

SETTLEMENT AGREEMENT

1. INTRODUCTION

1.1 Parties

This Settlement Agreement is entered into by and between Environmental Health Advocates, Inc. (“EHA”), on the one hand, and International Biscuits Ltd. (“International Biscuits”), on the other hand, with EHA and International Biscuits each individually referred to as a “Party” and collectively as the “Parties.” EHA is a corporation in the State of California serving in the interest of the general public by seeking to promote awareness of exposures to toxic chemicals and to improve human health by reducing or eliminating hazardous substances used in consumer products. International Biscuits employs ten or more individuals and is a person in the course of doing business for purposes of the Safe Drinking Water and Toxic Enforcement Act of 1986, California Health and Safety Code § 25249.6 *et seq.* (“Proposition 65”).

1.2 General Allegations

EHA alleges that International Biscuits manufactures, sells, and distributes for sale in California, ginger cookies that contain Acrylamide and that it does so without first providing the health hazard warning required by Proposition 65. Acrylamide is listed pursuant to Proposition 65 as a chemical known to cause cancer and birth defects or other reproductive harm.

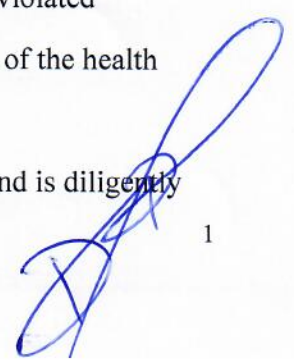
1.3 Product Description

The product covered by this Settlement Agreement is defined as, and expressly limited to, Butterkist Ginger Cookies (“the Product”), that contains Acrylamide and that is manufactured, sold or distributed for sale in California by International Biscuits.

1.4 Notice of Violation

On October 27, 2020, EHA served International Biscuits Ltd., Super Center Concepts, Inc., Superior Grocers, the California Attorney General and other requisite public enforcers with a 60-Day Notice of Violation (“Notice”), alleging that International Biscuits and others violated Proposition 65 when they failed to warn its customers and consumers in California of the health risks associated with exposures to Acrylamide from the Product.

To the best of the Parties’ knowledge, no public enforcer has commenced and is diligently



prosecuting an action to enforce the violations alleged in the Notice.

1.5 No Admission

International Biscuits denies the material, factual, and legal allegations in the Notice and maintains that all of the products it sold and/or distributed for sale in California, including the Product, have been, and are, in compliance with all laws. Nothing in this Settlement Agreement shall be construed as an admission by International Biscuits of any fact, finding, conclusion, issue of law or violation of law, nor shall compliance with this Settlement Agreement constitute or be construed as an admission by International Biscuits of any fact, finding, conclusion, issue of law or violation of law, such being specifically denied by International Biscuits. International Biscuits further denies that it has any liability to EHA, both individually and in its representative capacity of the public, for all material, factual, and legal allegations contained in the Notice. This Section shall not, however, diminish or otherwise affect International Biscuits' obligations, responsibilities, and duties under this Settlement Agreement.

Nothing in this Settlement Agreement, nor compliance with its terms, shall constitute or be construed, considered, offered, or admitted as evidence of an admission against interest or evidence of fault, wrongdoing, or liability by International Biscuits, its officers, directors, employees, or parents, subsidiaries, or affiliated corporations, or any person acting for International Biscuits, or any direct or indirect customer of International Biscuits who sold or sells the Product, in any administrative or judicial proceeding or litigation in any court, agency, or forum.

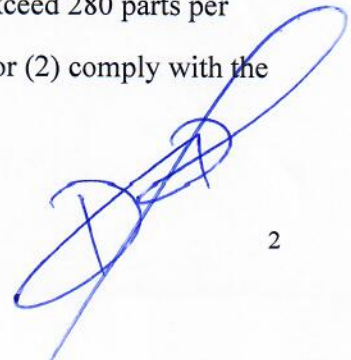
1.6 Effective Date

For purposes of this Settlement Agreement, the term "Effective Date" shall mean ninety (90) days following the execution of this Settlement Agreement by the Parties.

2. INJUNCTIVE RELIEF

2.1 Any Products are manufactured, packaged, sold or distributed for sale in California by International Biscuits on and after the Effective Date shall either (1) not exceed 280 parts per billion ("ppb") Acrylamide, as set forth in Section 2.2 ("Acrylamide Limit") or (2) comply with the warning requirements of Section 2.3.

2.2 Testing



(a) Compliance with the 280 ppb acrylamide limit shall be determined using LC-MS/MS (Liquid Chromatograph-Mass Spectrometry), GC/MS/MS (Gas Chromatography/Mass Spectrometry), or any other testing method agreed upon by the Parties. Any testing for purposes of Section 2.1 shall be performed by any laboratory accredited by the State of California, a federal agency, or a nationally recognized accrediting organization.

(b) If Proposition 65 or its implementing regulations (including but not limited to the published “no significant risk level” for acrylamide set forth at Cal. Code Regs., tit. 27, section 25705, subdivision (c)(2) or any “alternative risk level” adopted by regulation or court decision) are changed from their terms as they exist on the Effective Date, International Biscuits shall be entitled to reformulate, at its discretion, the Product to such levels without being deemed in breach of this Settlement Agreement.

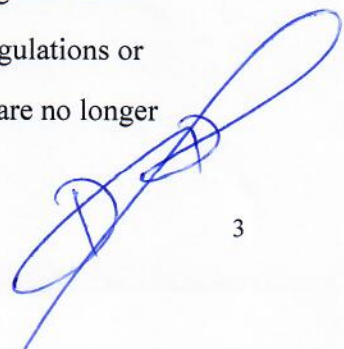
2.3 Warnings

If International Biscuits provides warnings under Section 2.1, the Product shall be sold in California with any of the warnings provided under Title 27 sections 25607.1 (Food Exposure Warnings – Methods of Transmission) and 25607.2 (Food Exposure Warnings – Content), which became operative on August 30, 2018.

(i) Changes in Warning Regulations or Statutes

The Parties agree that the specifications for a compliant warning in this Settlement Agreement comply with Proposition 65 and its regulations as of the date of this Settlement Agreement.

In the event that the Office of Environmental Health Hazard Assessment or another authorized agency promulgates one or more regulations requiring or permitting warning text and/or methods of transmission different than those set forth above, or legislation is enacted by the California legislature, United States Congress or voters with such requirements or permission, International Biscuits shall be entitled to use, at its discretion, such other warning text and/or method of transmission without being deemed in breach of this Agreement. If regulations or legislation are enacted providing that warnings as to Acrylamide in this product are no longer



required, a lack of warning by International Biscuits will not thereafter be a breach of this Agreement.

2.4 Grace Period for Existing Inventory of Products

The injunctive requirements of Section 2 shall not apply to Products that are already in the stream of commerce as of the Effective Date, which Products are expressly subject to the releases provided in Section 4.1. As a result, the obligations in Section 2 do not apply to these Products manufactured prior to the Effective Date.

3. MONETARY SETTLEMENT TERMS

3.1 Civil Penalty Payment

Pursuant to Health and Safety Code § 25249.7(b)(2), and in settlement of all claims alleged in the Notice or referred to in this Settlement Agreement, International Biscuits agrees to pay two thousand dollars (\$2,000.00) in civil penalties. The penalty payment will be allocated in accordance with California Health and Safety Code §§ 25249.12(c)(1) & (d), with 75% of the penalty amount paid to the California Office of Environmental Health Hazard Assessment (“OEHHA”) and the remaining 25% of the penalty amount retained by EHA. Within ten (10) days of the date this Settlement Agreement is executed by the Parties, International Biscuits shall issue two separate checks for the initial civil penalty payment to (a) “OEHHA” in the amount of one thousand five hundred dollars (\$1,500.00) and (b) Environmental Health Advocates, Inc., in the amount of five hundred dollars (\$500.00).

All payments owed to OEHHA (EIN: 68-0284486), pursuant to this Section 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

All penalty payments owed to EHA shall be sent to:

Environmental Health Advocates
225 Broadway, Suite 2100
San Diego, CA 92101

3.2 Attorney Fees and Costs

The Parties reached an accord on the compensation due to EHA and its counsel under the private attorney general doctrine and principles of contract law. Under these legal principles, within ten (10) days of the date this Settlement Agreement is executed by the Parties, International Biscuits agrees to pay fifteen thousand five dollars (\$15,500.00) to EHA and its counsel for all fees and costs incurred in investigating, bringing this matter to the attention of International Biscuits' negotiating a settlement. International Biscuits' payment shall be delivered in the form of two checks: (1) one check for seven thousand seven hundred and fifty dollars (\$7,750.00) payable to "Glick Law Group"; and (2) one check for seven thousand seven hundred and fifty dollars (\$7,750.00) payable to Nicholas & Tomasevic LLP."

3.3 Payment Address

All payments required under this Section shall be delivered to:

Noam Glick
Glick Law Group
225 Broadway, Suite 1900
San Diego, CA 92101

Craig Nicholas
Nicholas & Tomasevic, LLP
225 Broadway, Suite 1900
San Diego, CA 92101

3.4 Tax Documentation

International Biscuits agrees to provide a completed IRS 1099 for its payments to, and EHA agrees to provide IRS W-9 forms for, each of the payees under this Settlement Agreement. The Parties acknowledge that International Biscuits cannot issue any settlement payments pursuant to

Section 3.1 and 3.2 above until after International Biscuits receives the requisite W-9 forms from EHA's counsel.

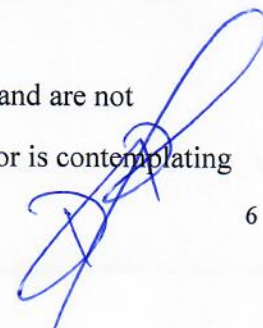
4. CLAIMS COVERED AND RELEASED

4.1 EHA's Release of International Biscuits

This Settlement Agreement is a full, final, and binding resolution between EHA, on its own behalf and not on behalf of the public, and International Biscuits of any violation of Proposition 65 that was or could have been asserted by EHA, on its own behalf, on behalf of its past and current agents, representatives, attorneys, successors and assignees, against International Biscuits and each of its respective parents, subsidiaries, affiliated entities under common ownership, directors, officers, members, employees, attorneys, each upstream entity from whom the Product was purchased by International Biscuits, and each entity to whom International Biscuits directly or indirectly distributes or sells the Product, including, but not limited to, its downstream distributors, wholesalers, customers, retailers, franchisees, cooperative members and licensees ("Releasees"), based on the failure to warn about exposures to Acrylamide in the Product manufactured, sold or distributed for sale in California by International Biscuits before the Effective Date, as alleged in the Notice.

In further consideration of the promises and agreements herein contained, EHA on its own behalf and not on behalf of the public, on behalf of its past and current agents, representatives, attorneys, successors and assignees hereby waives any and all rights it may have to institute or participate in, directly or indirectly, any form of legal action and releases all claims against International Biscuits and Releasees including, without limitation, all actions and causes of action, suits, liabilities, demands, obligations, damages, costs, fines, penalties, losses or expenses including, but not exclusively, investigation fees, expert fees and attorney fees arising under Proposition 65 with respect to the alleged or actual failure to warn about exposures to Acrylamide in the Product manufactured, distributed, sold or offered for sale by International Biscuits, before the Effective Date.

EHA and EHA's counsel represent and warrant that they have not filed and are not contemplating filing, that they are not aware of any other person who has filed or is contemplating



filing, and that they have not engaged and do not intend to engaged in any advertising or solicitation to locate additional persons to file, any form of complaint against International Biscuits.

4.2 International Biscuits' Release of EHA

International Biscuits, on its own behalf and on behalf of its past and current agents, representatives, attorneys, successors, and assignees, hereby waives any and all claims against EHA and its attorneys and other representatives, for any and all actions taken or statements made by EHA and its attorneys and other representatives, whether in the course of investigating claims, otherwise seeking to enforce Proposition 65 against it in this matter, or with respect to the Product.

4.3 California Civil Code Section 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 Product will develop or be discovered. EHA on behalf of itself only, on one hand, and International Biscuits on behalf of itself only, on the other hand, acknowledge that this Settlement Agreement is expressly intended to cover and include all such claims up through the Effective Date. The Parties acknowledge that the claims released in Sections 4.1 and 4.2 may include unknown claims, and nevertheless waive California Civil Code section 1542 as to any such unknown claims. California Civil Code section 1542 reads 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.

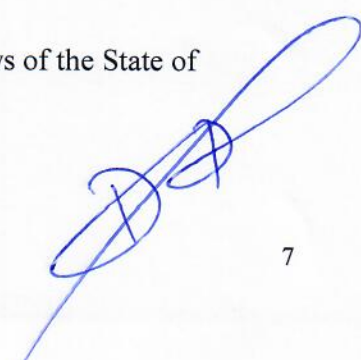
5. SEVERABILITY

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

6. 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.

7. NOTICE



Unless specified herein, all correspondence and notice required to be provided pursuant to this Settlement Agreement shall be in writing and sent by: (a) personal delivery; (b) first-class, registered or certified mail, return receipt requested; or (c) a recognized overnight courier on any Party by the other at the following addresses:

For International Biscuits:

Greg Berlin
Alston & Bird
333 South Hope St. 16th Floor
Los Angeles, CA 90071

For EHA:

Noam Glick
Glick Law Group
225 Broadway, Suite 1900
San Diego, CA 92101

Any Party may, from time to time, specify in writing to the other a change of address to which all notices and other communications shall be sent.

8. COUNTERPARTS; FACSIMILE SIGNATURES

This Settlement Agreement may be executed in counterparts and by facsimile or portable document format (PDF) signature, each of which shall be deemed an original, and all of which, when taken together, shall constitute one and the same document.

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

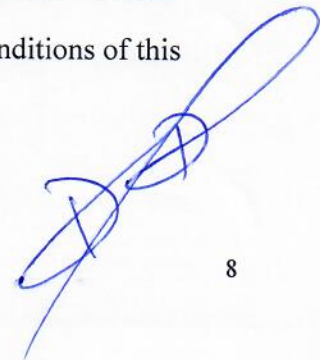
EHA and its attorneys agree to comply with the reporting form requirements referenced in California Health and Safety Code § 25249.7(f).

10. MODIFICATION

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

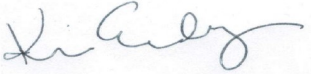
11. AUTHORIZATION

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.




AGREED TO:

Date: January 21, 2021

By: 
ENVIRONMENTAL HEALTH
ADVOCATES, INC.

AGREED TO:

Date: January 21, 2021

By: 
INTERNATIONAL BISCUITS LTD.

INTERNATIONAL BISCUITS LIMITED