

SETTLEMENT AGREEMENT

1. INTRODUCTION

1.1 Evelyn Wimberley and Gaswatch

This Settlement Agreement is entered into by and between Evelyn Wimberley (hereinafter "Wimberley") and Gaswatch a.k.a. TVL International LLC (hereinafter "TVL"), which is the manufacturer of the Gaswatch – Propane Tank Gauge, (hereinafter "Product") with Wimberley and TVL collectively referred to as the "Parties." Wimberley 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. Plaintiff contends that TVL is a company in the course of doing business for purposes of Proposition 65.

1.2 General Allegations

Wimberley alleges that Sears, Roebuck and Co. ("Sears") and K-Mart Corporation ("K-Mart") sold in the State of California the Product made by TVL with exposed brass containing lead and that such sales have not included warnings pursuant to the Safe Drinking Water and Toxic Enforcement Act of 1986, California Health & Safety Code §§ 25249.6 *et seq.* ("Proposition 65"). Lead is listed under Proposition 65 as a chemical known to the State of California to cause cancer and reproductive harm. Wimberley has cited "Gaswatch - Propane Tank Gauge UPC 893773001028" as a specific example of the TVL item that is the subject of her allegations. TVL represents that 1) the Product is manufactured for and distributed to Sears, K-Mart and others in California by TVL and 2) that TVL is subject to and, except as

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alleged by Wimberley, has, to the best of its knowledge, faithfully complied with Proposition 65.

1.3 Product Description

The Product that are covered by this Settlement Agreement are defined as follows:
GasWatch - Propane Tank Gauge, (See Attachment "A" for photos of specific Product covered by this Agreement), with exposed leaded brass manufactured and distributed by TVL and sold in California (hereafter the "Product")

1.4 Notice of Violation

On or about January 31, 2011, Wimberley served Sears, K-Mart, TVL and all public enforcement agencies eligible to initiate Proposition 65 actions on behalf of the People of the State of California with a document entitled "60-Day Notice of Violation" (the "Notice") that provided Sears, K-Mart, TVL and such public enforcers with notice that alleged that Sears and K-Mart were in violation of California Health & Safety Code § 25249.6 for failing to warn consumers and customers that the Products exposed users in California to lead. No public enforcer has diligently prosecuted the allegations set forth in the Notice.

1.5 No Admission

TVL denies the material factual and legal allegations contained in Wimberley'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 Proposition 65 and all other applicable laws. Nothing in this Settlement Agreement shall be construed as an admission by TVL 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 TVL of any fact, finding, conclusion, issue of law, or violation of law, such being specifically denied by TVL. However, this section shall not

diminish or otherwise affect the obligations, responsibilities, and duties of TVL 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 Option. The Products shall be deemed to comply with Proposition 65 with regard to lead and be exempt from any Proposition 65 warning requirements for lead if the exposed brass components that are part of the Products meet the following criteria: (a) the brass alloy from which the brass components are made shall have no lead as an intentionally added constituent; and (b) the brass alloy from which the brass components are made shall have a lead content by weight of no more than 0.03% (300 parts per million, or “300 ppm”). TVL may comply with the above requirements by relying on information obtained from its suppliers regarding the content of the brass alloy from which the brass components are made, provided such reliance is in good faith. Obtaining test results showing that the lead content is no more than 0.03%, using a method of sufficient sensitivity to establish a limit of quantification (as distinguished from detection) of less than 300 ppm shall be deemed to establish good faith reliance.

2.2 Warning Alternative. Products that do not meet the warning exemption standard set forth in Section 2.1 above shall be accompanied by a warning as described in Section 2.3 below. The warning requirements set forth in Section 2.3 below shall apply only to: (1) Products that TVL manufactures 180 days after the Effective Date that are manufactured, distributed, marketed, sold or shipped for sale or use inside the State of California.

2.3 Where required under Sections 2.1 and 2.2 above, TVL shall provide Proposition 65 warnings as follows:

(a) TVL may use either of the following warning statements:

(1) **WARNING:** This product contains lead, a chemical known to the State of California to cause birth defects or other reproductive harm.

or, where TVL has reason to believe that chemicals listed under Proposition 65 in addition to lead are present in a Product,

(2) **WARNING:** This product contains lead and other chemicals known to the State of California to cause cancer and birth defects or other reproductive harm.

(b) Where utilized as an alternative to meeting the criteria set forth in Section 2.1, TVL shall provide the warning language set forth in subsection 2.3(a) either:

- (1) with the unit package of the Products. Such warning shall be prominently affixed to or printed on each Product's label or package. If printed on the label itself, the warning shall be contained in the same section that states other safety warnings, if any, concerning the use of the Product; or
- (2) in the owner's manual of another product in which the Product is a component, but only if the other product: (i) may cause serious injury or bodily harm unless used as directed; (ii) is sophisticated, difficult to understand or install, set-up, or assemble; or (iii) has one or more features a consumer must read about in order to know how to program or use the Product. If the warning is given in the owners manual pursuant to this subsection, it shall be located in

one of the following places in the manual: the outside of the front cover; the inside of the front cover; the first page other than the cover; or the outside of the back cover. The warning shall be printed or stamped in the manual or contained in a durable label or sticker affixed to the manual in a font no smaller than the font used for other chemically-related safety warnings in the manual (if any). Alternatively, the warning may be included in a safety warning section of the owner's manual. Owners manual warnings may only be allowed if the owners manual is sold in the same package and at the same time as the other product and not for Products sold separately.

(c) The requirements for warnings, set forth in subsections (a)-(b) above are imposed pursuant to the terms of this Settlement. The parties recognize that these are not the exclusive methods of providing a warning under Proposition 65 and its implementing regulations and that they may or may not be appropriate in other circumstances.

(d) If Proposition 65 warnings for lead or lead compounds should no longer be required, TVL shall have no further warning obligations pursuant to this Settlement. Except as provided in Section 2.1 above, in the event that TVL ceases to implement or modifies the warnings required under this Settlement (because of a change in the law or otherwise), TVL shall provide written notice to Wimberley (through counsel) of its intent to do so, and of the basis for its intent, no less than thirty (30) days in advance.

3. **PAYMENT IN LIEU OF PENALTIES PURSUANT TO HEALTH & SAFETY**

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CODE §25249.7(b)

In lieu of civil penalties and in settlement of all claims that have been threatened or could be raised with respect to failure to warn pursuant to Proposition 65 with regard to lead in the Products, TVL shall pay \$250.00 in the name of Evelyn Wimberley to Susan G. Komen for the Cure, a 501(c)(3) non-profit organization dedicated to the fight against breast cancer (federal tax identification number 75-1835298). TVL shall mail this payment in Wimberley's name within thirty days following the Effective Date, to the following address, providing a copy of its check and transmittal letter to Wimberley:

Susan G. Komen for the Cure
5005 L.B.J. Freeway, Suite 250
Dallas, TX 75244

4. REIMBURSEMENT OF FEES AND COSTS

The parties reached an accord on the compensation due to Wimberley and her counsel under the private attorney general doctrine and principles of contract law. Under these legal principles, TVL shall reimburse Wimberley's counsel for fees and costs, incurred as a result of investigating, bringing this matter to TVL's attention, and negotiating a settlement in the public interest. TVL shall pay Wimberley's counsel \$20,000.00 for all attorneys' fees, expert and investigation fees, and related costs associated with this matter and the Notice. TVL shall wire \$20,000.00 to the account of "Law Offices of Stephen Ure, PC" on or before April 5, 2011. The Law Offices of Stephen Ure, PC. will provide and TVL will confirm receipt of Bank wire instructions prior to that date. Other than the payment required hereunder, each side is to bear its own attorneys fees and costs.

5. **RELEASE OF ALL CLAIMS**

5.1 **Release of TVL 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, Wimberley, on behalf of herself, her 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 TVL and its customers (including but limited to Sears, K-Mart, Home Depot, Lowes, True Value), and each of its downstream distributors, wholesalers, licensors, licensees, auctioneers, retailers, franchisees, dealers, customers, owners, purchasers, users, parent companies, corporate affiliates, subsidiaries, 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 TVL's or the Releasee's alleged failure to warn about exposures to or identification of lead contained in the Products whether sold before or after the Effective Date, provided TVL hereafter reformulates or warns for the Products as required under Section 2 of this settlement agreement.

Plaintiff also, on behalf of itself, its past and current agents, representatives, attorneys, successors, and/or assignees and *not* in her 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 TVL and the Releasees arising under Proposition 65, as such claims relate to TVL and the Releasees' alleged failure to warn about exposures to or identification of, under Proposition 65, lead contained in the Product sold by TVL and the Releasees. Plaintiff acknowledges that she is familiar with Section 1542 of the Civil Code, which provides as follows:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH
THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN
HIS FAVOR AT THE TIME OF EXECUTING THE RELEASE,
WHICH IF KNOWN BY HIM MUST HAVE MATERIALLY
AFFECTED HIS SETTLEMENT WITH THE DEBTOR.

Plaintiff, in her individual capacity only and *not* in her representative capacity, and on behalf of herself, her past and current agents, representatives, attorneys, successors, and/or assignees expressly waives and relinquishes any and all rights and benefits which he may have under, or which may be conferred on him by the provisions of Civil Code § 1542 as well as under any other state or federal statute or common law principle of similar effect, to the fullest extent that he may lawfully waive such rights or benefits pertaining to the released matters.

5.2 TVL's Release of Wimberley

TVL waives any and all claims against Wimberley, her attorneys and other representatives, for any and all actions taken or statements made (or those that could have been taken or made) by Wimberley and her 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.

TVL acknowledges that it is familiar with Section 1542 of the Civil Code, which provides as follows:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM MUST HAVE MATERIALLY AFFECTED HIS SETTLEMENT WITH THE DEBTOR.

TVL 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 Civil Code § 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. 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 Product, then TVL shall provide written notice to Wimberley of any asserted change in the law, and 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; or (ii) overnight courier on any party by the other party at the following addresses:

For TVL:

TVL International LLC
2301 Crownpoint Executive Drive., Suite A
Charlotte, NC 28227
Attn: Shailendra K Suman

And

For Wimberley:

Mr. Stephen Ure
Law Offices of Stephen Ure, PC.
1518 Sixth Avenue
San Diego, California 92101

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)**

Wimberley agrees to comply with the reporting form requirements referenced in



California 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 style="text-align: center;">AGREED TO:</p> <p>Date :April 5, 2011</p> <p>By:  Evelyn Wimberley</p>	<p style="text-align: center;">AGREED TO:</p> <p>Date: April 5, 2011</p> <p>By:  Shailendra Suman Gaswatch, a.k.a. TVL International LLC</p>