

SETTLEMENT AGREEMENT AND RELEASE

1. INTRODUCTION

1.1 Consumer Protection Group, LLC and Land ‘N’ Sea Distributing, Inc.

This Settlement Agreement and Release is entered into by and between Consumer Protection Group, LLC ("CPG"), on the one hand, and Land ‘N’ Sea Distributing, Inc. and its parent entities, affiliate entities, and divisions (“LNS”), on the other hand, with CPG and LNS collectively referred to as "Parties".

1.2 General Allegations

CPG alleges that LNS manufactured, distributed, and offered consumer products for sale namely – Brass Hose Nozzle in the State of California containing Lead and 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") (the “Claim”). On February 27, 1987, the Governor of California added Lead to the list of chemicals known to the State to cause developmental toxicity, male and female reproductive toxicity. On October 1, 1992, Lead was further listed to cause cancer.

1.3 Product Descriptions

The products that are covered by this Settlement Agreement is defined as Brass Hose Nozzle (“Subject Product”) that LNS directly or indirectly sold, offered for sale and/or distributed in California containing Lead.

1.4 Notice of Violations

On September 23, 2021 (AG No. 2021-02386), CPG served Seachoice Marine Products, Home Depot U.S.A., Inc. (“Home Depot”), and the requisite public enforcement

agencies eligible to initiate Proposition 65 actions on behalf of the People of the State of California, with documents entitled "60-Day Notice of Violation" (the "Notice") that provided Seachoice Marine Products, Home Depot, and such public enforcers with notice that LNS was allegedly in violation of California Health & Safety Code section 25249.6 for failing to warn consumers and customers that the Subject Product 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 Notices.

1.5 **No Admission**

By execution of this Settlement Agreement, LNS and its affiliates and subsidiaries, parents, directors, officers, agents, employees, attorneys, representatives, shareholders, successors, and assigns and each entity to whom LNS directly or indirectly distributes or sells the Subject Product, 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 for the allegations settled and compromised, nothing in this Settlement Agreement shall prejudice, waive, or impair any

right, remedy, argument, or defense that CPG or LNS, may have against one another in any other pending legal proceeding as to allegations unrelated to the dispute or claims released herein. CPG represents that, other than the present Claim, CPG has no lawsuit, claim, charge, complaint, or demand of any kind whatsoever currently pending against LNS with respect to the Subject Products. CPG represents and warrants that it is not currently aware of any potential Proposition 65 claim against LNS or that CPG currently intends to make demands or bring litigation based against LNS based on Proposition 65, as of the date of the execution of this agreement. Notwithstanding the allegations in the Notices, Releasees maintain that they have not knowingly manufactured or distributed, or caused to be manufactured or distributed, the Subject Products for sale in California 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 is fully executed by the parties.

2. **INJUNCTIVE RELIEF: WARNING**

2.1 **Commitment to Reformulate or Warn**

As of 30 days after the Effective Date, LNS has agreed to have performed best efforts to not sell or offer the Subject Product for sale in the State of California unless they

are Reformulated Products as outlined in Section 2.2 or LNS provides warnings as outlined in Section 2.3.

2.2 Reformulation Standards


“Reformulated Products” are defined as those Products containing Lead in concentration no more than 100 parts per billion (ppb).

2.3 Warning

The warning requirements set forth in this Section 2 shall apply only to Subject Product that LNS distributes, markets, sells, or ships for sale in the State of California after the Effective Date that have not been reformulated as set forth in Section 2.2.

2.4 Warning Language

Any warnings provided pursuant to this Section 2 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, LNS shall have an option to provide any one of the following Proposition 65 warnings:

 **WARNING:** This product can expose you to Lead, 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 Product.

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

In settlement of all the claims referred to in this Settlement Agreement and Release, LNS 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 and CPG's portion of any penalty payment made under this Settlement Agreement and Release.

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, LNS shall reimburse CPG's counsel for fees and costs, incurred as a result of investigating and bringing this matter to LNS attention. LNS shall pay Consumer Protection's counsel thirty-seven thousand dollars (\$37,000.00) for all attorneys' fees, expert and investigation fees, and related costs associated with this matter and the Notices.

5. **PAYMENT INFORMATION**

Within fourteen (14) days of the Effective Date, LNS shall make a total payment of forty thousand dollars (\$40,000.00) for the civil penalties and attorney's fees/costs to Plaintiff's counsel, Blackstone Law APC by wire transfer. Other than this payment, each

side is to bear its own attorneys' fees and costs. Plaintiff's counsel will provide LNS with wire instructions.

6. RELEASE OF ALL CLAIMS

6.1 Release of LNS, 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, representatives, attorneys, successors and/or assignees, hereby waives, releases, and discharges all rights to institute or participate in, directly or indirectly, any form of legal action of any kind whatsoever, including any monetary, injunctive or declaratory relief relating thereto, and releases all claims relating to the Subject Product, 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) LNS (b) each of LNS downstream distributors (including, Home Depot), wholesalers, vendors, licensors, licensees, auctioneers, retailers, franchisees, dealers, shareholders, cooperative members, customers, owners, purchasers, users, and (c) LNS parent companies, corporate affiliates, subsidiaries, and their respective officers, directors, attorneys, representatives, shareholders, 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 LNS and the Releasees with regards to the Subject Products. 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 release in this section shall have no force or effect until payments for the full amount set forth in above Sections 3, 4 and 5 are paid in full to Blackstone Law, APC by LNS.

6.2 **LNS Release of Consumer Protection Group, LLC.**

LNS 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

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 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: April 12 , 2023



By: _____
On Behalf of Consumer Protection
Group, LLC

AGREED TO:

Date: April 11 , 2023



By: _____
On Behalf of Land 'N' Sea Distributing, Inc.