

SETTLEMENT AND RELEASE AGREEMENT

1. INTRODUCTION

1.1. Ecological Alliance, LLC and Pecan Star and Nut Corp.

This Settlement Agreement is entered into by and between Ecological Alliance, LLC ("Ecological"), on the one hand, and Pecan Star and Nut Corp. ("Pecan Star"), on the other hand, with Ecological and Pecan Star collectively referred to as the "Parties."

1.2. General Allegations

Ecological alleges that Pecan Star manufactured and distributed and offered for sale in the State of California Clover Valley pecan halves and Clover Valley chopped walnuts 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.* and its implementing regulations ("Proposition 65"). California has identified and listed Lead under Proposition 65 as a chemical known to the State of California to cause cancer, birth defects or other reproductive harm.

1.3. Product Description

The products that are covered by this Settlement Agreement are defined as Clover Valley pecan and walnut products that Pecan Star has manufactured, imported, 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 August 9, 2021, Ecological served Dolgen California, LLC, 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" ("Notice") that provided Pecan Star and such public enforcers with notice that Pecan Star 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 Settlement Agreement to settle disputed claims between them as set forth herein and in the Notice concerning Pecan Star's compliance with Proposition 65. Pecan Star denies the material factual and legal allegations contained in Ecological's Notice and maintains that all products that it has manufactured for sale and distribution in California, including the Products, have been and are in compliance with Proposition 65 or any other statutory, regulatory, common law or equitable doctrine. Nothing in this Settlement Agreement shall be construed as an admission by Pecan Star 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 Pecan Star of any fact, finding, conclusion, issue of law, or violation of law, which Pecan Star expressly denies. However, nothing in this section shall diminish or otherwise affect the obligations, responsibilities, and duties of Pecan Star under this Settlement Agreement.

1.6. Effective Date

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

2. INJUNCTIVE RELIEF: REFORMULATION AND WARNINGS

As of the Effective Date, Pecan Star, at its sole discretion, agrees to either (a) cease selling, offering for sale, or distributing the Products in California, (b) manufacture, import, or otherwise source for authorized sale in California only Reformulated Products, as defined pursuant to Section 2.1 below, or (c) provide a clear and reasonable Proposition 65 warning

on the Products pursuant to Section 2.2 below.

2.1. Reformulation Standards

The Products shall be deemed to comply with Proposition 65 with regard to Lead and be exempt from any Proposition 65 warning requirements for Lead if the level of Lead in the Products does not exceed 5 ppb (parts per billion) (“Reformulated Products”). Products that were supplied or contracted to be supplied to third parties by Pecan Star prior to 6 months after the Effective Date shall be deemed exempted from the requirements of this Section 2.1 and shall be permitted to be sold as previously manufactured, packaged and labeled.

2.2. Warning Option

Products that do not meet the warning exemption standard set forth in Section 2.1 above shall be accompanied by a warning as described in Section 2.3 below. This warning requirement shall only be required as to Products that are manufactured, distributed, marketed, imported, sold, shipped for sale or offered for sale to consumers by Pecan Star in the State of California. No Proposition 65 warning shall be required for any Products that are supplied or contracted to be supplied to third parties by Pecan Star prior to 6 months after the Effective Date, and all such Products are hereby deemed to be exempt from Proposition 65 enforcement.

2.3. Warning Language

- (a) Where required to meet the criteria set forth in Section 2.2, Pecan Star shall display one of the following warning statements on the packaging label of the Products that do not meet the warning exemption standard set forth in Section 2.1 above:

- (1) **WARNING:** Consuming this product can expose you to chemicals including Lead, which [is] 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/food
- (2) **WARNING:** [Cancer and] Reproductive Harm--
www.P65Warnings.ca.gov/food

Pecan Star may use “cancer and” in the warning at its option. Pecan Star may include the names of additional chemicals in the warning if they are present in the Products at a level that Pecan Star reasonably believes would require a Proposition 65 warning.

(b) The requirements for warnings, set forth in subsection (a) above, are imposed pursuant to the terms of this Settlement Agreement. The Parties recognize that these are not the exclusive methods of providing a warning under Proposition 65 and its implementing regulations. Pecan Star shall be deemed to be in compliance with the warning requirements of this Settlement Agreement by either adhering to this Section 2.3 or by complying with the Proposition 65 warning requirements adopted by the State of California Office of Environmental Health Hazard Assessment (“OEHHA”) as of or after the Effective Date.

(c) If Proposition 65 warnings for Lead should no longer be required, PecanStar shall have no further obligations pursuant to this Settlement Agreement.

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

In settlement of all claims relating to compliance with Proposition 65 warnings as

referenced in this Settlement Agreement, Pecan Star shall pay a total of \$3,500.00 (the “Settlement Payment”) in accordance with this Section. The Settlement Payment will be allocated in accordance with California Health & Safety Code section 25249.12(c)(1) & (d), with 75% of the funds remitted to OEHHA and the remaining 25% of the penalty remitted to Ecological. Ecological's counsel shall be responsible for delivering OEHHA's portion of the Settlement Payment.

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. Under these legal principles, Pecan Star shall reimburse Ecological's counsel for fees and costs, incurred as a result of investigating and bringing this matter to Pecan Star's attention. Pecan Star shall pay Ecological's counsel \$30,000 for all attorneys' fees, expert and investigation fees, and related costs associated with this matter and the Notice.

5. PAYMENT INFORMATION

By November 26, 2021, Pecan Star shall make a total payment of Thirty-Three Thousand Five Hundred Dollars (\$33,500) by wire transfer to Plaintiff's counsel Custodio & Dubey LLP:

Bank: Bank of America, N.A.

Routing No.: 026009593

Account No.: 325132729125

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 Pecan Star, 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 and 4 above, Ecological, on behalf of itself and its respective owners, principals, shareholders, officers, directors, employees, parents, subsidiaries its past and current agents, representatives, attorneys, successors and/or assignees (collectively, "Releasers"), hereby waives all rights to institute or participate in, directly or indirectly, any form of legal action and fully releases 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, fixed or contingent (collectively "Claims"), against (a) Pecan Star, (b) each of Pecan Star's downstream distributors in the stream of commerce (including but not limited to Dolgencorp, LLC and Dolgen California, LLC and all affiliated entities) and any other upstream or downstream entities in the distribution chain for the Products, including, but not limited to, manufacturers, wholesalers, vendors, licensors, licensees, auctioneers, retailers, franchisees, dealers, shareholders, cooperative members, customers, owners, purchasers, third-party resellers, and users, (c) Pecan Star's parent companies, corporate affiliates, subsidiaries, doing business as entities ("DBAs"), successor companies, and their respective officers, directors, attorneys, representatives, shareholders, agents, and employees, and sister and parent entities, and (d) the employees, shareholders, officers, directors, members, managers, equity owners, insurers, attorneys, predecessors, successors and assigns of any of the entities identified in subsection (a) through (c), above (collectively "Releasees").

Ecological also, on behalf of itself, its past and current agents, representatives, 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 Pecan Star and the Releasees. Ecological 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 released party.

Ecological, in its 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 Parties agree that compliance with the terms of this Agreement shall constitute compliance by any Releasee with Proposition 65.

6.2. Pecan Star's Release of Ecological

Pecan Star waives any and all claims against Ecological, its attorneys and other representatives, for any and all actions taken or statements made (or those that could have been taken or made) by Ecological 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 Products.

6.3 Release Effective Upon Subsequent Discovery of Existing Facts

The Parties acknowledge and agree that even if later facts are discovered which are different from those which they now know or believe to be true with respect to the Products and the subject of this Agreement, that it is their intention to fully settle and release and forever discharge all of the claims that are released and discharged by this Agreement. The releases herein shall be, and shall remain in effect, as full and complete releases, notwithstanding the discovery or existence of additional or different facts. The Parties accept and assume the risk that such facts may be in addition to or different from the facts now known or believed to be true and agree that the releases herein shall in all respects remain effective and shall not be subject to termination or rescission by reason of such additional or different facts.

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 Products, then Pecan Star shall have no further obligations pursuant to this Settlement Agreement.

8. CONFIDENTIALITY AND NON-DISPARAGEMENT

The Parties acknowledge that the terms of this Agreement and the events leading up to and surrounding this Agreement are regarded as confidential information. Each Party shall maintain confidentiality of all such confidential information, and without obtaining the written consent of the other Party, it shall not disclose any confidential information to any third parties, except for the information that (a) is in the public domain; (b) is under the obligation to be disclosed pursuant to the applicable laws or regulations, or orders of a court of competent jurisdiction or other government authorities, provided however that the disclosing Party shall provide reasonable

advanced written notice to the non-disclosing Party of such mandated disclosure to permit the non-disclosing Party an opportunity to contest, if applicable, the disclosure; (c) is required to be disclosed by any Party to legal counsels or financial advisors, provided that such legal counsels or financial advisors shall be bound by the confidentiality obligations similar to those set forth in this Section; or (d) is required to be disclosed to third parties in order to effect the terms of the Release. Disclosure of any confidential information by Ecological or any of Ecological's employees or personnel shall be deemed a disclosure of confidential information by such Party, which Party shall be held liable for breach of this provision. This Section shall survive the termination of this Agreement for any reason.

The Parties agree not to make any statements, written or oral, direct or indirect, to any person or entity or in any public forum, that in any way constitutes disparaging remarks, comments or statements concerning the other Party.

9. 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) electronic mail; or (ii) overnight courier on any party by the other party at the following addresses:

For Pecan Star: Carrie Osman, Esq.
Cacheaux, Cavazos & Newton, L.L.P.
Convent Plaza
333 Convent Street
San Antonio, Texas 78205-1348

With copy to: Dollar General, Legal Department
100 Mission Ridge
Goodlettsville, TN 97072

For Ecological:

Vineet Dubey, Esq.
Custodio & Dubey LLP
445 S. Figueroa St., Suite 2520
Los Angeles, CA 90071

The Parties shall notify the other party in writing of any change of address or electronic mail to which all notices and other communications shall be sent.

10. 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.

11. 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).

12. ENTIRE AGREEMENT

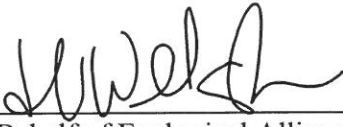
This Settlement Agreement contains the sole and entire agreement and understanding of the Parties with respect to the entire subject matter hereof, and all related prior discussions, negotiations, commitments, and understandings. No other agreements, oral or otherwise, exist to bind either of the Parties.

13. MODIFICATION

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

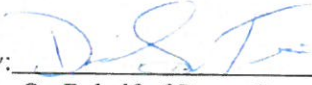
14. AUTHORIZATION

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: November 18, 2021 By:  On Behalf of Ecological Alliance, LLC	AGREED TO: Date: November __, 2021 By: _____ On Behalf of Pecan Star and Nut Corp.
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14. **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.

<p style="text-align: center;">AGREED TO:</p> <p>Date: November __, 2021</p> <p>By: _____ On Behalf of Ecological Alliance, LLC</p>	<p style="text-align: center;">AGREED TO:</p> <p>Date: November <u>18</u>, 2021</p> <p>By:  On Behalf of Pecan Star and Nut Corp.</p>
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