to alleged exposures to soot arising from the Products. In the event that Proposition 65 is repealed or is otherwise rendered inapplicable by reason of law generally, or as to the Products, then Stump Chunks shall provide written notice to Wimberley 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 Products are so affected.

6.2 This Settlement Agreement shall apply to and be binding upon Wimberley and Stump Chunks, its divisions, subdivisions, and subsidiaries, if any, and the Parties' successors and assigns.

6.3 The Parties, including their counsel, have participated in the preparation of this Settlement Agreement and this Settlement Agreement is the result of the joint efforts of the Parties. This Settlement 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 Settlement Agreement shall not be interpreted against any Party as a result of the manner of the preparation of this Settlement Agreement.

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) 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 Stump Chunks International Inc:

Harold M. Blinderman, Esq.
DAY PITNEY LLP
242 Trumbull Street
Hartford, CT 06103

and

For Wimberley:

Stephen Ure, Esq.
Law Offices of Stephen Ure, PC.
11622 El Camino Real, Suite 100
San Diego, California 92130

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; FACSIMILE SIGNATURES**

The stipulations to this Settlement Agreement may be executed in counterparts and by means of facsimile and/or portable document format (pdf), which taken together shall be deemed to constitute one document

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

Wimberley agrees to promptly comply with the requirements set forth in California Health & Safety Code §25249.7(f).

10. **MODIFICATION**

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

11. **ENFORCEMENT OF SETTLEMENT AGREEMENT**

Either Party may bring an action to enforce the terms of this Settlement Agreement. A Party who unsuccessfully brings or contests an action arising out of this Settlement Agreement may be ordered by the court to pay the prevailing Party's reasonable attorney's fees and costs.

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 any and all prior discussions, negotiations, commitments, or understandings related thereto, if any, are hereby merged herein and therein. No representations, oral or otherwise, express or implied, other than those specifically referred to in this Settlement Agreement have been made by any Party hereto. No supplementation, modification, waiver, or termination of this Settlement Agreement shall be binding unless executed in writing by the Party to be bound thereby. No waiver of any of the provisions of this Settlement Agreement shall be deemed or shall constitute a waiver of any of the other provisions hereof whether or not similar, nor shall such waiver constitute a continuing waiver.

13. 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 document.

APPROVED AS TO FORM:

Dated: November 18, 2019

DAY PITNEY, LLP
By: _____
Harold M. Blinderman
Attorneys for Stump Chunks, LLC

Dated: November 18, 2019

LAW OFFICES OF STEPHEN URE, PC
By: _____
Stephen Ure
Attorneys for Evelyn Wimberley

AGREED TO:

Date: November 18, 2019

By: _____
EVELYN WIMBERLEY

Date: November 18, 2019

By: _____
Daniel Roy
Stump Chunks LLC

EXHIBIT A

STUMP CHUNKS

KINDLING & FIRE STARTER

SC5 - .075 Cu Ft Sample Bag	UPC – 858637003051
SC6 - .1 Cu Ft Water Proof Bag	UPC – 858637003044
SC3 - .3 Cu Ft Medium Bag	UPC - 858637003006
SC15 – 1.5 Cu Ft Large Bag	UPC - 858637003068