

## SETTLEMENT AND RELEASE AGREEMENT

### 1. INTRODUCTION

#### 1.1. The Parties

This Settlement and Release Agreement (“**Agreement**”) is entered into as of the Effective Date (hereinafter defined) by and between:

(a) Ecological Alliance, LLC, a California limited liability company (“**Ecological**”), together with its past, present and future members, managers, employees, agents, insurers, attorneys, Affiliates (hereinafter defined), successors, and assigns, and to the extent any of the foregoing are individuals then also their community properties, personal representatives, estates and heirs together also with their agents, insurers, attorneys, successors and assigns (collectively as the “**Ecological Settling Parties**”); and,

(b) Unisource Acquisition Corporation, an Oregon corporation (“**Unisource**”), together with its past, present, and future shareholders, directors, officers, employees, agents, insurers, attorneys, Affiliates, successors, and assigns, and to the extent any of the foregoing are individuals then also their community properties, personal representatives, estates and heirs together also with their agents, insurers, attorneys, successors and assigns (collectively as the “**Unisource Settling Parties**”) (the Ecological Settling Parties and the Unisource Settling Parties each as a “**Party**” and collectively as the “**Parties**”).

(c) As used herein, “**Affiliate**” or “**Affiliates**” means with respect to any Party (i) any other corporation, company or person who, directly or indirectly through one or more intermediaries, possesses the power to direct or cause the direction of the management and policies of a Party or the ability to elect a majority of board members or members of an equivalent management body, whether through the ownership of voting securities, by contract or otherwise,

and (ii) any other corporation, company or person over whom, directly or indirectly through one or more intermediaries, a Party possesses power to direct or cause the direction of the management and policies of that corporation, company or person through an ability to elect a majority of board members or members of an equivalent management body, whether through the ownership of voting securities, by contract or otherwise.

**1.2. General Allegations**

Ecological alleges that Unisource manufactured and distributed and offered for sale in the State of California hose assembly fittings containing Lead 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 LEAD 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 Agreement are defined as hose assembly fittings that Unisource has or caused to be sold, offered for sale or distributed in California. All such items shall be referred to herein as the "**Products**".

**1.4. Notice of Violation**

On April 3, 2020, Ecological served Unisource, relevant third-parties, 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" (the "**Notice**") that provided Unisource and such public enforcers with notice that Unisource 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 Lead. 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 Agreement to settle disputed claims between them as set forth herein and in the Notice concerning Unisource's compliance with Proposition 65. Specifically, Unisource Settling Parties deny the material factual and legal allegations contained in the Notice and maintains that all products 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 Agreement shall be construed as an admission by Unisource Settling Parties 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 Unisource Settling Parties of any fact, finding, conclusion, issue of law, or violation of law, such being specifically denied by Unisource Settling Parties. However, nothing in this section shall diminish or otherwise affect the obligations, responsibilities, and duties of Unisource Settling Parties under this Agreement.

**1.6. Effective Date**

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

**2. INJUNCTIVE RELIEF: WARNING**

**2.1. Warning**

No later than 90 days after the Effective Date, Unisource Settling Parties 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 less than 1,000 parts per million Lead. The warning requirement shall not apply to Products that are already in the stream of commerce as of the Effective Date or that Unisource places into the stream of commerce within 90 days of the Effective Date.

## 2.2. Warning Language

Where required to provide warnings pursuant to Section 2.1 of this Agreement, Unisource shall provide Proposition 65 warnings as follows:

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

(1) **WARNING:** This product can expose you to chemicals including Lead, which is known to the State of California to cause cancer or other reproductive harm. For more info go to [www.P65Warnings.ca.gov](http://www.P65Warnings.ca.gov); or,

(2) **WARNING:** Cancer and Reproductive Harm – [www.P65Warnings.ca.gov](http://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 subsections (a) and (b) above are imposed pursuant to the terms of this 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 Lead or the Products should no longer be required, Unisource Settling Parties shall have no further obligations pursuant to this Agreement.

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

In settlement of all the claims referred to in this Agreement, Unisource shall pay a total of Two Hundred Fifty Dollars (\$250) in civil penalties (the “**Penalty Payment**”) to Ecological in accordance with this Section 3. Ecological shall allocate the Penalty Payment in accordance with California Health & Safety Code section 25249.12(c)(1) & (d), with Ecological remitting Seventy Five Percent (75%) of the Penalty Payment to the California Office of Environmental Health Hazard Assessment (“**OEHHA**”) and Ecological is entitled to retain the remaining Twenty Five Percent (25%) of the Penalty Payment. Ecological shall instruct its legal counsel to deliver those portions of the Penalty Payment to OEHHA and Ecological pursuant to the instructions in this Section 3.

**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, Unisource shall reimburse Ecological for its attorney’s fees and costs, incurred as a result of Ecological investigating the Products and tendering the Notice to Unisource. Unisource shall pay Ecological Ten Thousand Dollars (\$10,000) as payment in full accord and satisfaction for all its attorneys' fees, expert/investigation fees, and related costs associated with the general allegation in Section 1.2 and the Notice (the “**Accrued Fees**”).

**5. PAYMENT INFORMATION**

On or before June 5, 2020, Unisource shall deliver to Ecological in full accord and satisfaction of the Penalty Payment and the Accrued Fees a one-time payment in the total sum of Ten Thousand Two Hundred Fifty Dollars (\$10,250) by wire transfer to Ecological pursuant to the following wiring instructions:

**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. Release of Unisource Settling Parties and its Customers and 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 Settling Parties hereby waive all rights to institute or participate in, directly or indirectly, any form of legal action and release 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, from the beginning of time, fixed or contingent (collectively "**Claims**"), against (a) Unisource Settling Parties, (b) each of Unisource Settling Parties' downstream distributors (including but not limited to Amazon.com, Inc.), wholesalers, vendors, licensors, licensees, auctioneers, retailers, franchisees, dealers, shareholders, cooperative members, customers, owners, purchasers, users, and (c) to the extent not Unisource Settling Parties, its parent companies, corporate affiliates, subsidiaries, and their respective officers, directors, attorneys, representatives, shareholders, agents, and employees, and sister and parent entities. (collectively "**Releasees**").

Ecological represents that it has obtained the requisite authority under its company governance documents to enter into this Agreement for itself and that it has or has obtained all

requisite authority to enter into this Agreement on behalf of each of the Ecological Settling Parties, and Ecological Settling Parties provide 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 from the beginning of time, suspected or unsuspected, against Unisource Settling Parties and the Releasees. Ecological expressly acknowledges that it is releasing its ability to bring representative suits under Proposition 65 against Unisource Settling Parties and the Releasees in the future. Ecological acknowledges that it is familiar with California Civil Code section 1542, 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.

Further Ecological Settling Parties 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.

**6.2. Unisource's Release of Ecological**

Unisource Settling Parties waive any and all claims against Ecological Settling Parties for any and all actions taken or statements made (or those that could have been taken or made) by Ecological Settling Parties, 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. **GOVERNING LAW**

The terms of this 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 Unisource shall have no further obligations pursuant to this Agreement.

8. **NOTICES**

Unless specified herein, all correspondence and notices required to be provided pursuant to this 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 Unisource: Ken Jockers  
Unisource Acquisition Corporation  
8040 NE 33<sup>rd</sup> Drive  
Portland, OR 97211

With a Copy to: David S. Eisen, Esq.  
Wilson Elser Moskowitz Edelman & Dicker LLP  
555 S. Flower Street - Suite 2900  
Los Angeles, CA 90071-2407

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.

9. **COUNTERPARTS; FACSIMILE/E-SIGNATURES**

This 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.



**10. 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). Otherwise, Ecological Settling Parties have not and will not disclose the alleged violation and the terms of this agreement to any person or entity other than an agency as may be required by law.

**11. ENTIRE AGREEMENT**

This 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.

**12. MODIFICATION**

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

**[REMAINDER OF PAGE LEFT INTENTIONALLY BLANK]**

13. AUTHORIZATION

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

AGREED TO:	AGREED TO:
Ecological Alliance, LLC, a California limited liability company	Unisource Acquisition Corporation, an Oregon corporation
By: <u>HW</u>	By: <u>Ken Dockers</u>
Name: <u>Harmony Welsh</u>	Name: <u>Ken Dockers</u>
Its: _____	Its: <u>General Manager</u>
Date: <u>June 2, 2020</u>	Date: <u>June 2, 2020</u>