

## SETTLEMENT AGREEMENT

### 1. INTRODUCTION

#### 1.1 Parties

This Settlement Agreement is entered into by and between Scosche Industries, Inc. (“Scosche”) and Anthony Held, Ph.d., P.E. (“Held”), with Held and Scosche collectively referred to as the “Parties” and individually as a “Party. Held is an individual residing in the State of 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. Scosche employs ten or more persons and is a person in the course of doing business for purposes of the Safe Drinking Water and Toxic Enforcement Act of 1986, California Health & Safety Code § 25249.6 *et seq.* (“Proposition 65”).

#### 1.2 General Allegations

Held alleges that Scosche has manufactured, distributed and/or sold in the State of California (a) vinyl/PVC tape containing concentrations of di(2-ethylhexyl)phthalate (“DEHP”) above the allowable state limits without the requisite Proposition 65 warning and (b) tools with vinyl/PVC grips containing concentrations of DEHP and lead above the allowable state limits without the requisite Proposition 65 warning. DEHP and lead are listed pursuant to Proposition 65 as chemicals known to the State of California to cause birth defects or other reproductive harm. Scosche denies Held’s claims and maintains that Proposition 65 warnings are not required for the Products (as hereinafter defined).

#### 1.3 Product Description

The “Products” that are covered by this Settlement Agreement are defined as tools with vinyl/PVC grips containing DEHP and/or lead including, but not limited to, *Scosche Car Stereo Tool Kit, TK12, #500TK12, UPC #0 33991 01668 2*, and vinyl/PVC tape containing DEHP including, but not limited to, *Scosche Car Stereo Tool Kit, TK12, #500TK12, UPC #0 33991 01668 2*, manufactured, imported and/or distributed for sale in the State of California by Scosche.

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#### 1.4 Notice of Violation

On or about June 4, 2014, Held served Scosche and various public enforcement agencies with a “60-Day Notice of Violation” (the “Notice”) that provided the recipients with notice of alleged violations of Proposition 65 based on Scosche’s failure to warn consumers that the Products exposed users in the State of California to DEHP and lead. To the best of the Parties’ knowledge, no public enforcer has prosecuted the allegations set forth in the Notice.

#### 1.5 No Admission

Scosche denies all factual and legal allegations contained in Held’s Notice, and maintains that all of the products it has sold and/or offered for sale in the State of 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 Scosche of any fact, finding, conclusion of law, issue of law or violation of law, nor shall compliance with this Settlement Agreement constitute or be construed as an admission by Scosche of any fact, finding, conclusion of law, issue of law or violation of law. However, this Section shall not diminish or otherwise affect Scosche’s obligations, responsibilities and duties under this Settlement Agreement.

#### 1.6 Warnings

Scosche represents that it has a warning program in effect for all Products sold or offered for sale in California.

#### 1.7 Effective Date

For purposes of this Settlement Agreement, the term “Effective Date” shall mean the date on which it is fully executed by the Parties.

### 2. INJUNCTIVE RELIEF: WARNINGS AND REFORMULATION STANDARD

2.1 After the Effective Date, Scosche shall only distribute or sell Products, for sale in California, if they are either: (1) sold or shipped with a clear and reasonable warnings set forth in subsection 2.2; or (2) exempt pursuant to Section 2.3 as Reformulated Products as defined in Section 2.4.

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## 2.2 Product Warnings

For Products requiring a warning under Section 2.1, each warning shall be prominently placed with such conspicuousness as compared with other words, statements, designs or devices as to render it likely to be read and understood by an ordinary individual under customary conditions before purchase or use. Scosche shall affix or print a warning upon the packaging or labeling of any Products or directly on any Products. The warning under this Section 2.2 shall state as follows:

WARNING: This product contains chemicals known to the State of California to cause cancer and birth defects and other reproductive harm.

## 2.3 Exception to Warning Requirements

The warning requirements set forth in Section 2.2 shall not apply to Reformulated Products (as defined in Section 2.4 below).

## 2.4 Reformulation Standards

Reformulated Products are defined as Products that meet subsection (a) and either or both of subsections (b) or (c) below:

(a) A Product that contains less than 0.1 percent (1000 parts per million) of DEHP, di-n-butyl (“DBP”) and butyl benzyl phthalate (“BBP”) in each accessible component when analyzed by a laboratory accredited by the State of California, a federal agency, NVLAP (National Volunteer Laboratory Accreditation Program), American Association for Lab Accreditation (A2LA), ANSI-ASQ National Accreditation Board (ANAB) – ACLASS brand (an ANAB company), International Accreditation Service, Inc. (IAS), Laboratory Accreditation Bureau (L-A-B), Perry Johnson Laboratory Accreditation, Inc. (PJLA), International Laboratory Accreditation Cooperation (ILAC), or similar nationally recognized accrediting organization (such laboratory referred hereinafter as an “Accredited Lab”) pursuant to U.S. Environmental Protection Agency testing methodologies 3580A and 8270C, or equivalent methodologies utilized by federal or state agencies for the purpose of determining DEHP, DBP or BBP content in a solid substance.

(b) A Product that contains no more than 90 parts per million lead content by weight in any accessible component (i.e., any component that can be touched during reasonably foreseeable use) when analyzed pursuant to Environmental Protection Agency (“EPA”) testing methodologies 3050B and 6010B, or equivalent methodologies utilized by federal or state agencies for the purpose of determining lead content in a solid substance.

(c) A Product that yield a result of no more than 1.0 micrograms of lead when sampled pursuant to the NIOSH 9100 testing protocol and analyzed pursuant to EPA testing methodologies 3050B and 6010B, or equivalent methodologies used by federal or state agencies to determine lead content in a solid substance.

By entering into this Settlement Agreement, the Parties do not intend to expand or restrict any obligations or responsibilities that may be imposed upon Scosche by laws other than Proposition 65, nor do the Parties intend this Settlement Agreement to affect any defenses available to Scosche under laws other than Proposition 65.

#### **2.5 Vendor Notification Requirement**

To the extent it has not already done so, within thirty days after the Effective Date, Scosche shall provide the reformulation standard specified in Section 2.3 to each of its then-current Vendors of Products that will be sold or offered for sale to California citizens and shall instruct each Vendor to use reasonable efforts to provide Products that comply with the reformulation standard for Reformulated Products in Section 2.3 above. For purposes of this Settlement Agreement, the term “Vendor(s)” means a person or entity that manufactures, imports, distributes, sells, or otherwise supplies the Products or component parts of the Products to Scosche, its parents, assignees, subsidiaries and/or affiliated entities under common ownership.

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

In settlement of all the claims referred to in this Settlement Agreement, Scosche shall pay a total of \$20,000 in accordance with this Section. Each penalty payment will be allocated in accordance with California Health & Safety Code § 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 Held, as follows:

**3.1 Initial Civil Penalty**

Scosche shall pay an initial civil penalty in the amount of \$5,000 within five (5) business days of the Effective Date. Scosche shall issue two separate checks made payable as follows: (a) “OEHHA” in the amount of \$3,750; and (b) “Anthony Held, Client Trust Account” in the amount of \$1,250. All penalty payments shall be delivered to the addresses listed in Section 3.4.1 below.

**3.2 Final Civil Penalty**

Scosche shall pay a final civil penalty of \$15,000 on or before April 15, 2015. The final civil penalty shall be waived in its entirety if an officer of Scosche provides Held with written certification that as of April 1, 2015 and continuing in the future all Products manufactured for sale in State of California are and shall continue to be Reformulated Products. Held must receive any such certification on or before April 15, 2015; time is of the essence.

If Scosche does not provide a timely certification pursuant to this Section 3.2, then Scosche shall issue two separate checks for any remaining portion of the final civil penalty, with 75% of the funds remitted to OEHHA and 25% of the funds remitted to “Anthony Held, Client Trust Account.” Scosche shall be liable for payment of interest, at a rate of 10% simple interest, for all amounts due and owing under this Section that are not received within two business days of the due date.

**3.3 Reimbursement of Fees and Costs**

The Parties acknowledge that Held and his counsel offered to resolve this dispute without reaching terms on the amount of fees and costs to be reimbursed to them, thereby leaving this fee issue to be resolved after the material terms of the agreement had been settled. Held then expressed a desire to resolve the fee and cost issue shortly after the other settlement terms had been finalized. The Parties then attempted to (and did) reach an accord on the compensation due to Held and his counsel under general contract principles and the private attorney general doctrine codified at California Code of Civil Procedure § 1021.5, for all work performed through the

mutual execution of this agreement. Scosche shall pay \$25,000 for fees and costs incurred as a result of investigating, bringing this matter to Scosche's attention, and negotiating a settlement in the public interest. Scosche shall tender a check payable to "The Chanler Group," within five (5) business days of the Effective Date.

**3.4 Payment Procedures**

**3.4.1 Issuance of Payments.** Payments shall be delivered as follows:

(a) All payments owed to Held and his attorneys pursuant to Sections 3.1, 3.2 and 3.3, shall be delivered to the following payment address:

The Chanler Group  
Attn: Proposition 65 Controller  
2560 Ninth Street  
Parker Plaza, Suite 214  
Berkeley, CA 94710

(b) All payments owed to OEHHA (EIN: 68-0284486), pursuant to Sections 3.1 and 3.2, shall be delivered directly to OEHHA (Memo line "Prop 65 Penalties") at the following addresses:

For United States Postal Service Delivery:

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

For Non-United States Postal Service Delivery:

Mike Gyurics  
Fiscal Operations Branch Chief  
Office of Environmental Health Hazard Assessment  
1001 I Street  
Sacramento, CA 95814

**3.4.2 Proof of Payment to OEHHA.** Scosche shall mail a copy of each check payable to OEHHA, simultaneous with payment, to The Chanler Group at the address set forth in Section 3.4.1 (a) above, as proof of payment to OEHHA.

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#### **4. RELEASE OF ALL CLAIMS**

##### **4.1 Held's Release of Scosche**

This Settlement Agreement is a full, final, and binding resolution between Held and Scosche of any violation of Proposition 65 that was or could have been asserted by Held on behalf of himself, his past and current agents, representatives, attorneys, successors and/or assignees, against Scosche, its parents, subsidiaries, affiliated entities under common ownership, directors, officers, employees, attorneys and each entity to whom Scosche directly or indirectly distributes or sells the Products including, but not limited to, downstream distributors, wholesalers, customers, franchisees, cooperative members, licensees and retailers, and each of their respective agents, attorneys, representatives, shareholders, directors, officers employees, predecessors, successors, and assigns (collectively referred to as the "Releasees"), based on the alleged failure to warn about potential exposures to DEHP, DBP, BBP and lead contained in the Products sold and/or offered for sale by Scosche in the State of California before the Effective Date as set forth in the Notice.

In further consideration of the promises and agreements herein contained, Held on behalf of himself, his 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 that he may have against Scosche and Releasees, including, without limitation, all actions, causes of action, suits, liabilities, demands, obligations, damages, costs, fines, penalties, losses or expenses including, but not limited to, investigation fees, expert fees, and attorneys' fees arising under Proposition 65 with respect to DEHP, DBP, BBP and lead in the Products sold and/or offered for sale by Scosche before the Effective Date. The Parties agree that compliance by Scosche with the terms of this Settlement Agreement shall constitute compliance with Proposition 65 with respect to any DEHP, DBP, BBP or lead in the Products.

##### **4.2 Scosche's Release of Held**

Scosche 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.

4.3 Nothing in Section 4 affects or limits a Party's right to enforce the terms of this Settlement Agreement.

## 5. 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, DEHP, DBP, BBP and/or lead then Scosche 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.

## 6. NOTICES

Unless specified herein, all correspondence and notices required to be provided pursuant to this Settlement Agreement shall be sent by: (ii) first-class, registered or certified mail, return receipt requested; or (iii) overnight courier on any Party by the other Party at the following addresses:

For Scosche:

Roger Alves, President  
Scosche Industries, Inc.  
1550 Pacific Avenue  
Oxnard, CA 93033

With a copy to:

Sarah Esmaili  
Arnold & Porter LLP  
Three Embarcadero Center, 10th Floor  
San Francisco, CA 94111

For Held:

Proposition 65 Coordinator  
The Chanler Group  
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.

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**7. COUNTERPARTS; FACSIMILE/PDF SIGNATURES**

This Settlement Agreement may be executed in counterparts and by facsimile or portable document format (pdf) signature, each of which shall be deemed an original, and all of which, when taken together, shall constitute one and the same document.

**8. 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 any and all prior discussions, negotiations, commitments and understandings related hereto. No representations, oral or otherwise, express or implied, other than those contained herein have been made by any Party hereto. No other agreements not specifically referred to herein, oral or otherwise, shall be deemed to exist or to bind any of the Parties.

**9. COMPLIANCE WITH HEALTH & SAFETY CODE § 25249.7(F)**

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

**10. MODIFICATION**

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

**11. AUTHORIZATION**

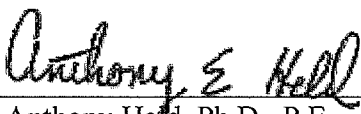
The undersigned are authorized to execute this Settlement Agreement on behalf of their respective Parties and have read, understood and agree to all of the terms and conditions of this Settlement Agreement.

**AGREED TO:**

**AGREED TO:**

Date: December 2, 2014

Date: \_\_\_\_\_

By:   
Anthony Held, Ph.D., P.E.

By: \_\_\_\_\_  
Roger Alves, President  
Scosche Industries, Inc.

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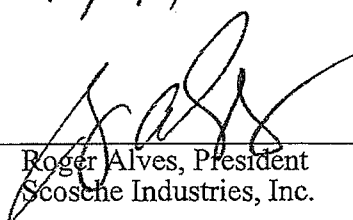
**AGREED TO:**

Date: \_\_\_\_\_

By: \_\_\_\_\_  
Anthony Held, Ph.D., P.E.

**AGREED TO:**

Date: 12/2/14

By:   
Roger Alves, President  
Scosche Industries, Inc.