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8 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
9 COUNTY OF ALAMEDA  
10 UNLIMITED CIVIL JURISDICTION  
11

12  
13 LAURENCE VINOCUR,  
14 Plaintiff,  
15 v.  
16 HONEYWELL INTERNATIONAL INC.;  
and DOES 1-150, inclusive,  
17 Defendants.  
18

Case No. RG16843189

**[PROPOSED] CONSENT JUDGMENT**

(Health & Safety Code § 25249.6 *et seq.* and  
Code of Civil Procedure § 664.6)

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1 **1. INTRODUCTION**

2 **1.1 Parties**

3 This Consent Judgment is entered into by and between plaintiff Laurence Vinocur  
4 (“Vinocur”) and defendant Honeywell International Inc. (“Honeywell”), with Vinocur and  
5 Honeywell each referred to individually as a “Party” and collectively as the “Parties.”

6 **1.2 Plaintiff**

7 Vinocur is a resident of the State of California who seeks to promote awareness of  
8 exposures to toxic chemicals, and to improve human health by reducing or eliminating harmful  
9 substances contained in consumer and commercial products.

10 **1.3 Defendant**

11 Honeywell employs ten or more persons and is a person in the course of doing business for  
12 purposes of the Safe Drinking Water and Toxic Enforcement Act of 1986, California Health and  
13 Safety Code section 25249.5 *et seq.* (“Proposition 65”).

14 **1.4 General Allegations**

15 Vinocur alleges that Honeywell manufactures, imports, sells and/or distributes for sale in  
16 California, products containing di(2-ethylhexyl)phthalate (“DEHP”) and lead, and that it does so  
17 without providing the health hazard warning that Vinocur alleges is required by Proposition 65.

18 **1.5 Product Description**

19 The products covered by this Consent Judgment are gloves with vinyl/PVC components  
20 including, but not limited to, *North Safety Products Power Expert Mechanic’s Glove, M3000, UPC*  
21 *#8 21812 76019 3*, that are manufactured, imported, distributed, sold and/or offered for sale in  
22 California by Honeywell (“Products”).

23 **1.6 Notice of Violation**

24 On September 29, 2016, Vinocur served Honeywell and the requisite public enforcement  
25 agencies with a 60-Day Notice of Violation (the “Notice”), alleging that Honeywell violated  
26 Proposition 65 when it failed to warn its customers and consumers in California that the Products  
27 expose users to DEHP. To the best of the Parties’ knowledge, no public enforcer has commenced  
28 and is diligently prosecuting an action to enforce the allegations set forth in the Notice.

1           **1.7 Complaint**

2           On December 20, 2016, Vinocur commenced the instant action, naming Honeywell as one  
3 of the defendants for the alleged violations of Proposition 65 that are the subject of the Notice.

4           **1.8 No Admission**

5           Honeywell denies the material, factual, and legal allegations contained in the Notice and  
6 Complaint, and maintains that all of the products that it has sold or distributed for sale in California,  
7 including the Products, have been, and are, in compliance with all laws. Nothing in this Consent  
8 Judgment shall be construed as an admission by Honeywell of any fact, finding, conclusion of law,  
9 issue of law, or violation of law, nor shall compliance with this Consent Judgment constitute or be  
10 construed as an admission by Honeywell of any fact, finding, conclusion of law, issue of law, or  
11 violation of law. This Section shall not, however, diminish or otherwise affect Honeywell’s  
12 obligations, responsibilities, and duties under this Consent Judgment.

13           **1.9 Jurisdiction**

14           For purposes of this Consent Judgment only, the Parties stipulate that this Court has  
15 jurisdiction over Honeywell as to the allegations contained in the Complaint, that venue is proper in  
16 the County of Alameda, and that the Court has jurisdiction to enter and enforce the provisions of  
17 this Consent Judgment pursuant to Proposition 65 and Code of Civil Procedure section 664.6.

18           **1.10 Effective Date**

19           For purposes of this Consent Judgment, the term “Effective Date” shall mean date the Court  
20 grants the motion for approval of this Consent Judgment contemplated by Section 5, including any  
21 unopposed tentative ruling.

22 **2. INJUNCTIVE SETTLEMENT TERMS**

23           **2.1 Reformulation Standards**

24           “Reformulated Products” are defined as those Products containing: (a) DEHP in  
25 concentrations less than 0.1 percent (1,000 parts per million) when analyzed pursuant to U.S.  
26 Environmental Protection Agency testing methodologies 3580A and 8270C or other methodology  
27 utilized by federal or state government agencies for the purpose of determining DEHP content in a  
28 solid substance; and (b) containing no more than 100 parts per million (“ppm”) (0.01%) lead in any



1 exterior parts when analyzed pursuant to U.S. Environmental Protection Agency testing  
2 methodologies 3050B and 6010B or equivalent methodologies utilized by federal or state agencies  
3 for the purpose of determining lead content in a solid substance (e.g., ASTM C738-94 (2016)).  
4 And that yield no more than 1.0 microgram (“µg”) of lead when analyzed pursuant to NIOSH Test  
5 Method No. 9100 as applied to exterior parts of the Products.

## 6 **2.2 Reformulation Commitment**


7 As of January 1, 2018, all Products manufactured, imported, distributed, sold and/or offered  
8 for sale in the State of California by Honeywell shall be Products that qualify as Reformulated  
9 Products as defined in Section 2.1 above or carry the Proposition 65 warnings specified in Section  
10 2.3 below.

## 11 **2.3 Product Warnings**

12 Commencing on or before January 1, 2018, Honeywell shall provide clear and reasonable  
13 warnings for all Products as set forth in subsections 2.3(a) and (b) for all Products that do not  
14 qualify as Reformulated Products. Each warning shall be prominently placed with such  
15 conspicuousness as compared with other words, statements, designs, or devices as to render it likely  
16 to be read and understood by an ordinary individual under customary conditions before purchase or  
17 use. Each warning shall be provided in a manner such that the consumer or user understands to  
18 which *specific* Product the warning applies, so as to minimize the risk of consumer confusion.

### 19 **(a) Retail Store Sales.**


20 **(i) Product Labeling.** Honeywell shall affix a warning to the packaging,  
21 labeling, or directly on each Product provided for sale in retail outlets in California that states:

22  **WARNING:** This product can expose you to chemicals including DEHP  
23 and lead, which are known to the State of California to  
24 cause cancer, and birth defects or other reproductive harm.  
For more information go to [www.P65Warnings.ca.gov](http://www.P65Warnings.ca.gov).


25 **(b) Mail Order Catalog and Internet Sales.** In the event that Honeywell sells  
26 Products via mail order catalog and/or the internet, to customers located in California, after the  
27 January 1, 2018, that are not Reformulated Products, Honeywell shall provide warnings for such  
28 Products sold via mail order catalog or the internet to California residents. Warnings given in the

1 mail order catalog or on the internet shall identify the *specific* Product to which the warning applies  
2 as further specified in Sections 2.3(b)(i) and (ii).

3 (i) **Mail Order Catalog Warning.** Any warning provided in a mail order  
4 catalog shall be in the same type size or larger than the Product description text within the catalog.  
5 The following warning shall be provided on the same page and in the same location as the display  
6 and/or description of the Product:

7  **WARNING:** This product can expose you to chemicals including DEHP  
8 and lead, which are known to the State of California to  
9 cause cancer, and birth defects or other reproductive harm.  
10 For more information go to [www.P65Warnings.ca.gov](http://www.P65Warnings.ca.gov).

11 Where it is impracticable to provide the warning on the same page and in the same location  
12 as the display and/or description of the Product, Honeywell may utilize a designated symbol to  
13 cross reference the applicable warning and shall define the term “designated symbol” with the  
14 following language on the inside of the front cover of the catalog or on the same page as any order  
15 form for the Product(s):


16  **WARNING:** Certain products identified with this symbol ▼ and offered  
17 for sale in this catalog can expose you to chemicals  
18 including DEHP and lead, which are known to the State of  
19 California to cause cancer, and birth defects or other  
20 reproductive harm. For more information go to  
[www.P65Warnings.ca.gov](http://www.P65Warnings.ca.gov).

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


25 (ii) **Internet Website Warning.** A warning shall be given in conjunction with  
26 the sale of the Products via the internet, which warning shall appear either: (a) on the same web  
27 page on which a Product is displayed; (b) on the same web page as the order form for a Product; (c)  
28 on the same page as the price for any Product; or (d) on one or more web pages displayed to a  
purchaser during the checkout process. The following warning statement shall be used and shall



1 appear in any of the above instances adjacent to or immediately following the display, description,  
2 or price of the Product for which it is given in the same type size or larger than the Product  
3 description text:

4  **WARNING:** This product can expose you to chemicals including DEHP  
5 and lead, which are known to the State of California to  
6 cause cancer, and birth defects or other reproductive harm.  
7 For more information go to [www.P65Warnings.ca.gov](http://www.P65Warnings.ca.gov).

8 Alternatively, where it is impracticable to provide the warning on the same page and in the  
9 same location as the display and/or description of the Product, Honeywell may utilize a designated  
10 symbol to cross reference the applicable warning with a “designated symbol” which may appear  
11 adjacent to or immediately following the display, description, or price of the Product for which a  
12 warning is being given, provided that the following warning statement also appears elsewhere on  
13 the same web page, as follows:

14  **WARNING:** This product can expose you to chemicals including DEHP  
15 and lead, which are known to the State of California to  
16 cause cancer, and birth defects or other reproductive harm.  
17 For more information go to [www.P65Warnings.ca.gov](http://www.P65Warnings.ca.gov).

### 17 **3. MONETARY SETTLEMENT TERMS**

#### 18 **3.1 Payments Pursuant to Health and Safety Code § 25249.7(b)(2)**

19 Pursuant to Health and Safety Code section 25249.7(b)(2), and in settlement of all the  
20 claims referred to in this Consent Judgment, Honeywell shall pay civil penalties in the amount of  
21 \$5,000. The penalty payments shall be allocated according to Health and Safety Code section  
22 25249.12(c)(1) and (d), with 75% of the penalty amount paid to the California Office of  
23 Environmental Health Hazard Assessment (“OEHHA”) and the remaining 25% of the penalty paid  
24 to Vinocur. Within two (2) business days of the Effective Date, Honeywell shall issue two separate  
25 checks, the first check payable to “Laurence Vinocur, Client Trust Account” in the amount of  
26 \$1,250, and the second check payable to “OEHHA” in the amount of \$3,750. Vinocur’s counsel  
27 shall be responsible for remitting Honeywell’s penalty payment under this Consent Judgment to  
28 OEHHA.

1           **3.2 Reimbursement of Attorneys' Fees and Costs**

2           The Parties acknowledge that Vinocur and his counsel offered to resolve this dispute  
3 without reaching terms on the amount of fees and costs to be reimbursed to them, thereby leaving  
4 the issue to be resolved after the material terms of the agreement had been settled. Shortly after  
5 the other settlement terms had been finalized, Honeywell expressed a desire to resolve Vinocur's  
6 fees and costs. The Parties then negotiated a resolution of the compensation due to Vinocur and  
7 his counsel under general contract principles and the private attorney general doctrine codified at  
8 California Code of Civil Procedure § 1021.5. For all work performed through the mutual  
9 execution of this agreement and the Court's approval of the same, but exclusive of fees and costs  
10 on appeal, if any, Honeywell shall reimburse Vinocur and his counsel \$22,000. Honeywell's  
11 payment shall be delivered to the address in Section 3.3 within two (2) business days of the  
12 Effective Date, in the form of a check payable to "The Chanler Group." The reimbursement shall  
13 cover all fees and costs incurred by Vinocur investigating, bringing this matter to Honeywell's  
14 attention, litigating, and negotiating a settlement of the matter in the public interest.

15           **3.3 Payment Address**

16           All payments required by this Consent Judgment shall be delivered to the following  
17 address:

18                           The Chanler Group  
19                           Attn: Proposition 65 Controller  
20                           2560 Ninth Street  
                              Parker Plaza, Suite 214  
                              Berkeley, CA 94710

21           **4. CLAIMS COVERED AND RELEASED**

22           **4.1 Vinocur's Release of Proposition 65 Claims**

23           Vinocur, acting on his own behalf and in the public interest, releases Honeywell and its  
24 parents, subsidiaries, affiliated entities under common ownership, directors, officers, employees,  
25 and attorneys ("Releasees") and each entity to whom Honeywell directly or indirectly distributes or  
26 sells the Products including, but not limited to, its downstream distributors, wholesalers, customers,  
27 retailers, franchisers, cooperative members, licensors and licensees ("Downstream Releasees") for  
28 any violations arising under Proposition 65 for unwarned exposures to DEHP from the Products



1 manufactured, imported, distributed or sold by Honeywell before January 1, 2018, as set forth in the  
2 Notice.

### 3 **4.2 Vinocur's Individual Release of Claims**

4 Vinocur, in his individual capacity only and *not* in his representative capacity, also provides  
5 a release to Honeywell, Releasees, and Downstream Releasees which shall be effective as a full and  
6 final accord and satisfaction, as a bar to all actions, causes of action, obligations, costs, expenses,  
7 attorneys' fees, damages, losses, claims, liabilities and demands of Vinocur of any nature, character  
8 or kind, whether known or unknown, suspected or unsuspected, arising out of alleged or actual  
9 exposures to DEHP and/or lead in Products manufactured, imported, distributed or sold by  
10 Honeywell before January 1, 2018.

### 11 **4.3 Honeywell's Release of Vinocur**

12 Honeywell, on its own behalf and on behalf of its past and current agents, representatives,  
13 attorneys, successors and/or assignees, hereby waives any and all claims against Vinocur and his  
14 attorneys and other representatives, for any and all actions taken or statements made (or those that  
15 could have been taken or made) by Vinocur and his attorneys and other representatives in the  
16 course of investigating claims, seeking to enforce Proposition 65 against it in this matter, or with  
17 respect to the Products.

## 18 **5. COURT APPROVAL**

19 This Consent Judgment is not effective until it is approved and entered by the Court and  
20 shall be null and void if, for any reason, it is not approved and entered by the Court within one year  
21 after it has been fully executed by all Parties. Vinocur and Honeywell agree to support the entry of  
22 this agreement as a judgment, and to obtain the Court's approval of their settlement in a timely  
23 manner. The Parties acknowledge that, pursuant to California Health and Safety Code section  
24 25249.7(f), a noticed motion is required for judicial approval of this Consent Judgment, which  
25 motion Vinocur shall draft and file and Honeywell shall support, appearing at the hearing if so  
26 requested. If any third-party objection to the motion is filed, Vinocur and Honeywell agree to work  
27 together to file a reply and appear at any hearing. This provision is a material component of the  
28 Consent Judgment and shall be treated as such in the event of a breach.



1 **6. SEVERABILITY**

2 If, subsequent to the Court’s approval and entry of this Consent Judgment as a judgment,  
3 any provision of this Consent Judgment is held by a court to be unenforceable, the validity of the  
4 remaining provisions shall not be adversely affected.

5 **7. GOVERNING LAW**

6 The terms of this Consent Judgment shall be governed by the laws of the State of California  
7 and apply within the State of California. In the event that Proposition 65 is repealed, preempted, or  
8 is otherwise rendered inapplicable by reason of law generally, or as to the Products, then Honeywell  
9 may provide Vinocur with written notice of any asserted change in the law, and shall have no  
10 further obligations pursuant to this Consent Judgment, with respect to, and to the extent that, the  
11 Products are so affected. Nothing in this Consent Judgment shall be interpreted to relieve  
12 Honeywell from its obligation to comply with any pertinent state or federal law or regulation.

13 **8. NOTICE**

14 Unless specified herein, all correspondence and notice required by this Consent Judgment  
15 shall be in writing and sent by: (i) personal delivery, (ii) first-class registered or certified mail,  
16 return receipt requested; or (iii) a recognized overnight courier to any Party by the other at the  
17 following addresses:

18	To Honeywell:	To Vinocur:
19	Jason Levin, Esq.	Attn: Proposition 65 Coordinator
20	Christopher Smith, Esq.	The Chanler Group
21	Steptoe & Johnson LLP	2560 Ninth Street
22	633 West 5 <sup>th</sup> Street, 7th Floor	Parker Plaza, Suite 214
	Los Angeles, CA 90071	Berkeley, CA 94710-2565

23 Any Party may, from time to time, specify in writing to the other Party a change of address to  
24 which all notices and other communications shall be sent.

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1 **9. COUNTERPARTS, FACSIMILE AND PDF SIGNATURES**

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

5 **10. COMPLIANCE WITH REPORTING REQUIREMENTS**

6 Vinocur and his counsel agree to comply with the reporting form requirements referenced in  
7 California Health and Safety Code section 25249.7(f).

8 **11. MODIFICATION**

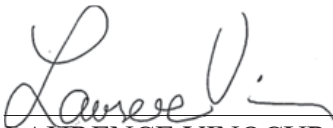
9 This Consent Judgment may be modified only by: (i) a written agreement of the Parties and  
10 the entry of a modified Consent Judgment by the Court thereon; or (ii) upon a successful motion of  
11 any party and the entry of a modified Consent Judgment by the Court thereon.

12 **12. AUTHORIZATION**

13 The undersigned are authorized to execute this Consent Judgment on behalf of their  
14 respective Parties and have read, understood, and agreed to all of the terms and conditions of this  
15 Consent Judgment.

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**AGREED TO:**

  
\_\_\_\_\_  
LAURENCE VINO CUR

Dated: 10/19/2017

**AGREED TO:**

\_\_\_\_\_  
HONEYWELL INTERNATIONAL INC.

By: \_\_\_\_\_  
(Print Name)

Its: \_\_\_\_\_  
(Title)

Dated: \_\_\_\_\_

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17 **AGREED TO:**

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19 \_\_\_\_\_  
20 LAURENCE VINO CUR

21 Dated: \_\_\_\_\_

**AGREED TO:**

22   
23 \_\_\_\_\_  
24 HONEYWELL INTERNATIONAL INC.

25 By: Joshua Foster  
26 (Print Name)

27 Its: VP/GC Honeywell Industrial Safety  
28 (Title)

Dated: 10/23/17