

**SETTLEMENT AGREEMENT BETWEEN APS&EE, LLC  
AND CREATIVE CO-OP, INC.**

**1. RECITALS**

**1.1 The Parties**

**1.1.1** This Settlement Agreement (“Agreement”) is entered into by and between Creative Co-op, Inc. (“Creative Co-op”) and APS&EE, LLC (“APS&EE”) (each individually referred to as a “Party” and collectively as the “Parties”), APS&EE and Creative Co-op shall hereinafter collectively be referred to as the “Parties.”

**1.1.2** APS&EE is an organization based in California with an interest in protecting the environment, improving human health and the health of ecosystems, and supporting environmentally sound practices, which includes promoting awareness of exposure to toxic chemicals and reducing exposure to hazardous substances found in consumer products.

**1.1.3** APS&EE alleges that Creative Co-op is a person in the course of doing business as the term is defined in California *Health & Safety Code* section 25249.6 et seq. (“Proposition 65”).

**1.2 Allegations**

**1.2.1** APS&EE alleges that Creative Co-op sold Creative Co-op Mug w/Flowers, 4 Styles, #DF1163A, 1-91009-20146-5 (hereinafter the “Products”) in the State of California causing users in California to be exposed to hazardous levels of Lead without providing “clear and reasonable warnings”, in violation of Proposition 65. Lead is listed as known to cause cancer and birth defects or other reproductive harm.

**1.2.2** On September 23, 2020, APS&EE sent a Sixty-Day Notice of Violation (the “Notice”), along with a Certificate of Merit, to Creative Co-op and the various public enforcement agencies regarding the alleged violation of Proposition 65 with respect to the Products.

**1.3 No Admissions**

Creative Co-op denies all allegations in APS&EE's Notice and maintains that the Products have been, and are, in compliance with all laws, and that Creative Co-op has not violated Proposition 65. This Agreement shall not be construed as an admission of liability by Creative Co-op but to the contrary as a compromise of claims that are expressly contested and denied. However, nothing in this section shall affect the Parties' obligations, duties, and responsibilities under this Agreement.

#### **1.4 Compromise**

The Parties enter into this Agreement in order to resolve the controversy described above in a manner consistent with prior Proposition 65 settlements and consent judgments that were entered in the public interest and to avoid prolonged and costly litigation between them.

#### **1.5 Effective Date**

The "Effective Date" shall be the date upon which a complete and fully executed copy of the Agreement is delivered to each Party or its counsel.

### **2. INJUNCTIVE RELIEF**

#### **2.1 Reformulation Standard**

As of the Effective Date, Creative Co-op shall not manufacture, distribute, sell, offer for sale, or caused to have the Products sold in California unless (a) the Product contains no more than 1.0 microgram of lead based on a wipe sample collected using NIOSH Method 9100 from the part of the Product that contains the Exterior Decorations. In addition to the above test methodologies, Creative Co-op may use equivalent methodologies utilized by a state or federal agency to determine lead content in a solid substance.

### **3. PAYMENTS**

#### **3.1 Civil Penalty Pursuant To Proposition 65**

In settlement of all claims referred to in this Agreement, Creative Co-op shall pay a total civil penalty of five thousand dollars (\$5,000.00) to be apportioned in accordance with *Health and Safety Code* section 25249.12(c)(1) and (d), with 75% (\$3,750.00) for

State of California Office of Environmental Health Hazard Assessment (“OEHHA”), and the remaining 25% (\$1,250.00 for APS&EE.

Creative Co-op shall issue two (2) checks for the civil penalty: (1) a check or money order made payable to “OEHHA” in the amount of \$3,750.00; and (2) a check or money order made payable to “Law Offices of Lucas T. Novak” in the amount of \$1,250.00. Creative Co-op shall remit the payments within five (5) business days of the Effective Date, to:

Lucas T. Novak, Esq.  
LAW OFFICES OF LUCAS T. NOVAK  
8335 W Sunset Blvd., Suite 217  
Los Angeles, CA 90069

### **3.2 Reimbursement Of APS&EE’s Fees And Costs**

Creative Co-op shall reimburse APS&EE’s reasonable experts’ and attorney’s fees and costs incurred in prosecuting the instant action, for all work performed through execution of this Agreement. Accordingly, Creative Co-op shall issue a check or money order made payable to “Law Offices of Lucas T. Novak” in the amount of eighteen thousand dollars (\$18,000.00). Creative Co-op shall remit the payment within five (5) business days of the Effective Date, to:

Lucas T. Novak, Esq.  
LAW OFFICES OF LUCAS T. NOVAK  
8335 W Sunset Blvd., Suite 217  
Los Angeles, CA 90069

## **4. RELEASES**

### **4.1 APS&EE’s Release Of Creative Co-op**

APS&EE, acting in its individual capacity, in consideration of the promises and monetary payments contained herein, hereby releases Creative Co-op, its parents, subsidiaries, shareholders, directors, members, officers, employees, attorneys, successors and assignees, as well as its downstream distributors, retailers, and franchisees, including Anawalt Lumber Co., Inc. (collectively “Released Parties”), from any alleged Proposition

65 violation claims asserted in APS&EE's Notice regarding failure to warn about Lead exposure from the Products that Creative Co-op has caused to be sold and/or offered for sale in California before and up to the Effective Date.

In further consideration of the promises and agreements herein contained, APS&EE as an individual and not on behalf of the public, on behalf of itself and its past and current agents, representatives, attorneys, successors, and/or assignees, hereby waives all of APS&EE's rights to institute or participate in, directly or indirectly, any form of legal action arising under Proposition 65 with respect to lead in the Products and releases all claims that APS&EE may have, including, without limitation, all actions, and causes of actions, in law or in equity, suits, liabilities, demands, obligations, damages costs, fines, penalties, losses, or expenses including, but not exclusively, investigation fees, expert fees, and attorneys' fees arising under Proposition 65 with respect to lead in the Products, as alleged in the Notice, that Creative Co-op has caused to be sold and/or offered for sale in California before and up to the Effective Date against Creative Co-op and Released Parties.

The Parties further understand and agree that this Section 4.1 release shall not extend upstream to any entities that manufactured the Products or any component parts thereof, or any distributors or suppliers who sold the Products or any component parts thereof to Creative Co-op. Nothing in this Section affects APS&EE's right to commence or prosecute an action under Proposition 65 against a Released Party that does not involve the Products.

#### **4.2 Creative Co-op's Release Of APS&EE**

Creative Co-op, by this Agreement, waives all rights to institute any form of legal action against APS&EE, its shareholders, directors, members, officers, employees, attorneys, experts, successors and assignees for actions or statements made or undertaken, whether in the course of investigating claims or seeking enforcement of Proposition 65 against Creative Co-op in this matter. If any Released Party should institute any such action, then APS&EE's release of said Released Party in this Agreement shall be

rendered void and unenforceable.

#### **4.3 Waiver Of Unknown Claims**

Each of the Parties acknowledges that it is familiar with Section 1542 of California Civil Code 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.

Each of the Parties waives and relinquishes any right or benefit it has or may have under Section 1542 of California Civil Code or any similar provision under the statutory or non-statutory law of any other jurisdiction to the full extent that it may lawfully waive all such rights and benefits. The Parties acknowledge that each may subsequently discover facts in addition to, or different from, those that it believes to be true with respect to the claims released herein. The Parties agree that this Agreement and the releases contained herein shall be and remain effective in all respects notwithstanding the discovery of such additional or different facts.

#### **5. SEVERABILITY**

Should any part or provision of this Agreement for any reason be declared by a Court to be invalid, void or unenforceable, the remaining portions and provisions shall continue in full force and effect.

#### **6. GOVERNING LAW**

The terms of this Agreement shall be governed by the laws of the State of California.

#### **7. NOTICE**

All correspondence and notice required to be provided under this Agreement shall be in writing and delivered personally or sent by first class or certified mail addressed as follows:

<b>TO CREATIVE CO-OP:</b> R. Dewayne Young Creative Co-op 6000 Freeport Ave., Suite 101 Memphis, TN 38141	<b>TO APS&amp;EE:</b> Lucas T. Novak, Esq. Law Offices of Lucas T. Novak 8335 W Sunset Blvd., Suite 217 Los Angeles, CA 90069
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**8. COUNTERPARTS**

This Agreement may be executed in counterparts, each of which shall be deemed an original, and all of which, when taken together, shall constitute the same document. Execution and delivery of this Agreement by e-mail, facsimile, or other electronic means shall constitute legal and binding execution and delivery. Any photocopy of the executed Agreement shall have the same force and effect as the originals.

**9. AUTHORIZATION**

The undersigned are authorized to execute this Agreement on behalf of their respective Parties. Each Party has read, understood, and agrees to all of the terms and conditions of this Agreement. Each Party warrants to the other that it is free to enter into this Agreement and is not subject to any conflicting obligation that will or might prevent or interfere with the execution or performance of this Agreement by said Party.

**AGREED TO:**

Date: \_\_\_\_\_

By: \_\_\_\_\_  
Authorized Representative of APS&EE, LLC

**AGREED TO:**

Date: November 13, 2020

By: R. Dewayne Young  
Authorized Representative of Creative Co-op, Inc.

<b>TO CREATIVE CO-OP:</b> R. Dewayne Young Creative Co-op 6000 Freeport Ave., Suite 101 Memphis, TN 38141	<b>TO APS&amp;EE:</b> Lucas T. Novak, Esq. Law Offices of Lucas T. Novak 8335 W Sunset Blvd., Suite 217 Los Angeles, CA 90069
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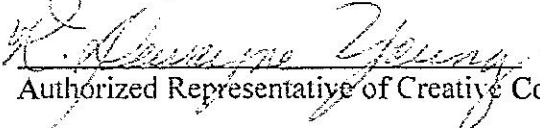
**AGREED TO:**

Date: 11/23/20

By:   
Authorized Representative of APS&EE, LLC

**AGREED TO:**

Date: November 23, 2020

By:   
Authorized Representative of Creative Co-op, Inc.