

**SETTLEMENT AGREEMENT BETWEEN SCOTT SPRANKLE AND SERVICE
TOOL COMPANY, LLC**

1. RECITALS

1.1 The Parties

1.1.1 This Settlement Agreement (“Agreement”) is entered into by and between Scott Sprankle (“Sprankle”) and Service Tool Company, LLC (“STC”).

Sprankle and STC shall hereinafter collectively be referred to as the “Parties.”

1.1.2 Sprankle is a citizen of the State of California with an interest in protecting the environment, improving human health and the health of ecosystems, and supporting environmentally sound practices, which includes promoting awareness of exposure to toxic chemicals and reducing exposure to hazardous substances found in consumer products.

1.1.3 STC employs ten (10) or more employees and is a person in the course of doing business as the term is defined in *California Health & Safety Code* section 25249.6 et seq. (“Proposition 65”).

1.2 Allegations

1.2.1 Sprankle alleges that STC manufactured, distributed, supplied, and/or sold tape measures, including Tool Cache tape measure 25’ (53945-DB; 0-42374-53945-8) (hereinafter, the “Products”) in the State of California causing users in California to be exposed to requisite levels of lead without providing “clear and reasonable warnings”, in violation of Proposition 65. Lead is listed under Proposition 65 as a chemical known by the State of California to cause birth defects and other reproductive harm.

1.2.2 On or about June 9, 2015, a Sixty-Day notice of Violation (“60-Day Notice”), along with a Certificate of Merit, was provided by Sprankle to STC and various public enforcement agencies regarding the alleged violation of Proposition 65

with respect to the Products. To the best of the Parties' knowledge, no public enforcer has commenced and/or is diligently prosecuting the allegations set forth in the Notice.

1.3 No Admissions

STC denies all allegations in Sprankle's 60-Day Notice and maintains that the Products have been, and are, in compliance with all laws, and that STC has not violated Proposition 65. This Agreement shall not be construed as an admission of liability by STC, nor shall compliance with this Settlement Agreement constitute or be construed as an admission by STC of any fact, finding, conclusion, issue of law, or violation of law, such being specifically denied by STC. However, nothing in this section shall affect the Parties' obligations, duties, and responsibilities under this Agreement.

1.4 Compromise

The Parties enter into this Agreement in order to resolve the controversy described above in a manner consistent with prior Proposition 65 settlements and consent judgments that were entered on behalf of the public interest and to avoid prolonged and costly litigation between them.

1.5 Effective Date

The "Effective Date" shall be the date upon which a complete and fully executed copy of the Agreement is delivered to each Party's counsel.

2. INJUNCTIVE RELIEF

2.1 Reformulation Standard

As of the Effective Date, STC shall not distribute, supply, sell or offer for sale in California the Products if they contain more than 100 parts per million of lead in their accessible surfaces when analyzed pursuant to Environmental Protection Agency testing methodologies 3050B or equivalent ("Reformulation Standard"), unless a clear and reasonable Proposition 65 warnings accompanies each Product, as described below in paragraph 2.2.

2.2 Proposition 65 Warnings

If the Products do not meet the Reformulation Standard, then STC shall not

distribute, supply, sell or offer for sale in California the Products unless clear and reasonable Proposition 65 warnings are provided with each unit with the following warning with the capitalized and emboldened wording:

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

Each warning shall be provided in a sufficiently conspicuous manner reasonably calculated to be seen by the ordinary consumer.

3. PAYMENTS

3.1 Civil Penalty Pursuant To Proposition 65

Pursuant to Health and Safety Code section 25249.7(b)(2), and in settlement of all claims alleged in the 60-Day Notice or referred to in this Agreement, STC shall pay a total civil penalty of two thousand dollars (\$2,000.00) to be apportioned in accordance with Health and Safety Code section 25249.12(c)(1) and (d), with 75% (\$1,500.00) paid to State of California Office of Environmental Health Hazard Assessment (“OEHHHA”), and the remaining 25% (\$500.00) paid to Sprankle.

STC shall issue two (2) checks for the civil penalty: (1) a check or money order made payable to “Law Offices of Lucas T. Novak in Trust for OEHHHA” in the amount of \$1,500.00; and (2) a check or money order made payable to “Law Offices of Lucas T. Novak in Trust for Scott Sprankle” in the amount of \$500.00. STC shall remit the payments within five (5) business days of the Effective Date, to:

Lucas T. Novak, Esq.
LAW OFFICES OF LUCAS T. NOVAK
8335 W Sunset Blvd., Suite 217
Los Angeles, CA 90069

Sprankle shall deliver the payment to OEHHHA within five (5) business days of his receipt of such payment from STC.

3.2 Reimbursement Of Sprankle’s Fees And Costs

STC shall reimburse Sprankle’s reasonable experts’ and attorney’s fees and costs

incurred in prosecuting the instant action, and for all work performed through execution of this Agreement. Accordingly, STC shall issue a check or money order made payable to “Law Offices of Lucas T. Novak” in the amount of thirteen thousand dollars (\$13,000.00). STC shall remit the payment within five (5) business days of the Effective Date, to:

Lucas T. Novak, Esq.
LAW OFFICES OF LUCAS T. NOVAK
8335 W Sunset Blvd., Suite 217
Los Angeles, CA 90069

4. RELEASES

4.1 Sprankle’s Release Of STC

This Agreement is a full, final and binding resolution between Sprankle, acting in his individual capacity, and STC, of any violation of Proposition 65 that was or could have been asserted by Sprankle, his past and current agents, representatives, attorneys, successors and assignees (“Releasers”), and Releasers, in consideration of the promises and monetary payments contained herein, hereby release STC, its parents, subsidiaries, affiliated entities, shareholders, directors, members, officers, employees, attorneys, successors and assignees (“Releasees”), and each entity to whom each Releasee respectively directly or indirectly distributes or sells, including without limitation downstream distributors, retailers, wholesalers, customers, cooperative members, licensors, licensees, and franchisees (“Downstream Releasees”) (Releasees and Downstream Releasees collectively the “Released Parties”), from any claims based on failure to warn about alleged exposures to lead contained in the Products distributed, supplied, sold, and/or offered for sale by STC in California before and up to the Effective Date.

4.2 STC’s Release Of Sprankle

STC, its parents, subsidiaries, shareholders, directors, members, officers, employees, attorneys, successors and assignees, and on behalf of the Released Parties, by this Agreement, waive all rights to institute any form of legal action against Sprankle, his

past and current agents, representatives, attorneys, experts, successors and assignees, for actions or statements made or undertaken, whether in the course of investigating claims or seeking enforcement of Proposition 65 against STC in this matter.

4.3 Waiver Of Unknown Claims

Each of the Parties acknowledges that it is familiar with Section 1542 of California 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 or her favor at the time of executing the release, which if known by him or her must have materially affected his or her settlement with the debtor.”

Each of the Parties waives and relinquishes any right or benefit it has or may have under Section 1542 of California Civil Code or any similar provision under the statutory or non-statutory law of any other jurisdiction to the full extent that it may lawfully waive all such rights and benefits. The Parties acknowledge that each may subsequently discover facts in addition to, or different from, those that it believes to be true with respect to the claims released herein. The Parties agree that this Agreement and the releases contained herein shall be and remain effective in all respects notwithstanding the discovery of such additional or different facts.

4.4 Deemed Compliance with Proposition 65

Material compliance by STC with this Settlement Agreement constitutes compliance with Proposition 65 with respect to exposures to lead from the Products.

4.5 Public Benefit

The Parties acknowledge that in accordance with Health and Safety Code section 25249.7(d) and Cal. Code Regs., tit. 11, section 3000 *et seq.*, Proposition 65 permits actions by private enforcers, such as Sprankle, in the public interest, and further, that there is no provision in Proposition 65 that permits actions not in the public interest. As such, the Parties enter into this out-of-court Settlement Agreement with the understanding that the commitments made herein, and actions to be taken by STC under this Agreement,

confer a significant benefit to the general public, as set forth in Code of Civil Procedure section 1021.5 and Cal. Code Regs., tit. 11, section 3201. As such, it is the Parties' intent by entering into this Agreement that to the extent any other private party initiates an action against STC alleging a violation of Proposition 65 with respect to failure to provide a warning concerning exposure to lead from Products manufactured, distributed, sold or offered for sale by STC in California, and subject to STC's material compliance with this Settlement Agreement, that such action by another private party would therefore not confer a significant benefit on the general public as to those Products addressed under this Agreement. In no event, however, will any subsequent action by a private enforcer affect the validity of this Settlement Agreement.

5. SEVERABILITY

Should any part or provision of this Agreement for any reason be declared by a Court to be invalid, void or unenforceable, the remaining portions and provisions shall continue in full force and effect, but only to the extent the deletion or modification of the provision(s) deemed invalid, void, or unenforceable does not materially affect, or otherwise result in the effect of this Settlement Agreement being contrary to, the intent of the Parties.

6. GOVERNING LAW

The terms of this Agreement shall be governed by the laws of the State of California. In the event that Proposition 65 is repealed or otherwise rendered inapplicable or limited by reason of law generally, as to STC specifically as a result of a statutory exemption, or as to the Products, then STC may provide written notice to Sprankle of any asserted change in the law, or its applicability to STC or the Products, and shall have no further obligations pursuant to this Settlement Agreement with respect to, and to the extent that, STC or the Products are so affected.

7. NOTICES

All correspondence and notices required to be provided under this Agreement shall be in writing and delivered personally or sent by first class or certified mail

9. **AUTHORIZATION**

The undersigned are authorized to execute this Agreement on behalf of their respective Parties. Each Party has read, understood, and agrees to all of the terms and conditions of this Agreement. Each Party warrants to the other that it is free to enter into this Agreement and is not subject to any conflicting obligation which will or might prevent or interfere with the execution or performance of this Agreement by said Party.

AGREED TO:

Date: _____

By: _____
Scott Sprankle

AGREED TO:

Date: 10-14-15

Printed Name: THOMAS LEBLANC

By: Thomas L Blanc
Authorized Officer of
Service Tool Company, LLC

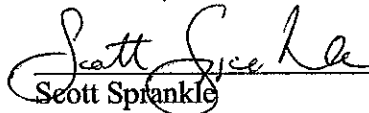
2533039.1

9. AUTHORIZATION

The undersigned are authorized to execute this Agreement on behalf of their respective Parties. Each Party has read, understood, and agrees to all of the terms and conditions of this Agreement. Each Party warrants to the other that it is free to enter into this Agreement and is not subject to any conflicting obligation which will or might prevent or interfere with the execution or performance of this Agreement by said Party.

AGREED TO:

Date: 10-17-15

By: 
Scott Sprankle

AGREED TO:

Date: _____

Printed Name: _____

By: _____
Authorized Officer of
Service Tool Company, LLC

2533039.1