

SETTLEMENT AND RELEASE AGREEMENT

1. INTRODUCTION

1.1. Green Initiative, LLC and Daskocil Manufacturing Company, Inc.

This Settlement Agreement is entered into by and between Green Initiative, LLC ("Initiative"), on the one hand, and Daskocil Manufacturing Company, Inc. ("Daskocil"), on the other hand, with Initiative and Daskocil collectively referred to as the "Parties."

1.2. General Allegations

Initiative alleges that Daskocil manufactured and/or distributed and/or offered for sale in the State of California tie out attaches, that allegedly contain Di(2-ethylhexyl)phthalate [DEHP] (the "Product") 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.* ("Proposition 65"). California has identified and listed DEHP 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 Product that is covered by this Settlement Agreement is defined as tie out attaches that allegedly contain DEHP that Daskocil or its affiliates have sold, offered for sale or distributed in California.

1.4. Notice of Violation

On November 3, 2023, Initiative served Daskocil, Burlington Coat Factory of Texas, Inc., 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" ("Notice") that provided Daskocil and such public enforcers with notice that Daskocil

was allegedly in violation of California Health & Safety Code section 25249.6 for failing to warn consumers and customers that the Product 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

The Parties enter into this Settlement Agreement to settle disputed claims between them as set forth herein and in the Notice concerning Daskocil's compliance with Proposition 65. Specifically, Daskocil denies the material factual and legal allegations contained in Initiative's Notice and maintains that all Product that it has manufactured for sale and distribution in California, including the Product, 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 Daskocil 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 Daskocil of any fact, finding, conclusion, issue of law, or violation of law, such being specifically denied by Daskocil. However, nothing in this section shall diminish or otherwise affect the obligations, responsibilities, and duties of Daskocil 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: WARNING**

2.1. **Warning**


Product shall be accompanied by a warning as described in Section 2.2 below, no later than 180 days following the Effective Date unless the Product contains less than 0.1 percent (1,000 parts per million) DEHP when analyzed pursuant to U.S. Environmental Protection Agency testing methodologies 3580A and 8270C or any other methodology utilized by federal or state agencies for the purpose of determining the DEHP content in a solid substance.


. The warning requirements set forth in Section 2.2 below shall apply only to Product that are distributed, marketed, sold or shipped for sale in the State of California. The warning requirement shall not apply to Product that are already in the stream of commerce as of the Effective Date or that Dorskocil places into the stream of commerce as of the Effective Date.

2.2. **Warning Language**

Where required, Dorskocil shall provide Proposition 65 warnings as follows:

(a) Dorskocil may use any of the following warning statements or other similar warning statements in full compliance with this Section:

(1)  **WARNING:** This product can expose you to Di(2-ethylhexyl)phthalate [DEHP], which is known to the State of California to cause cancer and birth defects or other reproductive harm. For more info go to www.P65Warnings.ca.gov.

(3)  **WARNING:** Cancer and Reproductive Harm – www.P65Warnings.ca.gov.

(b) Where the sign, label or shelf tag for the product is not printed using the color yellow, the symbol may be printed in black and white.

(c) 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 and other warning labels or language conveying a warning may also be used.

(d) Foreign Languages. Additionally, if a Covered Product's labeling is provided in a language other than English, the warning will be provided in that language in addition to English. Warnings in other languages in addition to English may be provided via hyperlink taking the customer to a webpage containing the warning language or another compliant warning. Online Sales. If Doscocil sells Products via an internet website it controls to customers located in California, the warning requirements of this section shall be satisfied if the foregoing 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 purchase during the checkout process; or (d) via a hyperlink taking the customer to a separate page containing the warning language, provided that the hyperlink appears on the same page as either the product description or product price are displayed, or appears prior to completion of the sale at checkout. 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.

(e) If Proposition 65 warnings for DEHP should no longer be required, Dorskocil shall have no further obligations pursuant to this Settlement Agreement.

(f) In the event that the Office of Environmental Health Hazard Assessment promulgates one or more regulations requiring or permitting warning text and/or methods of transmission different than those set forth above, Dorskocil shall be entitled to use, at their discretion, such other warning text and/or method of transmission without being deemed in breach of this Agreement.

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

In settlement of all the claims referred to in this Settlement Agreement, Dorskocil shall pay a total of \$100 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 Initiative. Initiative'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 Initiative and its counsel under the private attorney general doctrine and principles of contract law. Under these legal principles, Dorskocil shall reimburse Initiative's counsel for fees and costs, incurred as a result of investigating and bringing this matter to Dorskocil's attention. Dorskocil shall pay Initiative's

counsel \$8,400 for all attorneys' fees, expert and investigation fees, and related costs associated with this matter and the Notice.

5. PAYMENT INFORMATION

Within fifteen (15) days of the Effective Date, Dorskocil shall make a total payment of Eight Thousand Five Hundred Dollars (\$8,500) for the civil penalties and attorney's fees / costs by wire transfer to Plaintiff's counsel Custodio & Dubey LLP:

Bank: Bank of America, N.A.

Routing No.: 026009593

Account No.: 325149324377

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 Dorskocil, 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, Initiative, 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 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) Dorskocil, (b) each of Dorskocil's downstream distributors, wholesalers, vendors, licensors, licensees, auctioneers, retailers, franchisees, dealers, shareholders, cooperative

members, customers, owners, purchasers, users, including but not limited to Burlington Coat Factory of Texas, Inc., and (c) Dorskocil's parent companies, corporate affiliates, subsidiaries, and their respective officers, directors, attorneys, representatives, shareholders, agents, and employees, and sister and parent entities (collectively "Releasees").

Initiative also, in its capacity, 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 Dorskocil and the Releasees. Initiative 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.

Initiative, 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.

6.2. Doskocil's Release of Initiative

Doskocil waives any and all claims against Initiative, its attorneys and other representatives, for any and all actions taken or statements made (or those that could have been taken or made) by Initiative 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 Product.

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 Product, then Doskocil shall have no further obligations pursuant to 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.) email; or (iii) overnight courier on any party by the other party at the following addresses:

For Doskocil: Michael Murphy
Global IP Counselors, LLP
1233 Twentieth Street, NW, Suite 600
Washington, D.C. 20036

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

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)

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

11. CONFIDENTIALITY

The Parties agree to keep this Settlement Agreement and its terms confidential other than any required disclosure to OEHHA. The Parties will not issue any press releases about 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.

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.

<p style="text-align: center;">AGREED TO:</p> <p>Date: March <u>5</u>, 2024</p> <p>By: <u></u> On Behalf of Green Initiative, LLC</p>	<p style="text-align: center;">AGREED TO:</p> <p>Date: March <u>7</u>, 2024</p> <p>By: <u></u> On Behalf of Doskocil Manufacturing Company, Inc.</p>
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