

SETTLEMENT AGREEMENT

1. INTRODUCTION

1.1 Consumer Protection Group, LLC and F21 Opco, LLC

This Settlement Agreement is entered into by and between Consumer Protection Group, LLC ("CPG"), on the one hand, and F21 Opco, LLC ("F21"), on the other hand, with CPG and F21 collectively referred to as "Parties".

1.2 General Allegations

CPG alleges that F21 manufactured, distributed, and offered a consumer product for sale a White Clear Flip Flop including but not limited to "Forever 21," "Shoes/Flip Flop" White/Clear" \$4.99" "Made in China" "3-C/SS" "forever21.com" "UPC No. 004769780204" (collectively "Footwear") in the State of California containing Di-n-butyl phthalate ("DBP") and that such product 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"). On December 2, 2005, the Governor of California added DBP to the list of chemicals known to the State to cause developmental, male, and female toxicity.

1.3 Product Description

The products covered by this Settlement Agreement are defined as Flip Flop not limited to a particular color ("Subject Product") that F21 sold, offered for sale and/or distributed in California containing DBP.

1.4 **Notice of Violations**

On December 5, 2023, CPG served F21 Opco, LLC 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 F21 and such public enforcers with notice that the Subject Product which was sold, offered for sale and/or distributed in California by F21 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 DBP. 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, F21 and its affiliates and subsidiaries, parents, directors, officers, agents, employees, attorneys, representatives, shareholders, successors, and assigns and each entity to whom F21 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 F21, 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 manufactured or distributed, or caused to be manufactured or distributed, the Subject Product 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 90 days after the Effective Date, F21 shall not sell or offer the Subject Product for sale in the State of California unless they are Reformulated Product as outlined in Section 2.2 or F21 provides warnings as outlined in Section 2.3 of this agreement.

2.2 **Reformulation Standard**


“Reformulated Product” is defined as Product containing DBP in concentration no more than 0.1 percent (1,000 parts per million) when analyzed pursuant to U.S. Environmental Protection Agency testing methodologies 3580A and 8270C or any other methodology utilized by federal or state regulatory agencies for the purpose of determining the DBP content in a solid substance.

2.3 **Warning**

The warning requirements set forth in this Section 2 shall apply only to Subject Product that F21 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 must 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, F21 shall have an option to provide any one of the following Proposition 65 warnings:

 **WARNING:** This product can expose you to Di-n-butyl phthalate (DBP), which is known to the State of California to cause developmental, male, and female toxicity. For more information go to www.P65Warnings.ca.gov.

Or

 **WARNING:** Developmental Toxicity www.P65Warnings.ca.gov

This shall constitute compliance with Proposition 65 with respect to the chemical in the Subject Product. The provisions of Section 2 shall not apply to any of the Subject Product that are already in the stream of commerce. Where a warning label is used for a Subject Product which exceeds 0.1% of DBP, includes consumer information as defined by California Code of Regulations title 27 §25600.1(c) in a language other than English, the warning must also be provided in that language in addition to English. Should F21 sell or distribute any Subject Products that exceeds 0.1% of DBP through the internet the

warning will be posted in the manner provided for with respect to internet sales, as provided for in 27 CCR sections 25601 and 25602, or as either section may be subsequently amended.

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

In settlement of all the claims referred to in this Settlement Agreement, F21 shall pay a total of two-thousand five hundred dollars (\$2,500.00) 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.

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, F21 shall reimburse CPG's counsel for fees and costs, incurred as a result of investigating and bringing this matter to F21's attention. F21 shall pay Consumer Protection's counsel thirty-six thousand dollars (\$36,000.00) 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 and upon receipt of wire transfer instructions and IRS W-9 forms for the payment, F21 shall make a total payment of thirty-eight thousand five hundred dollars (\$38,500.00) for the civil penalties and attorney's fees/costs to Plaintiff's counsel, Blackstone Law APC by wire transfer. Plaintiff's counsel will provide F21 with wire instructions and provide IRS W-9 form for the payments. Other than payment of the penalties and reimbursement of fees and costs, the Parties are to bear their own attorneys' fees and costs.

6. SELL-THROUGH PERIOD.

Notwithstanding anything else in this Settlement Agreement, the Subject Products that are currently in commerce in California or which are manufactured, packaged, or put into commerce in California within 90 days of the Effective Date shall be subject to the release of liability pursuant to this Settlement Agreement, without regard to when such Subject Products were, or are in the future, distributed or sold to customers, such that compliance with the warnings or reformulation called for in the preceding paragraphs shall not be required for such Products.

7. RELEASE OF ALL CLAIMS

7.1 Release of F21, 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 all rights to institute or participate in, directly

or indirectly, any form of legal action 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) F21 (b) each of F21 downstream distributors, wholesalers, vendors, licensors, licensees, auctioneers, retailers, franchisees, dealers, shareholders, cooperative members, customers, owners, purchasers, users, and (c) F21 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 F21 and the Releasees with regards to the Subject Product. 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 F21.

7.2 **F21 Release of Consumer Protection Group, LLC.**

F21 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 Product. F21 represents that its signatory to this Settlement Agreement has full authority to enter into and legally bind F21 to this Settlement Agreement.

8. **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 Product, then F21 shall have no further obligations pursuant to this Settlement

Agreement, but shall have no recourse to claw back payments already made in accordance with Section 3, 4 and 5 of this Settlement Agreement.

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) first-class, (registered or certified mail) return receipt requested; or (ii) overnight courier on any party by the other party at the following addresses:

For F21: John J. Allen, Esq.
 Allen Matkins Leck Gamble Mallory & Natsis LLP
 865 S. Figueroa St, Suite 2800
 Los Angeles, CA 90017

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

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.

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)

CPG agrees to comply with the reporting 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 the 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:	AGREED TO:
Date: May 31, 2024	Date: May 31, 2024
By:  On Behalf of Consumer Protection Group, LLC	By:  3C19500986F2449... On Behalf of F21 Opco, LLC