

## **SETTLEMENT AGREEMENT**

### **1. INTRODUCTION**

#### **1.1 The Parties**

This Settlement Agreement is hereby entered into by and between Maureen Parker (“Parker”) and Bond Manufacturing Company (hereinafter “Bond”), with Parker and Bond collectively referred to as the “Parties” and each of them as a “Party.” Parker is an individual residing in 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. Bond is a person in the course of doing business for purposes of Proposition 65, Cal. Health & Safety Code §§ 25249.6 et seq.

#### **1.2 Allegations and Representations**

(a) Parker alleges that Bond offered for sale in the State of California and that Bond’s customers, Dick’s Sporting Goods, Inc (“Dick’s”) among others, have sold in California, Island Lights Citronella Oil that, when used as intended, produces combustion byproducts including carbon monoxide and soot, and that such sales have not been accompanied by Proposition 65 warnings. Carbon monoxide and soot are listed under Proposition 65 as chemicals known to the State of California to cause cancer and birth defects or other reproductive harm. Parker has cited UPC035355010640 as a specific example of the Island Lights Citronella Oil that is the subject of her allegations.

(b) For purposes of this Settlement Agreement only, Bond represents that: 1) UPC035355010640 is marketed as Island Lights Citronella Oil and manufactured by Bond (“Producers”) and distributed to Dick’s and others; and 2) Producers had no reason to believe that the item required warnings under Prop 65 for Carbon monoxide and soot until receiving Parker’s Notice on May 22, 2017.

(c) Producers deny the material, factual and legal allegations contained in the Notices, and maintain that all products sold, distributed or offered for sale in California have been and are in compliance with all laws, including, without limitation, Proposition 65. Nothing in this

Settlement Agreement shall be construed as an admission by Bond of any fact, finding, issue of law or violation of law; nor shall compliance with this Settlement Agreement constitute or be construed as an admission by Bond of any fact, finding, conclusion, issue of law or violation of law. This Section shall not, however, diminish or otherwise affect the obligations, responsibilities and duties under this Settlement Agreement.

(d) The Parties enter into this Settlement Agreement to resolve all Proposition 65 claims concerning Producer's products set forth in Parker's Notice, including claims against Producer's customers, including Dick's, who received the Notice alleging violations of Proposition 65 resulting from their distribution and/or sale of Producer's products in California.

### **1.3 Covered Items**

The products that are covered by this Settlement Agreement are defined as citronella oil products including, but not limited to, Island Lights Citronella Oil, UPC035355010640 that are manufactured, imported, distributed, sold and/or offered for sale by Producers in the State of California, hereinafter the "Products."

### **1.4 Notice of Violation**

On or about May 22, 2017, Parker served Producers, Dick's, and all public enforcement agencies eligible to initiate Proposition 65 actions on behalf of the People of the State of California with a document entitled "60-Day Notice of Violation" (the "Notice") that provided Producers, Dick's, and such public enforcers with notice that alleged that Producers and Dick's were in alleged violation of Proposition 65 for failing to warn consumers and customers that the Products exposed users in California to Carbon monoxide and soot. No public enforcer diligently prosecuted the claims threatened in the Notice within sixty days plus service time relative to the provision of the Notice to them by Parker.

### **1.5 No Admission**

Producers deny the material allegations contained in Parker's Notice and maintain that it has not violated Proposition 65. Nothing in this Settlement Agreement shall be construed as an admission by Producers of any fact, finding, issue of law, or violation of law; nor shall

compliance with this Settlement Agreement constitute or be construed as an admission by Producers of any fact, finding, conclusion, issue of law, or violation of law, such being specifically denied by Producers. However, this section shall not diminish or otherwise affect the obligations, responsibilities, and duties of Producers under this Settlement Agreement.

#### **1.6 Execution Date**

1.6.1 For purposes of this Settlement Agreement, the term "Execution Date" shall mean the date this Settlement Agreement is fully executed.

1.6.2 For purposes of this Settlement Agreement, the term "Effective Date" shall mean the date that Prop 65 warnings shall be implemented pursuant to Article 2.

### **2. COMPLIANCE**

2.1 **Warning Option.** The Products shall be deemed to comply with Proposition 65 with regard to carbon monoxide and soot if the Products from which exposures to Carbon monoxide and soot are labeled with the following: "WARNING: This product can expose you to chemicals including carbon monoxide and soot, 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](http://www.P65Warnings.ca.gov)."

2.2 The warning provided pursuant to Section 2.1 shall, within 60 days of the Execution Date, be prominently displayed on the Covered Product with such conspicuousness as compared with other words, statements, or designs as to render it likely to be read and understood by an ordinary individual prior to sale ("Effective Date"). The warning shall be contained in the same section that states other safety warnings concerning the use of the product and shall be at least the same size as those other safety warnings.

### **3. REIMBURSEMENT OF FEES AND COSTS**

3.1 The Parties reached an accord on the compensation due to Parker and her counsel under the private attorney general doctrine and principles of contract law. Under these legal principles, Producers shall reimburse Parker's counsel for fees and costs, incurred as a result of investigating, bringing this matter to Producers attention, and negotiating a settlement in the public interest. Producers shall pay Parker's counsel \$21,000.00 for all attorneys' fees, expert

and investigation fees, and related costs associated with this matter and the Notice. Producers shall provide said monies to the "Law Offices of Stephen Ure, PC" (tax identification number 42-1641673) no later than two (2) days following the Execution Date. The Law Offices of Stephen Ure, PC will provide Producers with tax identification and bank wire information prior to the Execution Date. Other than the payment required hereunder, each side is to bear its own attorneys' fees and costs.

3.2 Time is of the essence with regard to the receipt of payments specified in Article 3. If payments are not made as agreed this agreement shall, in its entirety, be null and void.

#### **4. CLAIMS COVERED AND RELEASED**

##### **4.1 Release of Producers and Downstream Customers**

Parker, on behalf of herself, releases Producers and each of its downstream distributors, wholesalers, licensors, licensees, auctioneers, retailers (including, but not limited to, Dick's), franchisees, dealers, customers, owners, purchasers, users, parent companies, corporate affiliates, subsidiaries, and their respective officers, directors, attorneys, representatives, shareholders, agents, and employees, and sister and parent entities (collectively "Releasees") from all claims for violations of Proposition 65 up through the Effective Date based on exposure to carbon monoxide and soot from the Products as set forth in her Notice of Violation. Compliance with the terms of this Settlement Agreement constitutes compliance with Proposition 65 with respect to exposures to Carbon monoxide and soot from the Products. Parker releases Releasees for any alleged violation of Proposition 65 arising from future sales of Products that comply with the terms of this Settlement Agreement.

In addition to the foregoing, Parker, on behalf of herself, her past and current agents, representatives, attorneys, and successors and/or assignees, and not in her representative capacity, hereby releases Releasees from all actions, causes of action, obligations, costs, expenses, attorneys' fees, damages, losses, claims, liabilities, and demands of Parker of any nature, character, or kind, whether known or unknown, suspected or unsuspected, limited to and arising out of alleged or actual exposures to carbon monoxide or soot from the Products

manufactured, imported, distributed, or sold by Bond prior to the Effective Date ("Claims"). This release shall be effective as a full and final accord and satisfaction and as a bar to all such Claims.

#### **4.2 Bond's Release of Parker**

Producers waive any and all claims against Parker, her attorneys, and other representatives, for any and all actions taken or statements made (or those that could have been taken or made) by Parker and her attorneys and other representatives, whether in the course of investigating claims or otherwise seeking to enforce Proposition 65 against it in this matter with respect to the Products.

#### **5. SEVERABILITY AND MERGER**

If, subsequent to the execution of this Settlement Agreement, any of the provisions of this document are held by a court to be unenforceable, the validity of the enforceable provisions remaining shall not be adversely affected.

This Settlement Agreement contains the sole and entire agreement of the Parties and any and all prior negotiations and understandings related hereto shall be deemed to have been merged within it. No representations or terms of agreement other than those contained herein exist or have been made by any Party with respect to the other Party or the subject matter hereof.

#### **6. GOVERNING LAW**

6.1 This Settlement Agreement shall be interpreted in accordance with the plain English meaning of its terms and the construction thereof shall be governed by the laws in force in the State of California, USA without regard to conflicts of law principles. This Settlement Agreement resolves any issue, now or in the future, with the requirements of Proposition 65 with respect to alleged exposures to carbon monoxide and soot arising from the Products. In the event that Proposition 65 is repealed or is otherwise rendered inapplicable by reason of law generally, or as to the Products, then Producers shall provide written notice to Parker of any asserted

change in the law, and shall have no further obligations pursuant to this Settlement Agreement with respect to, and to the extent that, the Products are so affected.

6.2 This Settlement Agreement shall apply to and be binding upon Parker and Producer, its divisions, subdivisions, and subsidiaries, if any, and the Parties' successors and assigns.

6.3 The Parties, including their counsel, have participated in the preparation of this Settlement Agreement and this Settlement Agreement is the result of the joint efforts of the Parties. This Settlement 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 Settlement Agreement shall not be interpreted against any Party as a result of the manner of the preparation of this Settlement Agreement.

## 7. NOTICES

Unless specified herein, all correspondence and notices required to be provided pursuant to this Settlement Agreement shall be in writing and personally delivered or sent by: (i) first-class, (registered or certified mail) return receipt requested; or (ii) overnight courier on any Party by the other Party at the following addresses:

For Bond:

Daryl Merritt, Chief Executive Officer  
Bond Manufacturing Co., Inc.  
1700 West 4th Street  
Antioch, CA 94509

With a Copy to:

David Metres, Esq.  
Barg Coffin Lewis & Trapp  
350 California St., 22<sup>nd</sup> Floor  
San Francisco, CA 94104

and

For Parker:

Stephen Ure

Law Offices of Stephen Ure, PC.  
11622 El Camino Real, Suite 100  
San Diego, California 92130

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

**8. COUNTERPARTS; FACSIMILE SIGNATURES**

The stipulations to this Settlement Agreement may be executed in counterparts and by means of facsimile and/or portable document format (pdf), which taken together shall be deemed to constitute one document.

**9. COMPLIANCE WITH HEALTH & SAFETY CODE § 25249.7(f)**

Parker agrees to comply with the reporting requirements set forth in California Health & Safety Code §25249.7(f).

**10. MODIFICATION**

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

**12. REPORTED SALES**

12.1 Producers represent and warrant that it believes that the maximum number of Covered Products shipped to Dick's and other California retailers for sale in California during the period one year prior to and including May 22, 2017 was 480 units.

**12.2 ACCURACY OF SALES DATA**

Producers understand that the sales data provided to counsel for Parker by Producers was a material factor upon which Parker has relied to determine the amount of payments made pursuant to Health and Safety Code §25249.7(b) under this Agreement. Producers represent that it has provided true and accurate sales data to plaintiff to the best of its ability.

**13.**

**14. 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 document.

**APPROVED AS TO FORM:**

Dated: ~~August~~, 2017  
October 10, 2017

BARG COFFIN LEWIS & TRAPP, LLP  
By: David Metres

David Metres  
Attorneys for  
Bond Manufacturing Company

Dated: August , 2017

LAW OFFICES OF STEPHEN URE, PC  
By: \_\_\_\_\_

Stephen Ure  
Attorneys for Plaintiff,  
Maureen Parker

**AGREED TO:**

Date: \_\_\_\_\_

Date: 10/9/2017

By: \_\_\_\_\_  
Maureen Parker

By: [Signature]  
Daryl Merritt, CEO  
Bond Manufacturing Company



respective parties and have read, understood and agree to all of the terms and conditions of this document.

**APPROVED AS TO FORM:**

Dated: August , 2017

BARG COFFIN LEWIS & TRAPP, LLP  
By: \_\_\_\_\_

David Metres  
Attorneys for  
Bond Manufacturing Company

<sup>October 6</sup>  
Dated: ~~August~~ , 2017

~~LAW OFFICES OF~~ STEPHEN URE, PC  
By: \_\_\_\_\_

Stephen Ure  
Attorneys for Plaintiff,  
Maureen Parker

**AGREED TO:**

Date: October 6, 2017

Date: \_\_\_\_\_

By: Maureen Parker  
Maureen Parker

By: \_\_\_\_\_  
Daryl Merritt, CEO  
Bond Manufacturing Company