

SETTLEMENT AGREEMENT

1. INTRODUCTION

1.1 Consumer Protection Group, LLC and Dog-e-Lites, Inc

This Settlement Agreement is entered into by and between Consumer Protection Group, LLC ("CPG"), on the one hand, and Dog-e-Lites, Inc ("Dog-e-Lites"), on the other hand, with CPG and Dog-e-Lites collectively referred to as "Parties."

1.2 General Allegations

CPG alleges, and Dog-e-Lites denies, that Dog-e-Lites manufactured and distributed and offered for sale a -cooling vest and cooling bandana in the State of California containing DEHP, that such products did not include warnings pursuant to the Safe Drinking Water and Toxic Enforcement Act of 1986, California Health & Safety Code sections 25249.6 *et seq.* ("Proposition 65"). DEHP has been listed by the State of California as a chemical known to cause cancer, developmental toxicity, male and female reproductive toxicity.

1.3 Products Description

The products that are covered by this Settlement Agreement are defined as the cooling vests and cooling bandanas (the "Subject Products") that Dog-e-Lites sells, sold, offers or offered for sale, distributes or distributed in California.

1.4 Notice of Violation

CPG served Bed Bath & Beyond, Inc. ("BBB") 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 BBB and such public enforcers with notice that BBB was allegedly in violation of California Health & Safety Code section 25249.6 for failing to warn consumers and customers that a cooling vest 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**

By execution of this Settlement Agreement, Dog-e-Lites, and each of its respective affiliates and subsidiaries, parents, directors, officers, agents, employees, attorneys, representatives, shareholders, successors, and assigns and each entity to whom Dog-e-Lites directly or indirectly distributes or sells the Subject Products, including but not limited to downstream distributors, wholesalers, customers, retailers, marketplace retailers, franchisees, cooperative members and licensees (collectively, the "Releasees"), do not admit any facts or conclusions of law, including, but not limited to, any facts or conclusions of law regarding any violation of Proposition 65, or any other statutory, regulatory, common law, or equitable doctrine. Nothing in this Settlement Agreement shall be construed as an admission by the Releasees of any fact, conclusion of law, issue of law, or violation of law. Nothing in this Settlement Agreement, nor compliance with its terms, shall constitute or be construed, considered, offered, or admitted as evidence of an admission or evidence of fault, wrongdoing, or liability by the Releasees in any administrative or judicial proceeding or litigation in any court, agency, or forum. Except as otherwise provided in this Settlement Agreement, nothing in this Settlement Agreement shall prejudice, waive, or impair any right, remedy, argument, or defense that CPG or Dog-e-Lites, may have against one another in any other pending legal proceeding as to

allegations unrelated to the dispute or claims released herein. Notwithstanding the allegations in the Notices, Releasees maintain that they have not knowingly or intentionally exposed any individual to a chemical known to the State of California to cause cancer or reproductive toxicity in violation of Proposition 65.

1.6 **Effective Date**

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

2. **INJUNCTIVE RELIEF: WARNING**

2.1 **Reformulation Standards**

"Reformulated Products" are defined as those Products containing DEHP in concentrations less than 0.1 percent (1,000 parts per million).

2.2 **Commitment to Reformulate or Warn**

As of the Effective Date, Dog-e-Lites shall not sell or offer the Subject Products for sale in the State of California unless they are Reformulated Products as outlined in Section 2.1 or Dog-e-Lites provides warnings that comply with Proposition 65 law as outlined in section 2.4 of this agreement.

2.3 **Warning**

The Subject Products shall be accompanied by a warning as described in Section 2.4 below as of the Effective Date. The warning requirements set forth in Section 2.4 below shall apply only to the Subject Products that are distributed, marketed, sold, or shipped for sale in the State of California. Dog-e-Lites further agrees, promises, and represents that, as of the Effective Date, to the extent it ships or sells any of the Subject Products in existing inventory that have not been reformulated, it will provide warnings

that comply with Proposition 65 law. The warning requirement shall not apply to any of the Subject Products that is already in the stream of commerce as of the Effective Date.

2.4 **Warning Language**

The warnings shall be provided in such a conspicuous and prominent manner that will ensure the message is made available and likely to be read, seen, or heard by the consumer prior to, or at the time of, the sale or purchase. Where required, Dog-e-Lites shall have an option to provide the following Proposition 65 warnings:

⚠ **WARNING:** This product or its packaging can expose you to [chemicals including] DEHP which is 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.

Or

⚠ **WARNING:** Cancer and Reproductive Harm - www.P65Warnings.ca.gov

This shall constitute compliance with Proposition 65 with respect to the chemical in the Subject Products.

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

In settlement of all the claims referred to in this Settlement Agreement, Dog-e-Lites shall pay a total of three thousand dollars (\$3,000.00) 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 CPG. CPG's counsel shall be responsible for delivering OEHHA's portion 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 CPG and its counsel under the Private Attorney General doctrine and principles of contract law. Under these legal principles, Dog-e-Lites shall reimburse CPG's counsel for fees and costs, incurred as a result of investigating and bringing this matter to Dog-e-Lites' attention. Dog-e-Lites shall pay Consumer Protection's counsel thirty-two thousand dollars (\$32,000.00) for all attorneys' fees, expert and investigation fees, and related costs associated with this matter and the Notice.

5. **PAYMENT INFORMATION**

Within thirty (30) days of the Effective Date, Dog-e-Lites shall make a total payment of thirty-five thousand dollars (\$35,000.00) for the civil penalties and attorney's fees/costs by wire transfer to Plaintiff's counsel, Blackstone Law APC:

Bank: First Republic Bank
Routing No.: 321081669
Account No.: 80009761455
SWIFT Code: FRBBUS6S
Beneficiary: Blackstone Law APC IOLTA

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

6. RELEASE OF ALL CLAIMS

6.1 Release of Dog-e-Lites, 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, 4 and 5 above, CPG, in its individual capacity, and on behalf of itself, its past and current agents, 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 Subject 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) Dog-e-Lites (b) each of Dog-e-Lites' downstream distributors (including BBB), wholesalers, vendors, licensors, licensees, auctioneers, retailers, franchisees, dealers, shareholders, cooperative members, customers, owners, purchasers, users, and (c) Dog-e-Lites' parent companies, corporate affiliates, subsidiaries, and their respective officers, directors, attorneys, representatives, shareholders, members, agents, and employees, and sister and parent entities.

CPG also, in its individual capacity, on behalf of itself, its past and current agents, 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 Dog-e-Lites and its officers, directors,

attorneys, representatives, shareholders, members, agents, and employees. CPG 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 RELEASING PARTY.

CPG in its individual 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. The releases in this section shall have no force or effect until the full amount of payments set forth in above Sections 3, 4 and 5 are paid in full by Dog-e-Lites.

6.2 Dog-e-Lites Release of Consumer Protection Group, LLC.

Dog-e-Lites waives any and all claims against CPG, its attorneys and other representatives, for any and all actions taken, or statements made (or those that could have been taken or made) by CPG 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 Subject Products. Dog-e-Lites represents that

its signatory to this Settlement Agreement has full authority to enter into and legally bind Dog-e-Lites to this Settlement Agreement.

7. 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 Subject Products, then Dog-e-Lites shall have no further obligations pursuant to this Settlement Agreement, but also shall have no recourse to claw back payments already made in accordance with Section 3, 4 and 5 of this Settlement Agreement.

8. 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; (ii) overnight courier; or (iii) email on any party by the other party at the following addresses:

For DOG-E-LITES: Sean M. Sherlock, Esq.
 Snell & Wilmer
 600 Anton Boulevard Suite 1400
 Costa Mesa, CA 92626-7689
 ssherlock@swlaw.com

For CPG: Jonathan M. Genish, Esq.
 Blackstone Law APC
 8383 Wilshire Blvd., Suite 745
 Beverly Hills, CA 90211
 jgenish@blackstonepc.com

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 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.

10. COMPLIANCE WITH HEALTH & SAFETY CODE SECTION 25249.7(f)

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

11. 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.

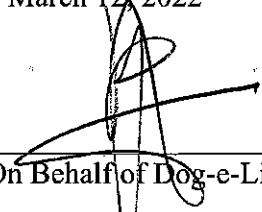
12. MODIFICATION

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

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 Settlement Agreement.

AGREED TO:
Date: March 12, 2022
By: 
On Behalf of Consumer Protection Group, LLC

AGREED TO:
Date: March 12, 2022
By: 
On Behalf of Dog-e-Lites