

## Cheng Tectran Settlement Agreement

### SETTLEMENT AGREEMENT

**THIS SETTLEMENT AGREEMENT** is made and entered into on the effective date defined below, by, among, and between Mr. Kingpun Cheng, an individual, who resides in the state of California ("Cheng"); and Tectran Mfg. Inc., ("Tectran"), a Delaware corporation with a usual place of business at 2345 Walden Ave. Suite 100, Cheektowaga, NY 14225. Collectively, the "Parties".

### WITNESSETH

**WHEREAS**, the Parties to this Settlement Agreement are involved in a dispute relative to California Health & Safety Code §25249.6 *et seq.* ("Proposition 65") as described in allegations set forth in Cheng's March 3, 2016 *60 DAY NOTICE OF VIOLATION* to Tectran; and

**WHEREAS**, an agreement to settle the dispute has been reached by, among, and between the Parties; and

**WHEREAS**, the Parties desire to document the terms and conditions of such settlement,

**NOW, THEREFORE**, for and in consideration of the mutual releases and agreements herein contained, the promise of payment herein provided, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged and confessed, the Parties have agreed, and do hereby agree, to the following:

1. Settlement.

A. Within 120 days from the effective date of this Agreement, Tectran shall ensure that applicable health hazard warnings required under Proposition 65 are provided to those persons or entities which Tectran's records have established received "Hose End Kit", (UPC827030342746) and/or similar, relevant products. Tectran shall provide notice in the form of the representative label specimen appended hereto as Attachment "1" and/or requesting certification from relevant Tectran customers that they either (1) have not, and have no knowledge of having, caused any Tectran product to enter California without labeling compliant with Proposition 65, or (2) have properly labeled Tectran products that have entered California and are within the customer's possession or control with Proposition 65 compliant labels in a form and content substantially the same as Attachment "1";

B. Within forty-five (45) days from the effective date of this Agreement, Tectran will complete relabeling of its relevant products within its

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possession and control to provide clear and reasonable warnings in accordance with Proposition 65 requirements (a representative label specimen is appended hereto as Attachment "1");

- C. Concurrent with the mutual execution of the settlement agreement, Tectran will pay Cheng a penalty of five hundred dollars (\$500.00), which both Parties expressly agree is an appropriate civil penalty based on the factors enumerated in California Health & Safety Code §25249.7(b). Said payment shall be remitted in the form of a check payable to Parker A. Smith, as Attorney for Kingpun Cheng;
  - D. The parties reached an accord on the compensation due to Cheng and his counsel under the private attorney general doctrine and principles of contract law. Under these legal principles, Tectran shall reimburse Cheng's counsel for fees and costs incurred as a result of investigating, bringing this matter to Tectran's attention, and negotiating a settlement in the public interest. Tectran shall pay Cheng's counsel \$10,000 for all attorney's fees, expert and investigation fees, and related costs associated with this matter and the Notices. Tectran shall wire said monies to "Sy and Smith, PC" within one (1) business day of the Effective Date. Sy and Smith, PC will provide Tectran with wire instruction and tax identification information. Other than the payment required hereunder, each side is to bear its own attorney's fees and costs.
  - E. The Parties agree that with the exception of the payment described in "C" and "D", above, no other monetary payment(s) are required from Tectran to completely discharge its duties under this settlement; and
  - F. The execution of this Settlement Agreement by all Parties and the promises and covenants contained herein shall serve as full and final settlement of any and all claims of Cheng arising out of California Health & Safety Code §25249.6 *et seq.* ("Proposition 65"), or any rights or claims that Cheng may have against Tectran.
2. The effective date of this Agreement shall be the date of its execution by the Parties, as set forth below. In the instance of the Parties executing the Agreement on two different dates, the latter date shall be the Agreement's effective date.
  3. Releases of Cheng. Upon execution of this Settlement Agreement by the Parties and in consideration of the promises, covenants, agreements and representations contained herein, including the benefits to Cheng of resolving this dispute, Cheng, on behalf of himself, his heirs, representatives, successors, assigns, employees, agents and trustees, (collectively, "Cheng Releasers") hereby releases as of the effective date Tectran and each of its heirs, representatives, successors, assigns, subsidiaries, parent and sister corporations, affiliates, insurers, past, present and future officers, members, directors, employees, agents and trustees from all known and unknown claims, causes of action, suits, litigation, demands, and obligations of every kind, including claims for damages, attorneys' fees and any

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other form of relief available at law or in equity, that Cheng Releasors have or may have from the beginning of time through the date first written above related to the California Health & Safety Code §25249.6 *et seq.* ("Proposition 65"), with respect to any Tectran product or product line or any rights or claims that Cheng or any Cheng Releasor may have against Tectran; provided, however, that Cheng shall retain the right to enforce this Settlement Agreement against Tectran as his sole remedy. Further, with the exception of actions brought to enforce this Settlement Agreement, the Parties covenant not to sue, or otherwise participate in, support or facilitate in any manner any action against one another based upon any of the claims released in this Agreement.

4. Releases of Tectran. Upon execution of this Settlement Agreement by the Parties in consideration of the promises, covenants, agreements and representations contained herein, including the benefits to Tectran of resolving this dispute, Tectran, on behalf of each of its heirs, representatives, successors, assigns, employees, agents and trustees, (collectively, "Tectran Releasors") each hereby releases as of the effective date the Cheng Releasors from all known and unknown claims, causes of action, suits, litigation, demands, and obligations of every kind, including claims for damages, attorneys' fees and any other form of relief available at law or in equity, that Tectran or any Tectran Releasor has or may have from the beginning of time through the effective date first written above related to Proposition 65; provided, however, that Tectran shall retain the right to enforce this Settlement Agreement against Cheng as Tectran's sole remedy. Further, with the exception of actions brought to enforce this Settlement Agreement, the Parties covenant not to sue, or otherwise participate in any action against one another based upon any of the claims released in this Agreement.
5. Cheng represents, warrants and covenants that he has made no prior assignment, transfer, conveyance or other disposition of any rights he may have relative to any of the claims, causes of action and/or interests released pursuant to this Agreement. Cheng agrees to indemnify, defend, and hold Tectran harmless from and against all claims, liens, and causes of action that are brought and/or threatened to be brought by any third-party entities arising from a claim by such a third party in the instance that Cheng has assigned, transferred or otherwise conveyed any rights he may have to such a third party.
6. Tectran represents, warrants and covenants that it has made no prior assignment, transfer, conveyance or other disposition of any rights it may have relative to any of the claims, potential counterclaims, causes of action and/or interests released pursuant to this Agreement. Tectran agrees to indemnify, defend, and hold Cheng harmless from and against all claims, liens, and causes of action that are brought and/or threatened to be brought by any third-party entities arising from a claim by such a third party in the instance that Tectran has assigned, transferred or otherwise conveyed any rights he may have to such a third party.

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7. Each Party acknowledges that the benefits he/it derives from this Settlement Agreement are good and valuable consideration, irrespective of the value or benefit any other Party derives.
8. This Settlement Agreement is a compromise and settlement of disputed claims and is being entered into solely to avoid the time, expense, uncertainty, and inconvenience of continued dispute, discussion, and litigation. Neither the execution of this Settlement Agreement nor anything stated herein, nor any amount paid hereunder, shall be construed or deemed as any admission of liability, culpability, or wrongdoing on the part of any Party to this Settlement Agreement.
9. The signatories hereto each warrant and represent that they have the full capacity, power and authority to bind the Party entity and/or other persons for which they have signed.
10. This Settlement Agreement constitutes a single, integrated, written contract expressing the entire understanding and agreement between the Parties. The terms of the Settlement Agreement are contractual and not merely recitals. There is no other agreement, written or oral, express or implied, between the Parties with respect to the subject matter of this Settlement Agreement. The Parties declare and represent that no promise, inducement or other agreement not expressly contained in this Settlement Agreement has been made by any other Party, or counsel for any other Party, conferring any benefit upon them. This Agreement may not be changed orally, and this provision may not be modified except by a writing signed by the Parties, including any waiver of the requirement of a writing.
11. Each Party has had the benefit of independent counsel in negotiating the terms of this Settlement Agreement and deciding to enter into same. Each Party adopts this Settlement Agreement as the product of a group drafting effort by counsel for all Parties, not to be construed more favorably for or against any Party to this Settlement Agreement.
12. This Settlement Agreement shall be binding upon and inure to the benefit of the Parties, any parent or subsidiary corporations of Tectran, and their respective successors and assigns.
13. California law, without regard to its choice-of-law rules, shall govern the interpretation of this Settlement Agreement.
14. If any provision of this Agreement is in conflict with any statute or rule of law of the State of California or is otherwise unenforceable, such provision shall be deemed to be null and void only to the extent such term is unenforceable, and it shall be deemed separate from, and shall not invalidate, any other provision of this Settlement Agreement.

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15. This Settlement Agreement may be executed in multiple scanned or facsimile counterparts, and with scanned or facsimile signatures, and all such counterparts shall together be deemed to constitute one final agreement, as if each Party had signed one document.

IN WITNESS WHEREOF, this Settlement Agreement has been executed as of the date(s) set forth below.

TECTRAN MFG. INC.  
By [Signature]  
Its PRESIDENT  
Duly Authorized

DATE: 6/21/16

WITNESS: [Signature] DATE: 6/21/16

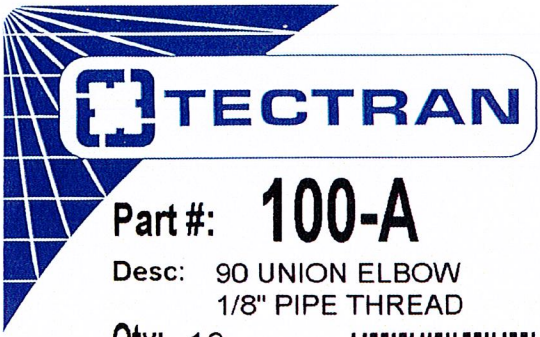
Suzan McKie  
(Print Name)

KINGPUN CHENG, for himself and as agent as specified herein.

[Signature]  
DATE: 6-17-16

WITNESS: [Signature] DATE: ~~6/17/16~~ 6/17/16

Stephanie S. Coy  
(Print Name)



Part #: **100-A**

Desc: 90 UNION ELBOW  
1/8" PIPE THREAD

Qty: 10



Lot# 050616 PK

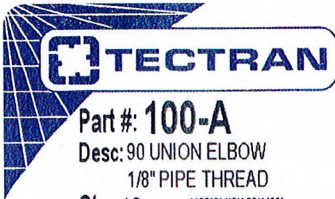
Stk. Code: **88001**

**INTERCHANGE:**

2200P-2-2  
017003  
S200-2  
3500X2  
X100-A  
100-2

DESIGNED IN USA ORIGIN: CHINA

**WARNING** CALIFORNIA PROPOSITION 65  
This product can expose you to chemicals such as lead, chromium, phthalates, which are known to the State of California to cause cancer, birth defects, or other reproductive harm. See [www.P65Warnings.ca.gov/product](http://www.P65Warnings.ca.gov/product).



Part #: **100-A**

Desc: 90 UNION ELBOW  
1/8" PIPE THREAD

Qty: 10



Lot# 050616 PK

Stk. Code: **88001**

**INTERCHANGES:**

100-2  
017003  
S200-2  
2200P-2-2  
  
X100-A  
3500X2

DESIGNED IN USA ORIGIN: SINGAPORE

**WARNING** CALIFORNIA PROPOSITION 65  
This product can expose you to chemicals such as lead, chromium, phthalates, which are known to the State of California to cause cancer, birth defects, or other reproductive harm. See [www.P65Warnings.ca.gov/product](http://www.P65Warnings.ca.gov/product).



Part #: **100-A**

Desc: 90 UNION ELBOW  
1/8" PIPE THREAD

Qty: 10



Lot# 050616 PK2

Stk. Code: **88001**

**INTERCHANGES:**

2200P-2-2  
017003  
S200-2  
3500X2  
X100-A  
100-2

DESIGNED IN USA ORIGIN: COSTA RICA

**WARNING** CALIFORNIA PROPOSITION 65  
This product can expose you to chemicals such as lead, chromium, phthalates, which are known to the State of California to cause cancer, birth defects, or other reproductive harm. See [www.P65Warnings.ca.gov/product](http://www.P65Warnings.ca.gov/product).