

SETTLEMENT AGREEMENT

1. INTRODUCTION

1.1 Parties

This Settlement Agreement is entered into by and between Dennis Johnson (“Johnson”) and T2 US, LLC (“T2”), with Johnson and T2 each individually referred to as a “Party” and collectively as the “Parties.” Johnson is an individual residing in the State of California who seeks to promote awareness of exposures to toxic chemicals and to improve human health by reducing or eliminating hazardous substances used in consumer products. Johnson alleges that T2 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 section 25249.6 *et seq.* (“Proposition 65”).

1.2 General Allegations

Johnson alleges that T2 manufactures, sells, and distributes for sale in California, ceramic mugs with exterior designs containing lead. Lead is listed pursuant to Proposition 65 as a chemical known to cause birth defects and other reproductive harm. Johnson alleges that T2 failed to provide the health hazard warning required by Proposition 65 for exposures to lead.

1.3 Product Description

The products covered by this Settlement Agreement are defined as ceramic, porcelain, and China drinkware with exterior designs that may contain lead including, but not limited to, the *T2 Koala Bear Ceramic Mug; UPC: 330462213146*, that are manufactured, sold, or distributed for sale in California by T2 (hereinafter referred to as “Products”).

1.4 Notice of Violation

On September 24, 2021, Johnson served Unilever Manufacturing (US), Inc., T2 US, LLC (collectively “Alleged Violators”), and the requisite public enforcement agencies with a 60-Day Notice of Violation, alleging that the Alleged Violators violated



Proposition 65 when they failed to warn their customers and consumers in California of the health hazards associated with exposures to lead from the Products. No public enforcer has commenced and is diligently prosecuting the allegations set forth in the Notices.

1.5 No Admission

T2 denies the material, factual, and legal allegations contained in the Notice and maintains that all of the products that it has sold and distributed in California, including the Products, have been, and are, in compliance with all laws including Proposition 65. Nothing in this Settlement Agreement shall be construed as an admission by T2 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 T2 of any fact, finding, conclusion, issue of law, or violation of law, such being specifically denied by T2. This Section shall not, however, diminish or otherwise affect T2's obligations, responsibilities, and duties under this Settlement Agreement.

1.6 Effective Date

For purposes of this Settlement Agreement, the term "Effective Date" shall mean February 18, 2022.

2. INJUNCTIVE RELIEF

2.1 Reformulation Standards

"Reformulated Products" are defined as those Products that: (a) contain no more than 90 parts per million ("ppm") lead in any decoration, colored artwork, designs and/or marking on the surface of the Products when analyzed pursuant to U.S. Environmental Protection Agency testing methodologies 3050B or equivalent methodologies utilized by federal or state agencies for the purpose of determining lead content in a solid substance; (b) yield no more than 1.0 microgram of lead on any surface sampled and analyzed pursuant to the NIOSH 9100 testing protocol; and (c) yield a result of non-detect (defined as no more than 25 ppm by weight of lead) for any decorations located in the upper 20



millimeters of a Product, i.e., the “Lip-and-Rim” area when analyzed pursuant to EPA testing methodologies 3050B and 6010B, or equivalent methodologies used by state and federal agencies to determine lead content in a solid substance.

If the decoration is tested after it is affixed to the Product, the percentage of the lead by weight must relate only to the decorating materials and must not include any quantity attributable to non-decorating material (e.g., ceramic substrate).

2.2 Reformulation/Warning Commitment

As of the Effective Date, T2 shall not manufacture, distribute, sell or offer the Products for sale in the State of California unless they are Reformulated Products pursuant to Section 2.1 or include a warning pursuant to Section 2.3.

2.3 Warnings

As of the Effective Date, all Products T2 manufactures, distributes, sells or offers for sale in California that do not qualify as Reformulated Products, shall be associated with a clear and reasonable warning pursuant to this Section and as authorized by safe harbor warning regulations at 27 CCR section 25601, *et seq.*¹ Consistent with the Proposition 65 safe harbor warning regulations, warnings for sales at brick-and-mortar locations shall be permitted on Products, on Product labels, via shelf tags that associate the Product(s) with the warning, or by point-of-sale warnings. T2 further agrees that the warning will be prominently placed with such conspicuousness when compared with other words, statements, designs or devices as to render it likely to be read and understood by an ordinary individual under customary conditions of purchase or use. For purposes of this Settlement Agreement, a clear and reasonable warning for the Products will consist of one of the following statements or any other Safe Harbor wording specifically permitted by 27 CCR section 25601, *et seq.*:

¹ Should these warning safe harbor provisions be amended, T2’s compliance with the amended version of the regulations shall constitute compliance with this Agreement.

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

OR

⚠ **WARNING:** This product can expose you to chemicals including lead, which is known to the State of California to cause birth defects or other reproductive harm. For more information go to www.P65Warnings.ca.gov

If T2 sells Products via its own proprietary internet website to customers located in California, the warning requirements of this section shall be satisfied if the foregoing warning or a clearly marked hyperlink using the word "**WARNING**" appears either: (a) on the same web page on which a Product is displayed and/or described; (b) on the same page as the price for the Product; (c) on one or more web pages displayed to a California purchaser prior to completion of the checkout process. Alternatively, a symbol consisting of a black exclamation point in a yellow or white equilateral triangle may appear adjacent to or immediately following the display, description, price, or checkout listing of the Product, if the warning statement appears elsewhere on the same web page in a manner that clearly associates it with the product(s) to which the warning applies.

The reformulation/warning commitments of Sections 2.2 and 2.3 shall not apply to products in T2's inventory as of the Effective Date, or to any Products already in the stream of commerce as of the Effective Date, as they have been included in the calculation of the civil penalty payment required pursuant to Section 3.1.

3. MONETARY SETTLEMENT TERMS

3.1 Civil Penalty Payment

Pursuant to Health and Safety Code section 25249.7(b)(2), and as consideration for the releases contained in Sections 4.1 through 4.5 below, T2 agrees to pay \$3,000 in civil penalties within five (5) business days of the Effective Date. The penalty payment will be allocated in accordance with California Health and Safety Code section 25249.12(c)(1) & (d), with 75% of the penalty amount remitted to the California Office of Environmental Health Hazard Assessment ("OEHHA") and the remaining 25% of the penalty amount paid to Johnson. T2 shall provide its payment via wire transfer,

instructions for which shall be provided by Voorhees & Bailey, LLP along with appropriate W-9 forms for all recipients of funds under this Agreement.

3.2 Attorneys' Fees and Costs

The Parties acknowledge that Johnson and his counsel offered to resolve this dispute without reaching terms on the amount of fees and costs to be reimbursed to them, thereby leaving the issue to be resolved after the material terms of the agreement had been settled. Shortly after the other settlement terms had been reached, T2 expressed a desire to resolve Johnson's attorneys' fees and costs. The Parties reached an accord on the compensation due to Johnson's counsel under general contract principles and the private attorney general doctrine codified at Code of Civil Procedure section 1021.5 for all work performed in this matter. Under these legal principles, within five (5) business days of the Effective Date, T2 agrees to pay \$18,500 for all fees and costs incurred investigating, bringing this matter to the attention of T2's management, and negotiating a settlement. T2 shall provide its payment via wire transfer, instructions for which shall be provided by Voorhees & Bailey, LLP along with appropriate W-9 forms for all recipients of funds under this Agreement. The payments set forth in Section 3 are the exclusive payments due between the Parties.

4. CLAIMS COVERED AND RELEASED

4.1 Johnson's Release of Proposition 65 Claims

Johnson, acting on his own behalf, releases T2, its parents, subsidiaries, affiliated entities under common ownership, predecessors, successors, directors, suppliers, manufacturers, officers, agents employees, attorneys, and each entity to whom T2 directly or indirectly distributes or sells Products, including, but not limited to, downstream distributors, wholesalers, customers, retailers, franchisees, cooperative members, and licensees, including Unilever Manufacturing (US), Inc. which was named in the Notice (collectively, "Releasees"), from all claims for violations of Proposition 65 for Products manufactured on or before the Effective Date based on unwarned exposures

to lead. This release includes Products in the stream of commerce prior to the Effective Date, as they have been included in the calculation of the civil penalty payment.

4.2 Johnson's Individual Release of Claims

Johnson, in his individual capacity only and not in his representative capacity, provides a 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 Johnson of any nature, character, or kind, whether known or unknown, suspected or unsuspected, limited to and arising out of alleged or actual exposures to lead in the Products manufactured, imported, distributed, or sold by T2 prior to the Effective Date. Nothing in this Section affects Johnson's right to commence or prosecute an action under Proposition 65 against a Releasee that does not involve the Products.

4.3 T2's Release of Johnson

T2, on its own behalf, and on behalf of its past and current agents, representatives, attorneys, successors, and/or assignees, hereby waives any and all claims against Johnson and his attorneys and other representatives, for any and all actions taken, or statements made by Johnson and his attorneys and other representatives, whether in the course of investigating claims, seeking to enforce Proposition 65 against it in this matter, or with respect to the Products.

4.4 General Release

The Parties acknowledge that the claims released in Sections 4.1, 4.2 and 4.3 above may include unknown claims, and the Parties 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.



Johnson, on behalf of himself only, and T2, on behalf of itself only, acknowledge and understand the significance and consequences of this specific waiver of California Civil Code section 1542.

4.5 Public Interest

The Parties understand that the commitments T2 has agreed to herein, and actions to be taken by T2 under this Settlement Agreement, would confer a significant benefit to the general public, as set forth in Code of Civil Procedure § 1021.5. As such, it is the intent of the Parties that to the extent any other private party initiates an action alleging a violation of Proposition 65 with respect to T2's failure to provide a Proposition 65 warning on the Products it has manufactured prior to the Effective Date, such private party action would not confer a significant benefit on the general public as to the Products addressed in this Settlement Agreement, provided that T2 is in material compliance with this Agreement. The Parties agree that the understandings and intentions expressed in this Section are applicable only to the Notice and the Products at issue and are not to be construed as a general understanding or intention with respect to other products manufactured, distributed, sold or offered for sale in California by any other entity.

5. SEVERABILITY

If, subsequent to the execution of this Settlement Agreement, any provision of this Settlement Agreement is deemed 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. In the event that Proposition 65 is repealed or is otherwise rendered inapplicable by reason of law generally, or as to the Products or the application of law to the Products as alleged in the Notice of Violation, then T2 may provide written notice to Johnson of any asserted change in the law and



shall have no further injunctive obligations pursuant to this Settlement Agreement with respect to, and to the extent that, the Products are so affected.

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 T2:

Will Wagner, Esq.
Arnold & Porter Kaye Scholer LLP
Three Embarcadero Center; 10th Floor
San Francisco, CA 94111-4024

For Johnson:

Dennis Johnson
c/o Voorhees & Bailey, LLP
535 Ramona Street; Suite 5
Palo Alto, CA 94301

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)

Johnson and his attorneys agree to comply with the reporting form requirements referenced in California Health and Safety Code section 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 agreed to all of the terms and conditions of this Settlement Agreement.

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.

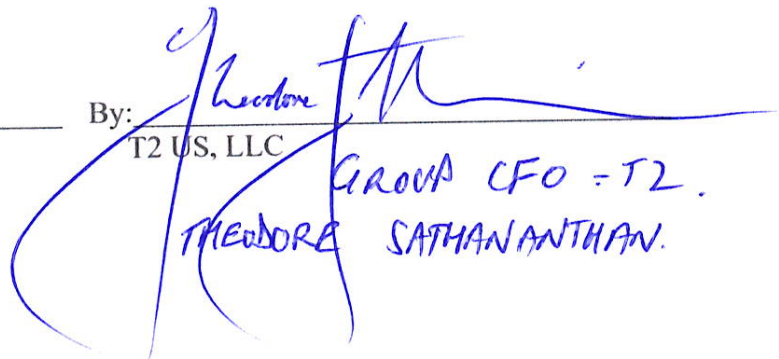
AGREED TO:

Date: February 18, 2022

By: 
DENNIS JOHNSON

AGREED TO:

Date: 18TH FEBRUARY, 2022.

By: 
T2 US, LLC
GROUP CFO = T2.
THEODORE SATHANANTHAN.