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8 Santa Cruz, California 95061
9 Telephone: (831) 454-8216
10 Email: evenson@ecologylaw.com

9 Counsel for Plaintiff
10 ECOLOGICAL RIGHTS FOUNDATION

11 SUPERIOR COURT OF THE STATE OF CALIFORNIA
12 COUNTY OF SAN FRANCISCO

12 ECOLOGICAL RIGHTS FOUNDATION,
13
14 Plaintiff,
15 v.
16 MONOPRICE, INC., and DOES 1 through 10,
17 inclusive
18 Defendants.

FILED
San Francisco County Superior Court

MAR 15 2021

CLERK OF THE COURT
BY: 
Deputy Clerk

Case No. CGC-20-582924

[PROPOSED] CONSENT JUDGMENT
AS TO MONOPRICE, INC.

19 **1. INTRODUCTION**

20 1.1 On April 3, 2020, the Ecological Rights Foundation (“ERF”) acting on behalf of
21 itself and the general public, filed a First Amended Complaint for civil penalties and injunctive
22 relief (“Complaint”) in San Francisco Superior Court, Case No. CGC-19-580009 against
23 defendant MONOPRICE, INC. (also referred to herein as “MONOPRICE” or “Defendant”).
24 The Complaint alleges, among other things, that Defendant violated provisions of the Safe
25 Drinking Water and Toxic Enforcement Act of 1986, Health and Safety Code Sections 25249.5,
26 *et seq.* (“Proposition 65”) by failing to give clear and reasonable warnings to those residents of
27 California who use filaments incorporating a styrene monomer including acrylonitrile-butadiene-
28

1 styrene (ABS) filaments, polycarbonate ABS (PC-ABS) filaments and high impact polystyrene
2 (HIPS) filaments in the operation of 3d printers or 3d pens, and 3D printers intended to be used
3 with filaments incorporating a styrene monomer. The Complaint further alleges that use of such
4 products expose people to Styrene, a chemical known to the State of California to cause cancer.
5 The Complaint was based upon 60-Day Notice of Violation letters (“60-Day Notices”), sent by
6 ERF to MONOPRICE, the California Attorney General, all District Attorneys, and all City
7 Attorneys with populations exceeding 750,000.

8 For purposes of this settlement and Consent Judgment, “Covered Products” means (1)
9 the following MONOPRICE filaments that the Complaint alleges incorporate a styrene
10 monomer: ABS filaments, PC-ABS filaments and HIPS filaments which are sold, offered for
11 sale or distributed by MONOPRICE in California for use in 3d printing, and (2) MONOPRICE
12 3D printers that can be used with filaments incorporating a styrene monomer.

13 Defendant is a business that employs more than ten persons, and manufactures,
14 distributes, and sells Covered Products. The Complaint alleges that Covered Products that
15 Defendant distributes, markets and sells - when heated in the operation of 3d printers or 3d pens -
16 release Styrene into the air. The Complaint further alleges that people using the Covered
17 Products, and others standing in the same room, inhale styrene in the normal course of use.
18 Pursuant to Health and Safety Code Section 25249.8, Styrene is a chemical known to the State of
19 California to cause cancer. ERF alleges that Covered Products that are manufactured, distributed
20 or sold by Defendant for use in California require a warning under Proposition 65, pursuant to
21 Health and Safety Code Section 25249.6. For purposes of this Consent Judgment, ERF and
22 MONOPRICE (each a “Party” and collectively, the “Parties”) stipulate that this Court has
23 jurisdiction over the allegations of violations contained in the Complaint and personal
24 jurisdiction over MONOPRICE, that venue is proper in the County of San Francisco, and that
25 this Court has jurisdiction to enter this Consent Judgment as a full settlement and resolution of
26 the allegations contained in the Complaint.

27 1.2 This Consent Judgment resolves claims that are denied and disputed. The parties
28 enter into this Consent Judgment pursuant to a full and final settlement of any and all claims

1 alleged in the Complaint between the parties for the purpose of avoiding prolonged litigation.
2 This Consent Judgment shall not constitute an admission with respect to any material allegation
3 of the Complaint, each and every allegation of which MONOPRICE denies, nor may this
4 Consent Judgment, or compliance with it, be used as evidence of any wrongdoing, misconduct,
5 culpability or liability on the part of MONOPRICE.

6 1.3 The term "Effective Date" means the date that this Consent Judgment is entered by
7 the Court.

8 **2. INJUNCTIVE RELIEF**

9 **2.1 Warnings on Covered Products**

10 (a) Within 45 days of the Effective Date, for all Covered Products manufactured,
11 distributed or offered for sale in California, MONOPRICE shall include the following warning
12 statements for filaments and 3D printers:

13 **⚠ WARNING:** This Filament - when used in the operation of 3D Printers or 3D
14 Pens - can expose you and others in the same room to styrene, a chemical known
15 to the State of California to cause cancer. www.P65Warnings.ca.gov.

16 **ALWAYS OPERATE THIS PRODUCT IN A WELL-VENTILATED AREA.**

17 **⚠ WARNING:** Operation of this product with filaments that include a styrene
18 monomer (ABS / HIPS / PC-ABS) can expose you and others in the same room to
19 styrene, a chemical known to the State of California to cause cancer.
www.P65Warnings.ca.gov

20 **ALWAYS OPERATE THIS PRODUCT IN A WELL-VENTILATED AREA.**

21 (b) MONOPRICE shall affix the Section 2.1(a) warning on the Covered Products or
22 their packaging. MONOPRICE shall also ensure that the Section 2.1(a) warning statement is
23 included in any online material promoting the Covered Products which may be viewed by
24 consumers in California - on each Covered Products' display page or by otherwise prominently
25 displaying the warning statement to the purchaser prior to completing the purchase (to the extent
26 Covered Products are made available online by MONOPRICE or its authorized distributor(s).
27 The warnings shall be displayed with such conspicuousness, as compared with other words,
28 statements, designs, or devices as to render them likely to be read and understood by an ordinary

1 individual under customary conditions of purchase or use. Warnings may be contained in the
2 same section of the instruction booklets that contain other safety warnings concerning the use of
3 the Covered Products. The type size of the warning must be legible, and no smaller than any
4 other warning provided with the Covered Products, and in no case less than twelve (12) point
5 font.

6 The words "WARNING" and "ALWAYS USE THIS PRODUCT IN A WELL-
7 VENTILATED AREA" shall be in upper case letters and bold as in the above warnings
8 in this paragraph. The warning symbol to the left of the word "WARNING" must be a
9 black exclamation point in a yellow equilateral triangle with a black outline.

10 2.2 Notice to Downstream Releasees and Retailers

11 No later than 14 days following the Effective Date, MONOPRICE shall provide
12 notice to all its distributors, wholesalers, direct customers, retailers, franchisees,
13 cooperative members, and licensees that sold Covered Products in California during the
14 past three years ("Downstream Releasees and Retailers") as follows:

15 This is to inform you that your California sales inventory may include the below
16 MONOPRICE products which may expose users to Styrene, a chemical known to the
17 State of California to cause cancer.

18 Part No.	Description
19 10545	Monoprice Premium 3D Printer Filament ABS 1.75MM 1kg/spool Black
20 10546	Monoprice Premium 3D Printer Filament ABS 1.75MM 1kg/spool White
21 10547	Monoprice Premium 3D Printer Filament ABS 1.75MM 1kg/spool Red
22 10548	Monoprice Premium 3D Printer Filament ABS 3MM 1kg/spool Black
23 10549	Monoprice Premium 3D Printer Filament ABS 3MM 1kg/spool White
24 10550	Monoprice Premium 3D Printer Filament ABS 3MM 1kg/spool Red
25 11040	Monoprice Premium 3D Printer Filament ABS 1.75MM 1kg/spool Blue
26 11042	Monoprice Premium 3D Printer Filament ABS 1.75MM 1kg/spool Bright Orange
27 11046	Monoprice Premium 3D Printer Filament ABS 3MM 1kg/spool Blue
28 11047	Monoprice Premium 3D Printer Filament ABS 3MM 1kg/spool Bright Green
	11048 Monoprice Premium 3D Printer Filament ABS 3MM 1kg/spool Bright Orange
	11548 Monoprice Premium 3D Printer Filament ABS 1.75MM 1kg/spool Crystal Clear
	11549 Monoprice Premium 3D Printer Filament ABS 1.75MM 1kg/spool Ultra Violet
	11550 Monoprice Premium 3D Printer Filament ABS 1.75MM 1kg/spool Fluorescent Yellow
	11776 Monoprice Premium 3D Printer Filament ABS 1.75MM 1kg/spool Gray
	11777 Monoprice Premium 3D Printer Filament ABS 1.75MM 1kg/spool Pink
	12297 Monoprice Premium 3D Printer Filament ABS 1.75MM 1kg/spool Gold

Part No.	Description
12298	Monoprice Premium 3D Printer Filament ABS 1.75MM 1kg/spool Silver
12301	Monoprice Premium 3D Printer Filament HIPS Dissolvable 1.75MM 1kg/spool White
14370	Monoprice Premium 3D Printer Filament ABS 1.75MM .5kg/Spool Natural
14371	Monoprice Premium 3D Printer Filament ABS 1.75MM .5kg/Spool Peak Green
14372	Monoprice Premium 3D Printer Filament ABS 1.75MM .5kg/Spool Pine Green
14373	Monoprice Premium 3D Printer Filament ABS 1.75MM .5kg/Spool Magenta
14374	Monoprice Premium 3D Printer Filament ABS 1.75MM .5kg/Spool Light Blue
14375	Monoprice Premium 3D Printer Filament ABS 1.75MM .5kg/Spool Brown
15841	Monoprice MP Select ABS Plus+ Premium 3D Filament 0.5kg 1.75mm Black
15842	Monoprice MP Select ABS Plus+ Premium 3D Filament 0.5kg 1.75mm White
15843	Monoprice MP Select ABS Plus+ Premium 3D Filament 0.5kg 1.75mm Natural
15844	Monoprice MP Select ABS Plus+ Premium 3D Filament 0.5kg 1.75mm Blue
15845	Monoprice MP Select ABS Plus+ Premium 3D Filament 0.5kg 1.75mm Red
15846	Monoprice MP Select ABS Plus+ Premium 3D Filament 0.5kg 1.75mm Peak Green
15847	Monoprice MP Select ABS Plus+ Premium 3D Filament 0.5kg 1.75mm Gray
15848	Monoprice MP Select ABS Plus+ Premium 3D Filament 1kg 1.75mm Black
15849	Monoprice MP Select ABS Plus+ Premium 3D Filament 1kg 1.75mm White
15850	Monoprice MP Select ABS Plus+ Premium 3D Filament 1kg 3mm Black
15851	Monoprice MP Select ABS Plus+ Premium 3D Filament 1kg 3mm White
16206	Monoprice MP Select ABS Plus+ Premium 3D Filament 0.5kg 1.75mm Yellow
16207	Monoprice MP Select ABS Plus+ Premium 3D Filament 0.5kg 1.75mm Orange
16208	Monoprice MP Select ABS Plus+ Premium 3D Filament 0.5kg 1.75mm Pink
16209	Monoprice MP Select ABS Plus+ Premium 3D Filament 0.5kg 1.75mm Purple
16210	Monoprice MP Select ABS Plus+ Premium 3D Filament 0.5kg 1.75mm Silver
13860	Monoprice Maker Select 3D Printer v2
15365	Monoprice MP Select Mini 3D Printer V2 White
15710	Monoprice Maker Ultimate 3D Printer - MK11 DirectDrive Extruder / 24V Power System
15711	Monoprice Maker Select Plus 3D Printer
21666	Monoprice MP Mini Delta 3D Printer
21711	Monoprice MP Select Mini 3D Printer V2 Black
30525	MP Fully Enclosed 150 3D Printer Ultra Quiet Assisted Leveling Easy Wi-Fi Touchscreen (Inventor II)
30526	MP Fully Enclosed Dual Extruder 3D Printer Easy Wi-Fi Touchscreen Camera (Inventor I)
30527	MP Fully Enclosed 300 3D Printer Easy Wi-Fi Touch Screen Large Build Size Assisted Leveling (Guider II)
30993	Monoprice MP Delta Pro 3D Printer 32-bit ARM Processor Auto Level Silent Drive Touchscreen Fully Assembled
33012	Monoprice MP Select Mini Pro 3D Printer Aluminum with Auto Leveling Heated Removable Bed Touch Screen and Wi-Fi
33820	Monoprice MP Voxel 3D Printer, Fully Enclosed, Easy Wi-Fi, Touchscreen, 8GB On-Board Memory, Polar Cloud Enabled
34437	MP10 300x300mm 3D Printer Magnetic Heated Build Plate Resume Print Function Assisted Leveling and Touchscreen
34438	MP10 Mini 200x200mm 3D Printer. Magnetic Heated Build Plate, Resume Printing

Part No.	Description
	Function, Assisted Leveling, and Touchscreen
35880	Monoprice MP Voxel 3D Printer Fully Enclosed Assisted Level Easy Wi-Fi Touchscreen 8GB On-Board Memory BLACK
35881	Monoprice MP Voxel 3D Printer Fully Enclosed Assisted Level Easy Wi-Fi Touch Screen 8GB On-Board Memory WHITE

The notice provided by MONOPRICE pursuant to this section shall also instruct the Downstream Releasees and Retailers that, unless the Covered Products already bear a Proposition 65-compliant warning, they must attach stick on labels to the front of Covered Products in the inventory of the Downstream Releasees and Retailers, and instruct that the Section 2.1(a) warning statement is included in any online material by Downstream Distributors and Retailers promoting Covered Products which may be viewed by consumers in California.

The stick-on labels provided by MONOPRICE shall comply with Sections 2.1(a) and 2.1(b) above. MONOPRICE shall provide such stick-on labels in sufficient quantity and for sufficient duration to meet the inventory needs of each Downstream Releasee and Retailer.

3. SETTLEMENT PAYMENTS

3.1 Civil Penalties and Payments In Lieu of Penalties

Pursuant to Health and Safety Code section 25249.7(b)(2), MONOPRICE shall pay \$6,000 in civil penalties. 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 Ecological Rights Foundation. Defendant will provide these payments in two checks for the following amounts made payable to: 1) “OEHHA” in the amount of \$4,500.00 and 2) “Ecological Rights Foundation” in the amount of \$1,500.00.

The payments to OEHHA and Ecological Rights Foundation shall be sent no later than 10 days after the Effective Date. All payments shall be sent via USPS certified mail, return receipt requested, to the following addresses:

All payments to Ecological Rights Foundation shall be delivered to:

1 Fredric Evenson
2 109 Quarry Lane
3 Santa Cruz, CA 95060

4 The payment to OEHHA shall be delivered to:

5 Mike Gyurics
6 Fiscal Operations Branch Chief
7 Office of Environmental Health Hazard Assessment
8 P.O. Box 4010
9 Sacramento, CA 95812-4010

10 **3.2 Attorneys' Fees and Litigation Costs**

11 MONOPRICE shall reimburse ERF's counsel for \$64,000 in ERF's fees and costs
12 incurred as a result of investigating and bringing this matter to MONOPRICE's attention,
13 and negotiating a settlement in the public interest. The payment shall be made payable to
14 "Brian Gaffney Attorney Client Trust Account" and sent no later than fourteen (14) days
15 after the Effective Date via USPS certified mail, return receipt requested, to the following
16 address:

17 LAW OFFICES OF BRIAN GAFFNEY, A Professional Corporation
18 446 Old County Road, Suite 100-310
19 Pacifica, California 94044

20 **4. RELEASE OF ALL CLAIMS**

21 **4.1 Release of MONOPRICE**

22 ERF acting on its own behalf and on behalf of its past and current agents, representatives,
23 attorneys, successors and/or assignees (all of whom, collectively, are defined as the "ERF
24 Releasers"), releases MONOPRICE, and its parents, subsidiaries, affiliated entities, marketplaces
25 directors, officers, agents, employees, attorneys and each entity to whom MONOPRICE directly
26 or indirectly distributes or sells the Covered Products, including but not limited to, downstream
27 distributors, wholesalers, customers, retailers, franchisees, cooperative members and licensees
28 and all other upstream and downstream entities in the distribution chain, and the predecessors,
successors, and assigns of any of them (collectively, the "Releasees"), from all claims raised in
the 60-Day Notices and in the Complaint through the Effective Date based on alleged failure to
provide Proposition 65 warnings about alleged exposures to Styrene from use of the Covered

1 Products. This settlement is a full, final and binding resolution of all claims that were or could
2 have been asserted against MONOPRICE, and/or the Releasees based on the 60-Day Notices
3 alleging failure to provide Proposition 65 warnings in connection with alleged exposures to
4 Styrene contained in the Covered Products.

5 In further consideration of the promises and agreements herein contained, and for the
6 payment to be made pursuant to Section 3 above, the ERF Releasors provide a release herein
7 which shall be effective as a full and final accord and satisfaction, as a bar to all actions, causes
8 of action, obligations, costs, expenses, attorneys' fees, damages, losses, claims, liabilities and
9 demands against MONOPRICE and/or any of the Releasees of any nature, character, or kind,
10 limited to and arising out of claims that were or could have been asserted against MONOPRICE
11 and/or the Releasees based on the 60-Day Notices for failure to provide warnings for the alleged
12 exposure to Styrene from use of the Covered Products.

13 **4.2 MONOPRICE's Release of ERF**

14 MONOPRICE, on behalf of itself and the Releasees, hereby waives any and all claims
15 against ERF and the ERF Releasors for any and all actions taken or statements made (or those
16 that could have been taken or made) by ERF and/or its attorneys and other representatives,
17 whether in the course of investigating claims or otherwise seeking to enforce Proposition 65
18 against it in this matter or with respect to the Covered Products.

19 **4.3 California Civil Code Section 1542**

20 It is possible that other claims not known to the Parties arising out of the facts alleged in
21 the Notice and relating to the Covered Products will develop or be discovered. ERF on behalf of
22 itself only, on one hand, and MONOPRICE, on the other hand, acknowledge that this Agreement
23 is expressly intended to cover and include all such claims up through the Effective Date,
24 including all rights of action therefor. The Parties acknowledge that the claims released in
25 Sections 4.1 and 4.2 above may include unknown claims, and nevertheless waive California
26 Civil Code section 1542 as to any such unknown claims. California Civil Code section 1542
27 reads as follows:

28 A general release does not extend to claims that the creditor or releasing

1 party does not know or suspect to exist in his or her favor at the time of
2 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.

3 ERF and MONOPRICE each acknowledge and understand the significance and
4 consequences of this specific waiver of California Civil Code section 1542.

5 **5. ENFORCEMENT OF JUDGMENT**

6 5.1 The terms of this Consent Judgment shall be enforced exclusively by the parties
7 hereto. Notwithstanding section 4.1 *supra*, the parties may, by noticed motion or order to show
8 cause before the Superior Court of San Francisco County, giving the notice required by law,
9 enforce the terms and conditions contained herein. In the event that a dispute arises with respect
10 to any of the provisions of this Consent Judgment, the Parties shall meet and confer within 10
11 days after either Party receives written notice of an alleged violation of this Agreement. In any
12 proceeding brought by either party to enforce this Consent Judgment, such party may seek
13 whatever fines, costs, penalties or remedies as may be provided by law for any violation of
14 Proposition 65 or this Consent Judgment.

15 **6. MODIFICATION OF JUDGMENT**

16 6.1 This Consent Judgment may be modified only upon written agreement of the parties
17 and upon entry of a modified Consent Judgment by the Court thereon, or upon motion of any
18 party as provided by law and upon entry of a modified Consent Judgment by the Court.

19 **7. TERMINATION AND RETENTION OF JURISDICTION**

20 7.1 This Court shall retain jurisdiction of this matter to implement and enforce the
21 terms this Consent Judgment.

22 **8. AUTHORITY TO STIPULATE**

23 8.1 Each signatory to this Consent Judgment certifies that he or she is fully authorized
24 by the party he or she represents to enter into this Consent Judgment and to execute it on behalf
25 of the party represented and legally to bind that party.

26 **9. SERVICE ON THE ATTORNEY GENERAL**

27 9.1 ERF shall serve a copy of this Consent Judgment, signed by both parties, on the
28 California Attorney General on behalf of the parties so that the Attorney General may review this

1 Consent Judgment prior to its submittal to the Court for approval. No sooner than forty five (45)
2 days after the Attorney General has received the aforementioned copy of this Consent Judgment,
3 and in the absence of any written objection by the Attorney General to the terms of this Consent
4 Judgment, the parties may then submit it to the Court for approval.

5 **10. ENTIRE AGREEMENT**

6 10.1 This Consent Judgment contains the sole and entire agreement and understanding of
7 the parties with respect to the entire subject matter hereof and any and all prior discussions,
8 negotiations, commitments and understandings related hereto. No representations, oral or
9 otherwise, express or implied, other than those contained herein have been made by any party
10 hereto. No other agreements not specifically referred to herein, oral or otherwise, shall be
11 deemed to exist or to bind any of the parties.

12 **11. GOVERNING LAW**

13 11.1 The validity, construction and performance of this Consent Judgment shall be
14 governed by the laws of the State of California, without reference to any conflicts of law
15 provisions of California law.

16 **12. EXECUTION AND COUNTERPARTS**

17 12.1 This Consent Judgment may be executed in counterparts which taken together shall
18 be deemed to constitute one document.

19 **13. COURT APPROVAL**

20 13.1 If this Consent Judgment is not approved by the Court, it shall be of no force or
21 effect, and cannot be used in any proceeding for any purpose.

22 **14. NOTICES**

23 14.1 In the event that a dispute arises with respect to any of the provisions of this
24 Agreement, the Parties shall meet and confer within 14 days after either Party receives
25 written notice of an alleged violation of this Agreement.

26 14.2 Any notices or payments due under this Consent Judgment shall be sent by
27 USPS certified mail, return receipt requested.

1 If to Ecological Rights Foundation: Fredric Evenson
2 Ecology Law Center
3 P.O. Box 1000
4 Santa Cruz, CA 95061

5 With a copy to:
6 LAW OFFICES OF BRIAN GAFFNEY, A Professional Corporation
7 446 Old County Road, Suite 100-310
8 Pacifica, California 94044

9 If to MONOPRICE, INC.: Bernard Luthi
10 Monoprice, Inc.
11 1 Pointe Drive #400
12 Brea, CA 92821

13 With a copy to: Linda Liu
14 Knobbe Martens Olson & Bear, LLP
15 2040 Main St., 14th Floor
16 Irvine, CA 92614

17 Any party, from time to time, may specify in writing to the other party a change of

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address to which all notices and other communications shall be sent.

1 IT IS SO STIPULATED:

2
3 DATED: January 14, 2021

ECOLOGICAL RIGHTS FOUNDATION

Ecological Rights Foundation

4
5 BY: *James Lampion*, EXEC. DIR.
6 JAMES LAMPION, EXECUTIVE DIRECTOR

7 DATED: _____

MONOPRICE, INC.

8 BY: _____

9 ITS: _____

10
11 IT IS SO ORDERED, ADJUDGED AND DECREED:

12 DATED: _____

13
14 _____
15 JUDGE OF THE SUPERIOR COURT

1 address to which all notices and other communications shall be sent.

2 IT IS SO STIPULATED:

3
4 DATED: _____ ECOLOGICAL RIGHTS FOUNDATION

5 BY: _____

6 ITS: _____

7
8 DATED: 1/20/2021

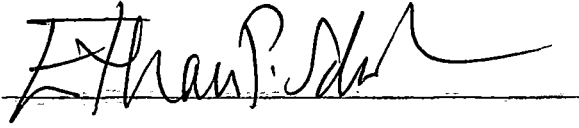
9 MONOPRICE, INC.

10 BY: 

11 ITS: CEO

12
13 IT IS SO ORDERED, ADJUDGED AND DECREED:

14 DATED: Nov. 15, 2021

15 

16 JUDGE OF THE SUPERIOR COURT

17 **ETHAN P. SCHULMAN**

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