

SETTLEMENT AGREEMENT

1. INTRODUCTION

1.1 Anthony Held and Horizon GroupUSA, Inc.

This Settlement Agreement is entered into by and between Anthony E. Held, Ph.D., P.E (hereinafter "Held") and Horizon GroupUSA, Inc. and its subsidiaries, including Hirschberg Schutz & Co., Inc. (hereinafter "HORIZON"), with Held and HORIZON collectively referred to as the "Parties." Held is an individual residing in California who seeks to promote awareness of exposures to toxic chemicals and improve human health by reducing or eliminating hazardous substances contained in consumer products. HORIZON employs ten or more persons and is a person in the course of doing business for purposes of Proposition 65.

1.2 General Allegations

Held alleges that HORIZON has manufactured, distributed and/or sold in the State of California iron-on appliques containing di(2ethylhexyl)phthalate ("DEHP"). DEHP and other phthalates, including butyl benzyl phthalate ("BBP") and Di-n-butyl phthalate ("DBP"), are listed pursuant to the Safe Drinking Water and Toxic Enforcement Act of 1986, California Health & Safety Code §§25249.5 *et seq.* ("Proposition 65"), as chemicals known to the State of California to cause birth defects and other reproductive harm. DEHP, BBP, and DBP are collectively referred to herein as "Listed Chemicals."

1.3 Product Description

The products that are covered by this Settlement Agreement are defined, as follows: iron-on appliques manufactured, imported, distributed and/or sold in California by HORIZON, including, but not limited to, Next Style Iron-On Appliques, Item #WAPV22253-123, which contain one or more of the Listed Chemicals. All such items shall be referred to herein as the "Products."

1.4 Notice of Violation

On or about June 30, 2009, Held served HORIZON and various public enforcement agencies with a document entitled "60-Day Notice of Violation" (the "Notice") that provided HORIZON and such public enforcers with notice that alleged that Horizon was in violation of California Health & Safety Code §25249.6 for failing to warn consumers and customers that the Products exposed users in California to DEHP. No public enforcer has diligently prosecuted the allegations set forth in the Notice.

1.5 No Admission

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

2.1 Reformulation Commitment

For purposes of this Settlement Agreement, "Phthalate Free" Products shall mean Products containing less than or equal to 1,000 parts per million ("ppm") of each of the Listed Chemicals, when analyzed pursuant to any testing methodology selected by HORIZON that is acceptable to state or federal government agencies in determining compliance with phthalate standards.

Following its receipt of Held's November 7, 2008 Notice, HORIZON: (a) immediately conducted an investigation concerning the potential presence of Listed Chemicals in the Products; and (b) implemented a process to further attempt to assure that the Listed Chemicals would not be used in the Products at levels in excess of those constituting Phthalate Free.

In lieu of providing Proposition 65 warnings for them, HORIZON agrees, effective immediately, to only manufacture, or cause to be manufactured, Products which are Phthalate Free and to only ship Products to California which are Phthalate Free.

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

In settlement of all the claims referred to in this Settlement Agreement against it, HORIZON shall pay \$3,000 in civil penalties to be apportioned in accordance with California Health & Safety Code §25192, with 75% of these funds remitted to the State of California's Office of Environmental Health Hazard Assessment and the remaining 25% of these

penalty monies remitted to Held as provided by California Health & Safety Code §25249.12(d). HORIZON shall issue two separate checks for the penalty payment: (a) one check made payable to Hirst & Chanler LLP in Trust for the State of California's Office of Environmental Health Hazard Assessment (“Hirst & Chanler LLP in Trust for OEHHA”) in the amount of \$2,250, representing 75% of the total penalty and (b) one check to “Hirst & Chanler LLP in Trust for A. Held” in the amount of \$750, representing 25% of the total penalty. Two separate 1099s shall be issued for the above payments: The first 1099 shall be issued to OEHHA, P.O. Box 4010, Sacramento, CA 95814 (EIN: 68-0284486) in the amount of \$2,250. The second 1099 shall be issued to Held in the amount of \$750, whose address and tax identification number shall be furnished, upon request, at least five calendar days before payment is due. The payments shall be delivered on or before ten days after the Effective Date, at the following address:

HIRST & CHANLER LLP
Attn: Proposition 65 Controller
2560 Ninth Street
Parker Plaza, Suite 214
Berkeley, CA 94710-2565

4. REIMBURSEMENT OF FEES AND COSTS

The Parties reached an accord on the compensation due to Held and his counsel under the private attorney general doctrine and principles of contract law. Under these legal principles, HORIZON shall reimburse Held’s counsel for fees and costs, incurred as a result of investigating, bringing this matter to HORIZON’S attention, and negotiating a settlement in the public interest. HORIZON shall pay Held and his counsel \$23,750 for all attorneys' fees, expert and investigation fees, and related costs. The payment shall be issued in a third separate check made payable to “Hirst & Chanler LLP” and shall be delivered on or before ten days after the

Effective Date, at the following address:

HIRST & CHANLER LLP
Attn: Proposition 65 Controller
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HORIZON shall issue a separate 1099 for fees and cost paid in the amount of \$23,750 to Hirst & Chanler LLP, 42560 Ninth Street, Parker Plaza, Suite 214, Berkeley, CA 94710-2565 (EIN: 20-3929984).

5. RELEASE OF ALL CLAIMS

5.1 Release of HORIZON, et al. and Downstream Customers

In further consideration of the promises and agreements herein contained, and for the payments to be made pursuant to Sections 3 and 4 above, Held, on behalf of himself, his past and current agents, representatives, attorneys, successors and/or assignees, and in the interest of the general public, hereby waives all rights to institute or participate in, directly or indirectly, any form of legal action and releases all claims, 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 HORIZON and each of its downstream distributors, wholesalers, licensors, licensees, auctioneers, retailers (including but not limited to Wal-Mart), franchisees, dealers, customers, owners, purchasers, users, corporate affiliates, and their respective officers, directors, attorneys, representatives, shareholders, agents, and employees, and sister and parent entities (collectively "Releasees"). This release is limited to those claims that arise under

Proposition 65, as such claims relate to HORIZON's alleged failure to warn about exposures to or identification of DEHP contained in the Products.

In addition to the foregoing, Held, on behalf of himself, his past and current agents, representatives, attorneys, and successors and/or assignees, and not in his representative capacity hereby waives all rights to institute or participate in, directly or indirectly, any form of legal action and releases all Claims against HORIZON and each of their Releasees. This additional release, which Held is providing in his individual capacity, is limited to those Claims that arise with respect to Proposition 65, as such Claims relate to HORIZON's alleged failure to warn about exposures to or identification of Listed Chemicals in addition to DEHP contained in the Products.

The Parties further understand and agree that the above releases shall not extend upstream to any entities that manufactured the Products or any component parts thereof, or any distributors or suppliers who sold the Products or any component parts thereof to HORIZON.

5.2 HORIZON'S RELEASE OF HELD

HORIZON hereby waives any and all claims against Held, his attorneys and other representatives, for any and all actions taken or statements made (or those that could have been taken or made) by Held and his 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 Products.

6. SEVERABILITY

If, subsequent to the execution of this Settlement Agreement, any of the provisions of this Settlement Agreement are held by a court to be unenforceable, the validity of the enforceable provisions remaining shall not be adversely affected.

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 Products, then HORIZON shall provide written notice to Held of any asserted change in the law, and shall have no further obligations pursuant to this Settlement Agreement with respect to, and to the extent that, the Products are so affected.

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; or (ii) overnight courier on any party by the other party at the following addresses:

For HORIZON to:

Connie Fata, Vice President-Regulatory
Horizon GroupUSA, Inc.
76 Stirling Road, Suite 101
Warren, NJ 07059

With a copy to:
Robert Falk, Esq.
Morrison & Foerster LLP
425 Market Street
San Francisco, California 94105

and

For Held:

Proposition 65 Coordinator
Hirst & Chanler, LLP
2560 Ninth Street
Parker Plaza, Suite 214
Berkeley, CA 94710-2565

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 SIGNATURES

This Settlement Agreement may be executed in counterparts and by facsimile, 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 § 25249.7(f)

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

11. MODIFICATION

This Settlement Agreement may be modified only by a written agreement of the Parties.

12. **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>AGREED TO: Date: <u>September 2, 2009</u></p> <p>By: <u>Anthony E Held</u> Anthony Held</p>	<p>AGREED TO: Date: <u>9/8/09</u></p> <p>By: <u>Carrie Yata</u> HORIZON GROUP USA, INC.</p>
<p>APPROVED AS TO FORM: Date: <u>9/3/09</u></p> <p>HIRST & CHANLER LLP By: <u>Cliff A Chanler</u> Clifford A. Chanler Attorneys for Anthony Held</p>	<p>APPROVED AS TO FORM: Date: <u>9/8/09</u></p> <p>MORRISON & FOERSTER LLP By: <u>Robert Falk</u> Robert Falk Attorneys for HORIZON GROUP USA, INC.</p>