

**SETTLEMENT AGREEMENT
SUSAN DAVIA AG NOTICE 2016-00405**

1. INTRODUCTION

1.1 The Parties

This settlement agreement (this "Agreement" or "Settlement Agreement") is entered into by and between Susan Davia ("Davia"), Advantus Corp. (hereafter, "Advantus") and Staples, Inc. (hereafter, "Staples"), with Davia, Advantus and Staples collectively being referred to as the "Parties."

1.2 Davia

Davia represents that she is an individual residing in the State of California who seeks to promote awareness of exposure to toxic chemicals and improve human health by reducing or eliminating hazardous substances contained in consumer products.

1.3 Advantus Corp.

Advantus 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"). Advantus is alleged to have been responsible for the manufacture and/or California distribution of the products subject to this Agreement.

1.4 Staples, Inc.

Staples is a person in the course of doing business for purposes of Proposition 65. Staples is alleged to have been responsible for the California distribution and/or California sale of the products subject to this Agreement.

1.5 General Allegations

Davia alleges that Advantus and Staples participated in the manufacture (or other acquisition), distribution and/or sale, in the State of California, of vinyl ID Badge Holder products, which products exposed users to di(2-ethylhexyl)phthalate (DEHP) without first providing "clear and reasonable warning" under Proposition 65. DEHP is listed as a chemical known to cause

cancer and reproductive toxicity pursuant to Proposition 65. DEHP shall hereinafter, where applicable, be referred to as the "Listed Chemical."

1.6 Notice of Violation

On May 5, 2016, Davia served Advantus, Staples, and various public enforcement agencies with a document entitled "60-Day Notice of Violation" that provided such public enforcement agencies and the noticed entities with notice of alleged violations of Health & Safety Code § 25249.6 for failing to warn consumers of the presence of DEHP in Covered Products sold in California. Advantus and Staples received the May 5, 2016, 60-Day Notice of Violation.

Advantus and Staples each represent that, as of the date it executes this Agreement, it is not aware of any public enforcement agency that is diligently prosecuting a Proposition 65 enforcement action related to DEHP in the Covered Products, as identified in the 60-Day Notice.

1.7 No Admission

This Agreement resolves claims that are denied and disputed by Advantus and Staples. The Parties enter into this Agreement pursuant to a full and final settlement of any and all claims between the Parties for the purpose of avoiding the expense, distraction, and uncertainty of litigation. Each of Advantus and Staples denies and disputes the material factual and legal allegations contained in the Notice, maintains that it did not knowingly or intentionally expose California consumers to the Listed Chemical through the reasonably foreseeable use of the Covered Products and otherwise contends that all Covered Products each has manufactured, distributed and/or sold in California have been and are in compliance with all applicable laws. Nothing in this Agreement shall be construed as an admission by Advantus or Staples of any fact, finding, conclusion, issue of law, or violation of law, nor shall compliance with this Agreement constitute or be construed as an admission by Advantus or Staples of any fact, finding, conclusion, issue of law, or violation of law, such being specifically denied and disputed by Advantus and Staples. However, notwithstanding the foregoing, this Section shall not diminish or otherwise affect Advantus' and Staples' obligations, responsibilities, and duties under this Agreement.

1.8 Consent to Jurisdiction

For purposes of this Agreement only, the Parties stipulate that the Marin County Superior Court has jurisdiction over Advantus and Staples as to the allegations in the 60-Day Notice received from Davia, that venue is proper in the County of Marin, and that the Marin County Superior Court has jurisdiction to enforce the provisions of this Agreement. As an express part of this Agreement, pursuant to Code of Civil Procedure Section 664.6, the Marin County Superior Court has jurisdiction over the Parties to enforce the settlement until performance in full of the terms of the settlement.

2. DEFINITIONS

2.1 The term "Covered Products" shall mean all ID Badge Holders manufactured by or on behalf of Advantus and made in whole or in part with vinyl, including, but not limited to, Advantus ID Badge Reels #75473.

2.2 The term "Phthalate Free" Covered Products shall mean any component of any Covered Product containing less than or equal to 1,000 parts per million ("ppm") of DEHP, DBP, DINP, DIDP, DnHP and BBP as determined by a minimum of duplicate quality controlled test results using Environmental Protection Agency ("EPA") testing methodologies 3580A and 8270C.

2.3 "Effective Date" shall mean the date upon which this Agreement has been fully executed by the Parties.

3. INJUNCTIVE-TYPE RELIEF

3.1 Products No Longer in Advantus' Control

3.1.1 As a material term of this Agreement, Advantus represents that, prior to the Effective Date, Advantus sent a letter, electronic or otherwise ("Notification Letter") to (1) its primary contact at Staples, (2) each California retailer to which Advantus, after January 1, 2015, supplied any Covered Products and (3) any other California retailer that Advantus reasonably understands or believes had any inventory for resale in California of Covered Products as of January 1, 2016. The Notification Letter advised the recipient that the Covered Products "contain

DEHP, a chemical known to the State of California to cause cancer, birth defects, or other reproductive harm,” and requested that the recipient label any Covered Products remaining in inventory for sale in California, or to California customers, pursuant to Section 3.3(a). Advantus also represents that, prior to the Effective Date, it supplied each recipient of the Notification Letter with a sufficient number of warning labels, compliant with Section 3.3, for any such inventory of Covered Products. After the Effective Date, should Advantus discover any California retailer that maintains any inventory for sale in California, or to California customers, of Covered Products that is not either Phthalate Free or already labeled with a clear and reasonable warning, Advantus shall provide such retailer with a sufficient number of warning labels, compliant with Section 3.3, for such inventory of Covered Products. Advantus shall maintain records of all correspondence or other communications generated pursuant to this Section for two years after the Effective Date and shall promptly produce copies of such records upon Davia’s written request.

3.2 Product Reformulation

3.2.1 As a material term of this Agreement, Advantus has reformulated the Covered Products and, since October 2016, is no longer manufacturing Covered Products other than Phthalate Free Covered Products. After the Effective Date, Advantus shall continue to only manufacture Covered Products that are Phthalate Free.

3.2.2 Prior to manufacture of any Covered Product, Advantus shall obtain a written confirmation and accompanying laboratory test result from the new manufacturer or vendor of any raw material comprising the vinyl component of the Covered Product demonstrating compliance with the Phthalate Free concentration standard for each such material. Prior to purchase or other acquisition of any Covered Product from any new manufacturer or vendor, Advantus shall obtain a written confirmation and accompanying laboratory test result from the new manufacturer or vendor demonstrating compliance with the Phthalate Free concentration standard in all materials comprising the Covered Product and a post-production sample of Covered Product. For every Covered Product that Advantus manufactures, causes to be manufactured, orders, causes to be ordered or otherwise obtains from a new vendor after the Effective Date, Advantus shall maintain copies of all testing of such products demonstrating

compliance with this section, shall maintain copies of all vendor correspondence relating to the Phthalate Free concentration standards and shall produce such copies to Davia within fifteen (15) days of receipt of written request from Davia.

3.3 Product Warnings for Existing Inventory

As a material term of this Agreement, Advantus represents that, promptly after receiving Davia's May 5, 2016, 60-Day Notice of Violation, it immediately endeavored to reformulate all Covered Products to be Phthalate Free and to take steps to begin labeling its existing inventory of Covered Products with a clear and reasonable warning in accord with Proposition 65. As of the Effective Date, Advantus shall not sell or ship any remaining inventory of Covered Products (other than Phthalate Free Covered Products) to a California vendor or retailer, or sell or ship any remaining inventory of Covered Products (other than Phthalate Free Covered Products) to a vendor or retailer that Advantus reasonably understands maintains retail outlets in California, unless such Covered Products are sold or shipped with one of the clear and reasonable warnings set forth hereafter.

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. Each warning shall be provided in a manner such that the consumer or user understands to which specific Covered Product the warning applies, so as to minimize the risk of consumer confusion.

(a) California Distribution.

(i) Product Labeling. Advantus has already implemented a labeling program for non-reformulated Covered Products. Prior to April 30, 2017, for all non-Phthalate Free Covered Products sold to any entity that Advantus reasonably understands either maintains retail outlets in California or is a distributor for any entity that maintains retail outlets in California, Advantus has affixed and shall continue to affix a warning to the packaging of the Covered Product

that states:

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

For any sales of the non-Phthalate Free Covered Products by Advantus on or after April 30, 2017, Advantus shall use the following warning label in lieu of the aforementioned warning label:

WARNING: This product can expose you to chemicals, including di(2-ethylhexyl)phthalate (DEHP), which are known to the State of California to cause cancer and birth defects or other reproductive harm. For more information go to www.P65Warnings.ca.gov.

(b) Catalog and Internet Sales. For all Covered Products sold or offered for sale by Advantus via catalog or the Internet to customers located in the United States any such catalog or Internet site offering any Covered Product for sale shall include a warning in the catalog or within the website, identifying the specific Covered Product to which the warning applies, as specified in Sections 3.3(b)(i) and (ii) below.

(i) Mail Order Catalog Warning. Prior to April 30, 2017, any warning provided in a mail order catalog must be in the same type size or larger than the Covered Product description text within the catalog. The following warning shall be provided on the same page and in the same location as the display and/or description of the Covered Product:

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

Where it is impracticable to provide the warning on the same page and in the same location as the display and/or description of the Covered Product, Advantus may utilize a designated symbol to cross reference the applicable warning and shall define the term "designated symbol" with the following language on the inside of the front or back cover of the catalog or on the same page as

any order form for the Covered Product(s):

WARNING: Certain products identified with this symbol ▼ contain a chemical known to the State of California to cause cancer, birth defects, and/or other reproductive harm.

The designated symbol must appear on the same page and in close proximity to the display and/or description of the Covered Product. On each page where the designated symbol appears, Advantus must provide a header or footer directing the consumer to the warning language and definition of the designated symbol.

For any mail order catalogs in which Advantus offers to sell the Covered Products on or after April 30, 2017, Advantus shall use the following warning label in lieu of the aforementioned warning label:

WARNING: This product can expose you to chemicals, including di(2-ethylhexyl)phthalate (DEHP), which are known to the State of California to cause cancer and birth defects or other reproductive harm. For more information go to www.P65Warnings.ca.gov.

Where it is impracticable to provide the post-April 30, 2017, warning above on the same catalog page and in the same location as the display and/or description of the Covered Product, Advantus may utilize a designated symbol to cross reference the applicable warning and shall define the term "designated symbol" with the following language on the inside of the front or back cover of the catalog or on the same page as any order form for the Covered Product(s):

WARNING: Certain products identified with this symbol ▼ can expose you to chemicals including di(2-ethylhexyl)phthalate (DEHP), which are known

to the State of California to cause cancer and birth defects or other reproductive harm. For more information go to www.P65Warnings.ca.gov.

The designated symbol must appear on the same page and in close proximity to the display and/or description of the Covered Product. On each page where the designated symbol appears, Advantus must provide a header or footer directing the consumer to the post-April 30, 2017 warning language and definition of the designated symbol.

If Advantus elects to provide warnings in any mail order catalog, then the warnings must be included in all catalogs offering to sell one or more Covered Products printed after the Effective Date.

(ii) Internet Website Warning. A warning must be given in conjunction with the sale, or offer of sale, of any Covered Products by Advantus via the Internet, provided it appears either: (a) on the same web page on which a Covered Product is displayed; (b) on the same web page as the order form for a Covered Product; (c) on the same page as the price for any Covered Product; or (d) on one or more web pages displayed to a purchaser during the checkout process. Prior to April 30, 2017, the following warning statement shall be used and shall appear in any of the above instances adjacent to or immediately following the display, description, or price of the Covered Product for which it is given in the same type size or larger than the Covered Product description text:

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

Alternatively, the designated symbol may appear adjacent to or immediately following the display, description, or price of the Covered Product for which a warning is being given, provided that the following warning statement also appears elsewhere on the same web page, as follows:

WARNING: Products identified on this page with the following symbol ▼ contain a chemical known to the State of California to cause cancer, birth defects

or other reproductive harm.

For any Internet website in which Advantus offers to sell the Covered Products on or after April 30, 2017, Advantus shall use the following warning label in lieu of the aforementioned warning label:

WARNING: This product can expose you to chemicals, including di(2-ethylhexyl)phthalate (DEHP), which are known to the State of California to cause cancer and birth defects or other reproductive harm. For more information go to www.P65Warnings.ca.gov.

Alternatively, the designated symbol may appear adjacent to or immediately following the display, description, or price of the Covered Product for which the post-April 30, 2017 warning is being given, provided that the following warning statement also appears elsewhere on the same web page, as follows:

WARNING: Certain products identified with this symbol ▼ can expose you to chemicals including di(2-ethylhexyl)phthalate (DEHP), which are known to the State of California to cause cancer and birth defects or other reproductive harm. For more information go to www.P65Warnings.ca.gov.

3.4 Staples

3.4.1 Staples and Advantus represent, as a material term of this Agreement, that they have sent written communications to the managers of all Staples fulfillment centers in California and directed that a Proposition 65 warning provided by Advantus be affixed directly on the packaging of all Covered Products in their fulfillment centers' inventory that were not Phthalate Free or had not already been labeled with a clear and reasonable warning by Advantus. Staples and Advantus represent that a Proposition 65 warning has been affixed to the packaging of all such Covered Products in those fulfillment centers' inventory as of the Effective Date.

4. MONETARY PAYMENTS

4.1 Civil Penalty

As a condition of settlement of all the claims referred to in this Agreement, Advantus shall pay a total of \$7,000 in civil penalties in accordance with California Health & Safety Code § 25249.12(c)(1) & (d).

4.2 Augmentation of Penalty Payments

For purposes of the penalty assessment under this Agreement, Davia is relying entirely upon Advantus and its counsel for accurate, good faith reporting to Davia of the nature and amounts of relevant sales activity. If within nine (9) months of the Effective Date, Davia discovers and presents to Advantus evidence that the Covered Products have been distributed by Advantus in sales volumes materially (more than 25%) different than those identified by Advantus prior to execution of this Agreement, then Advantus shall be liable for an additional penalty amount of up to \$10,000.00. Advantus shall also be liable for any reasonable, additional attorney fees expended by Davia, up to \$10,000, in discovering such additional retailers or sales. Davia agrees to provide Advantus with a written demand for all such additional penalties and attorney fees under this Section. After service of such demand, Advantus shall have thirty (30) days to agree to the amount of fees and penalties owing by Advantus and submit such payment to Davia in accordance with the method of payment of penalties and fees identified in Section 4.4. Should this thirty (30) day period pass without any such resolution between the Parties and payment of such additional penalties and fees, Davia shall be entitled to file a formal legal claim for additional civil penalties pursuant to this Section and the prevailing Party with respect to such claim shall be entitled to all reasonable attorney fees and costs relating to such claim.

4.3 Reimbursement of Davia's Attorney Fees & Costs

The Parties acknowledge that Davia and her counsel offered to resolve this dispute without reaching terms on the amount of attorney fees and costs to be reimbursed to them, thereby leaving this fee and cost issue to be resolved after the material terms of the agreement had been settled. Advantus 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

reimbursement due to Davia and her counsel under general contract principles and the private attorney general doctrine codified at California Code of Civil Procedure Section 1021.5, for all work performed in this matter, except fees that may be incurred on appeal. Under these legal principles, Advantus shall pay Davia's counsel the amount of \$24,000 for fees and costs incurred investigating, litigating and enforcing this matter. Such payment shall be made payable to "Sheffer Law Firm".

4.4 Payment Procedures

Advantus shall pay civil penalties pursuant to Section 4.1 by a civil penalty check payable to "OEHHA" (Memo line "Prop 65 Penalties, 2016-00405") in the amount of \$5,250 and a civil penalty check payable to "Susan Davia" (Memo line "Prop 65 Penalties, 2016-00405") in the amount of \$1,750.

Advantus shall pay any civil penalties pursuant to Section 4.2 by civil penalty checks payable to "OEHHA" and "Susan Davia" (Memo line "Prop 65 Penalties, 2016-00405"), in the amounts agreed to by the Parties pursuant to Section 4.2 or as ordered by the Court.

Advantus shall pay attorney fees and costs pursuant to Section 4.3 by a check payable to "Sheffer Law Firm" (Memo line "2016-00405") in the amount of \$24,000.

Advantus shall pay any attorney fees and costs pursuant to Section 4.2 by a check payable to "Sheffer Law Firm" (Memo line "2016-00405") in the amount agreed to by the Parties pursuant to that Section or as ordered by the Court.

All Section 4.1 and Section 4.3 civil penalty and attorney fee/cost payments shall be delivered to Davia's counsel at the following address within five (5) business days of the Effective Date:

Sheffer Law Firm
Attn: Proposition 65 Controller
81 Throckmorton Ave., Suite 202
Mill Valley, CA 94941

All Section 4.2 civil penalty and attorney fee/cost payments shall be delivered to Davia's counsel at the following address on or before the date determined pursuant to that Section:

Sheffer Law Firm
Attn: Proposition 65 Controller
81 Throckmorton Ave., Suite 202
Mill Valley, CA 94941

Advantus shall be liable for payment of interest, at a rate of 10% simple interest per annum, for all amounts due and owing from it under this Section that are not received by Sheffer Law Firm within ten business days of the due date for such amounts.

4.5 Issuance of 1099 Forms

After this Agreement has been executed and the settlement funds have been transmitted to Davia's counsel, Advantus shall issue three separate 1099 forms, as follows:

- (a) The first 1099 shall be issued to the Office of Environmental Health Hazard Assessment, P.O. Box 4010, Sacramento, CA 95814 (EIN: 68-0284486) in the amount paid pursuant to Section 4.1 and, if applicable, Section 4.2;
- (b) The second 1099 shall be issued to Davia, whose address and tax identification number shall be furnished upon request, in the amount paid pursuant to Section 4.1 and, if applicable, Section 4.2; and
- (c) The third 1099 shall be issued to the Sheffer Law Firm (EIN: 55-08-58910) in the amount paid pursuant to Section 4.3 and, if applicable, Section 4.2.

4.6 Delayed Payment or Non-Payment of Civil Penalties or Attorney Fees/Costs

While the obligations of this Agreement are binding upon execution, the release of Advantus and Staples as set forth in Section 5.1 below shall not become effective until after all Section 4.1 and Section 4.3 monetary payments have been made by Advantus and all funds have cleared.

5. RELEASES

5.1 Davia's Release of Advantus and Staples

5.1.1 Davia, on behalf of herself and her agents, representatives, successors, and assigns, strictly in their capacities as such (collectively, the "Davia Releasors"), hereby fully and finally releases and forever discharges Advantus, Staples, their respective parents, subsidiaries, and affiliates, and their respective past and current officers, directors, principals, partners, managers, members, shareholders, employees, agents, representatives, attorneys, successors and assigns,

strictly in their capacities as such, and each entity or individual to whom Advantus or Staples directly or indirectly has distributed or sold Covered Products, including, but not limited to, downstream distributors, wholesalers, dealers, customers, purchasers, users, retailers, franchisees, cooperative members, and licensees (collectively, "Releasees"), from all claims for violations of Proposition 65, including, without limitation, all actions, causes of action, suits, liabilities, demands, obligations, damages, fines, penalties, fees, expenses, costs, and losses of every kind, nature, and description whatsoever, whether known or unknown, anticipated or unanticipated, suspected or unsuspected, fixed or contingent, at law or in equity, including, without limitation, investigation fees, expert fees, and attorney fees and costs arising under Proposition 65 (collectively, "Claims"), that were or could have been asserted by the Davia Releasors against Releasees with respect to DEHP contained in the Covered Products that were manufactured, distributed, sold and/or offered for sale by Advantus and/or Staples through the Effective Date; provided, however, that any obligations created by or set forth in this Agreement shall not be released.

5.1.2 In further consideration of the promises and agreements herein contained, with the exception of any action to convert this Agreement into a judgment pursuant to Section 6 of this Agreement, the Davia Releasors hereby waive all rights that they may have to file, institute or participate in, directly or indirectly, any form of legal action or proceeding, at law or in equity, arising under Proposition 65 with respect to the Listed Chemical contained in the Covered Products that were manufactured, distributed, sold and/or offered for sale by Advantus and/or Staples through the Effective Date.

5.1.3 The Davia Releasors also provide a general release herein which shall be effective as a full and final accord and satisfaction, and as a bar to all Claims of the Davia Releasors arising out of the subject matter of the Notice as to Covered Products manufactured, distributed, sold, and/or offered for sale by Advantus, Staples and/or Releasees through the Effective Date. Davia

acknowledges that she is familiar with Section 1542 of the 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.

Davia expressly waives and relinquishes any and all rights and benefits that she may have under, or which may be conferred on her by, the provisions of Section 1542 of the California Civil Code as well as under any other state or federal statute or common law principle of similar effect, to the fullest extent that she may lawfully waive such rights or benefits pertaining to the released matters. In furtherance of such intention, the release hereby given shall be and remain in effect as a full and complete release notwithstanding the discovery or existence of any additional or different claims or facts arising out of the released matters.

This Section 5.1 release is expressly limited to those claims that arise under Proposition 65, as such claims relate to Advantus' and Staples' alleged failure to warn about exposures to or identification of DEHP contained in the Covered Products and as such claims are identified in Davia's Proposition 65 60-Day Notice to Staples and Advantus.

The Parties further understand and agree that this Section 5.1 release shall not extend upstream to any entities, other than Advantus, that manufactured the Covered Products or any component parts thereof, or any distributors or suppliers that sold the Covered Products or any component parts thereof to Advantus.

5.2 Advantus' and Staples' Release of Davia

Advantus and Staples, each on behalf of itself, its parents, subsidiaries, and affiliates, and their respective past and current officers, directors, principals, partners, managers, members, shareholders, employees, agents, representatives, attorneys, successors, and assigns, strictly in their capacities as such (collectively, "Releasors"), hereby fully and finally release and forever discharge Davia and her attorneys, agents, representatives, successors, and assigns, strictly in their capacities as such (collectively, the "Davia Releasees"), for any and all Claims relating to actions taken or statements made (or those that could have been taken or made) by the Davia Releasees

through the Effective Date, whether in the course of investigating claims, otherwise seeking to enforce Proposition 65 against Releasors in this matter, or with respect to the Covered Products; provided, however, that any obligations created by or set forth in this Agreement shall not be released. Each of Advantus and Staples acknowledges that it is familiar with Section 1542 of the 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 Advantus and Staples 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 Section 1542 of the California Civil Code 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. In furtherance of such intention, the release hereby given shall be and remain in effect as a full and complete release notwithstanding the discovery or existence of any additional or different claims or facts arising out of the released matters.

6. POST EXECUTION CONVERSION TO CONSENT JUDGMENT

Within twelve months of the execution of this Settlement Agreement Advantus may ask Davia, in writing, to file a complaint, to incorporate the terms of this Settlement Agreement into a proposed consent judgment, and to seek the court's approval of the consent judgment pursuant to Health & Safety Code Section 25249.7, or as may be otherwise allowed by law. If so requested, Davia agrees to reasonably cooperate with Advantus and to use her best efforts, and those of her counsel, to support the entry of a consent judgment by a superior court in California. Pursuant to Code of Civil Procedure Sections 1021 and 1021.5, Advantus shall reimburse Davia and her counsel

for their reasonable attorney fees and costs incurred in filing the complaint, converting this Settlement Agreement into a proposed consent judgment and seeking judicial approval of the consent judgment, in an amount not to exceed \$12,000.00, exclusive of fees and costs that may be incurred on appeal. Such additional fees and costs shall be paid by Advantus, within ten days after its receipt of any invoice from Davia for work performed under this Section. Advantus understands that no motion to approve any proposed consent judgment will be filed absent payment for the work performed under this Section. All payments owed to Davia, pursuant to this Section shall be made payable to "Sheffer Law Firm" (Memo Line "2016-00405") and delivered to the following payment address:

Sheffer Law Firm
Attn: Proposition 65 Controller
81 Throckmorton Ave., Suite 202
Mill Valley, CA 94941

Any failure by Advantus to timely pay Davia's invoices under this Section shall result in the assessment of ten percent (10%) simple interest per annum on any outstanding balance.

7. SEVERABILITY

If any of the provisions of this Agreement are found by a court to be unenforceable, the validity of the enforceable provisions remaining shall not be adversely affected, unless the court finds that any unenforceable provision is not severable from the remainder of this Agreement.

8. GOVERNING LAW

The terms of this Agreement shall be governed by the laws of the State of California.

9. NOTICES

When any Party is entitled to receive any notice under this Agreement, the notice shall be sent by FedEx (or other tracked delivery service) and electronic mail to the following:

For Advantus Corp., to:

Kevin Carpenter, President
Advantus Corp.
12276 San Jose Boulevard, Building 618
Jacksonville, FL 32223-8672

For Staples, Inc., to:

G. Perry Wu, Esq./Legal Department
Staples, Inc.
500 Staples Drive
Framingham, MA 01702

With a copy to their counsel:

Alan S. Wachs, Esq.
Smith, Gambrell & Russell, LLP
50 North Laura Street, Suite 2600
Jacksonville, FL 32202

For Davia to:

Proposition 65 Coordinator
Sheffer Law Firm
81 Throckmorton Ave., Suite 202
Mill Valley, CA 94941

Any Party may modify the person and address to whom the notice is to be sent by sending each other Party notice by certified mail and/or other verifiable form of written communication.

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

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

11. MODIFICATION

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

12. ENTIRE AGREEMENT

This Agreement contains the sole and entire agreement and understanding of the Parties with respect to the entire subject matter hereof, and supersedes any and all prior discussions, negotiations, commitments, and understandings relating to such subject matter. 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. No supplementation, modification, waiver, or termination of this Agreement shall be binding unless executed in writing by the Party to be bound. No waiver of any of the provisions of this Agreement shall be deemed to be or shall constitute a waiver of any of the other provisions whether or not similar, nor shall such waiver constitute a continuing waiver.

13. ATTORNEY FEES AND COSTS

13.1 Should any Party prevail on any motion, application for order to show cause or other proceeding to enforce a violation of this Agreement, the prevailing Party shall be entitled to its reasonable attorney fees and costs incurred as a result of such motion, order or application, consistent with C.C.P. § 1021.5.

13.2 Except as otherwise specifically provided herein, each Party shall bear its own attorney fees and costs in connection with the Notice.

13.3 Nothing in this Section shall preclude a Party from seeking an award of sanctions pursuant to law.

14. NEUTRAL CONSTRUCTION

All Parties and their counsel have participated in the preparation of this Agreement and this Agreement is the result of the joint efforts of the Parties. This Agreement was subject to revision and modification by the Parties and has been accepted and approved as to its final form by all Parties and their counsel. Accordingly, any uncertainty or ambiguity existing in this Agreement shall not be interpreted against any Party by virtue of its participation in the preparation of this Agreement. Each Party to this Agreement agrees that any statute or rule of construction providing that ambiguities are to be resolved against the drafting party should not be employed in the interpretation of this Agreement and, in this regard, the Parties hereby waive California Civil Code Section 1654.

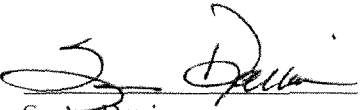
15. COUNTERPARTS, FACSIMILE SIGNATURES

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

16. AUTHORIZATION

Each of the signatories to this Agreement represents that he or she is duly authorized to execute this Agreement for the Party on whose behalf he or she signs this Agreement and that, for and on behalf of such Party, he or she has read, understands, and agrees to all of the terms and conditions of this Agreement.

IT IS SO AGREED

<p>Advantus Corp.</p> <p>By: _____</p> <p>Its: _____</p> <p>May __, 2017</p>	<p>Staples, Inc.</p> <p>By: _____</p> <p>Its: _____</p> <p>May __, 2017</p>
<p> Susan Davia</p> <p>May <u>19</u>, 2017</p>	

16. AUTHORIZATION

Each of the signatories to this Agreement represents that he or she is duly authorized to execute this Agreement for the Party on whose behalf he or she signs this Agreement and that, for and on behalf of such Party, he or she has read, understands, and agrees to all of the terms and conditions of this Agreement.

IT IS SO AGREED

<p>Advantus Corp. By: <u>Harry M. Chenek</u> Its: <u>EXECUTIVE VICE PRESIDENT</u> May <u>22</u>, 2017</p>	<p>Staples, Inc. By: _____ Its: _____ May ____, 2017</p>
<p>_____ Susan Davia May ____, 2017</p>	

16. AUTHORIZATION

Each of the signatories to this Agreement represents that he or she is duly authorized to execute this Agreement for the Party on whose behalf he or she signs this Agreement and that, for and on behalf of such Party, he or she has read, understands, and agrees to all of the terms and conditions of this Agreement.

IT IS SO AGREED

Advantus Corp. By: _____ Its: _____ May __, 2017	Staples, Inc. By: <u>Jaclyn Smith</u> Its: <u>Director, DMM</u> May <u>22</u> 2017
_____ Susan Davia May __, 2017	

