

# SETTLEMENT AGREEMENT

## 1. INTRODUCTION

### 1.1 Parties

This Settlement Agreement is entered into by and between Anthony E. Held, Ph.D., P.E. (“Held”) and Belkin International, Inc. (“Belkin”), with Held and Belkin collectively referred to as the “Parties.” 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. Belkin 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 Belkin manufactures, imports, distributes, sells, and/or offers for sale vinyl/PVC coated cables used with security locks containing di(2-ethylhexyl)phthalate (“DEHP”) in the State of California without the requisite Proposition 65 health hazard warning. DEHP is listed pursuant to Proposition 65 as a chemical known to the State of California to cause birth defects and other reproductive harm.

### 1.3 Product Description

The products that are covered by this Settlement Agreement are defined as vinyl/PVC coated cables used with security locks containing DEHP including, but not limited to, the *Belkin Notebook Security Lock, P46052-A, #500-03315, F8E550, UPC #7 22868 51191 6*, which were manufactured, imported, distributed, sold and/or offered for sale by Belkin in the State of California, hereinafter referred to as the “Products.”

### 1.4 Notice of Violation

On or about June 20, 2014, Held served Belkin and various public enforcement agencies with a document entitled “60-Day Notice of Violation” (“Notice”), alleging that Belkin was in violation of Proposition 65 for failing to warn its customers and consumers in the State of

California that the Products exposed users to DEHP. To the best of the Parties' knowledge, no public enforcer has commenced and is diligently prosecuting the allegations set forth in the Notice.

**1.5 No Admission**

Belkin denies the material, factual, and legal allegations contained in the Notice and maintains that all of the products it has manufactured, imported, distributed, 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 Belkin 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 Belkin of any fact, finding, conclusion of law, issue of law, or violation of law, such being specifically denied by Belkin. This Section shall not, however, diminish or otherwise affect Belkin's obligations, responsibilities, and duties under this Settlement Agreement.

**1.6 Effective Date**

For purposes of this Settlement Agreement, the term "Effective Date" shall mean May 15, 2015.

**2. INJUNCTIVE RELIEF: REFORMULATION AND WARNINGS**

**2.1 Reformulation**

Commencing on the Effective Date, Belkin shall only manufacture, import, distribute, sell and/or offer for sale in the State of California Products that are Reformulated Products or Products that comply with the warning requirements found in Section 2.2 below. For purposes of this Settlement Agreement, "Reformulated Products" shall mean Products containing less than or equal to 1,000 parts per million (0.1%) DEHP in each Accessible Component when analyzed pursuant to EPA testing methodologies 3580A and 8270C. For purposes of this Settlement Agreement, "Accessible Component" shall mean a component of a Product that can be touched by a person during normal, intended and foreseeable use of the Product.

## 2.2 Product Warnings

Belkin agrees that as of the Effective Date, all Products it sells and/or distributes for sale in California (except for Products already in the stream of commerce, as provided in Section 2.3 below) which do not qualify as Reformulated Products, will bear a clear and reasonable warning pursuant to this Section. Belkin further agrees that the warning will be prominently placed with such conspicuousness when 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 of use. For purposes of this Settlement Agreement, a clear and reasonable warning for the Products shall consist of a warning affixed to the packaging, label, tag, or directly to a Products sold in California and containing one of the following statements:

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

or

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

or

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

In the event that Belkin sells non-Reformulated Products via its internet website to customers located in California, the warning shall appear either: (a) on the same web page on which a non-Reformulated Product is displayed and/or described; (b) on the same page as the price for the non-Reformulated Product; or (c) on one or more web pages displayed to a purchaser during the checkout process. Alternatively, a symbol may appear adjacent to or immediately following the display, description, price, or checkout listing of the non-Reformulated Product, provided that the warning statement also appears elsewhere on the same web page.

Belkin shall have a policy of providing a full refund of the retail price actually paid, plus reasonable shipping costs, to any consumer who presents to Belkin a reasonably documented claim that: (a) the consumer purchased a non-Reformulated Product from a third party via mail order catalogue or internet website which did not display the warning at the time of purchase; (b) the consumer elected to return the non-Reformulated Product to Belkin upon reading the warning on the package due to concern about exposure to a harmful substance; (c) the consumer did not open the package or use the product, and is returning it to Belkin in new, saleable condition; and (d) the consumer returned the non-Reformulated Product to Belkin within 30 days of purchase. The policy may provide that the consumer must present reasonable documentation of the actual purchase price paid and the actual cost of shipping in order to receive a refund.

### **2.3 Grace Period for Existing Inventory of Products**

Belkin represents that it currently has a health hazard warning in place for the Products. Held agrees that, until it exhausts its current inventory of Products, it may continue to sell and offer for sale in California those Products labeled with the following statement: “WARNING: This product contains a chemical known to the state of California to cause cancer, birth defects, or other reproductive harm. Please wash hands after handling as a precaution.”

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

In settlement of all the claims referred to in this Settlement Agreement, Belkin shall pay a total of \$3,500 in civil penalties 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. Held’s counsel shall be responsible for remitting Belkin’s penalty payment(s) under this Settlement Agreement to OEHHA.

**3.1 Initial Civil Penalty**

Belkin shall pay an initial civil penalty in the amount of \$1,000 on or before the Effective Date. Belkin shall issue a check payable to “Anthony E. Held, Client Trust Account.”

**3.2 Final Civil Penalty**

Belkin shall pay a final civil penalty of \$2,500 on or before August 15, 2015, the final civil penalty shall be waived in its entirety, however, if, no later than August 1, 2015, an officer of Belkin provides Held with written certification that, as of the date of such certification and continuing into the future, Belkin has met the reformulation standard specified in Section 2.1 above, such that all Products manufactured, imported, distributed, sold and/or offered for sale in California by Belkin are Reformulated Products. The certification in lieu of a final civil penalty payment provided by this Section is a material term, and time is of the essence.

**3.3 Payment Address**

All payments required by this Settlement Agreement shall be delivered to the following address:

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

**4. 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. Belkin 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. Belkin shall pay \$15,000 as reimbursement of attorneys’

fees and costs incurred as a result of investigating, bringing this matter to Belkin's attention, and negotiating a settlement. Belkin shall issue a check payable to "The Chanler Group and deliver payment on or before the Effective Date to the address listed in Section 3.3 above.

## **5. RELEASES**

### **5.1 Held's Release of Belkin**

This Settlement Agreement is a full, final and binding resolution between Held, in his individual capacity only and not on behalf of the public, and Belkin, Belkin's parents, shareholders, divisions, subdivisions, subsidiaries, partners, sister companies and their successors and assigns ("Belkin Releasees"), and all to whom they distribute or sell Covered Products including, but not limited to, distributors, wholesalers, customers, retailers, franchisees, cooperative members, and licensees ("Downstream Belkin Releasees"), of any violation of Proposition 65 or any other statutory or common law claims that have been or could have been asserted in the public interest by Held on behalf of himself, his past and current agents, representatives, attorneys, successors, and/or assignees, against ("Held Releasers") against Belkin, Belkin Releasees, and Downstream Belkin Releasees, regarding the failure to warn about exposure to DEHP arising in connection with Covered Products manufactured, distributed, or sold by Belkin in the State of California prior to the Effective Date.

In further consideration of the promises and agreements herein contained, Held, in his individual capacity only, on behalf of himself, his past and current agents, representatives, attorneys, successors, and/or assignees, hereby waives all his rights to institute or participate in, directly or indirectly, any form of legal action and releases all claims that he may have, 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, but exclusive of fees and costs on appeal -- limited to and arising under Proposition 65 with respect to DEHP in the Products manufactured, imported, distributed, sold and/or offered for sale by Belkin before the

Effective Date, against Belkin and Releasees. The releases provided by this Section 5.1 are solely on Held's behalf, and not on behalf of the public in California.

**5.2 Belkin's Release of Held**

Belkin, on behalf of itself, its past and current agents, representatives, attorneys, successors, and/or assignees, hereby waives any and all claims against Held and 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 in the course of investigating claims, or otherwise seeking to enforce Proposition 65 against Belkin in this matter.

**6. SEVERABILITY**

If, subsequent to the execution of this Settlement Agreement, any provision is 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.

**8. NOTICES**

Unless specified herein, all correspondence and notices required to be provided pursuant to this Settlement Agreement shall be sent by: (i) personal delivery; (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:

To Belkin:

D. Thomas Triggs, General Counsel  
Belkin International, Inc.  
12045 East Waterford Drive  
Playa Vista, CA 90094

To Held:

Proposition 65 Coordinator  
The Chanler Group  
2560 Ninth Street  
Parker Plaza, Suite 214  
Berkeley, CA 94710-2565

Any party may, from time to time, 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 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.

**10. POST-EXECUTION ACTIVITIES**

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

**11. MODIFICATION**

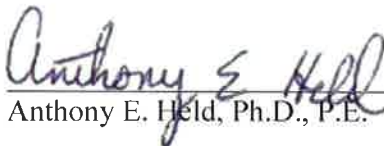
This Settlement Agreement may be modified only by a written agreement of the Parties.

**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.

**AGREED TO:**

Date: May 11, 2015

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

**AGREED TO:**

Date: May 27, 2015

By:   
D. Thomas Trigg, CLO  
Belkin International, Inc.