

## **SETTLEMENT AGREEMENT**

### **1. INTRODUCTION**

#### **1.1 Laurence Vinocur and Good Ideas, Inc.**

This Settlement Agreement (Settlement Agreement) is entered into by and between Laurence Vinocur (Vinocur) and Good Ideas, Inc. (Good Ideas), with Vinocur and Good Ideas collectively referred to as the “Parties”. Vinocur is an individual residing in California who seeks to promote awareness of exposures to toxic chemicals and to improve human health by reducing or eliminating hazardous substances contained in consumer products. Good Ideas employs ten or more persons and 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 §§ 25249.5 *et seq.* (Proposition 65).

#### **1.2 General Allegations**

Vinocur alleges that Good Ideas manufactures, imports, distributes, sells and/or offers for sale in California, vinyl/PVC greenhouse covers and vinyl tree bags that contain di(2-ethylhexyl)phthalate (DEHP), and that it does so without providing the health hazard warning that Vinocur alleges is required by Proposition 65. DEHP is listed pursuant to Proposition 65 as a chemical known to the State of California to cause birth defects and other reproductive harm.

#### **1.3 Product Description**

The products that are covered by this Settlement Agreement are vinyl/PVC greenhouse covers containing DEHP including, but not limited to, the *Garden Wizard Elevated Garden Complete, Khaki, UPC # 8 18755 01036 2*, and Garden Wizard vinyl tree bags containing DEHP manufactured, imported, or purchased for resale by Good Ideas and distributed, sold and/or offered for sale in the State of California, hereinafter the “Products”.

#### **1.4 Notices of Violation**

On or about March 9, 2018, Vinocur served Good Ideas and certain requisite public enforcement agencies with a 60-Day Notice of Violation (Notice), alleging that Good Ideas

violated Proposition 65 when it failed to warn its customers and consumers in California that Good Ideas' vinyl/PVC greenhouse covers expose users to DEHP.

On or about August 29, 2018, Vinocur served Good Ideas and certain requisite public enforcement agencies with a Supplemental 60-Day Notice of Violation (Supplemental Notice), alleging that Good Ideas violated Proposition 65 when it failed to warn its customers and consumers in California that the Products expose users to DEHP. Hereinafter, the 60-Day Notice of Violation and Supplemental 60-Day Notice of Violation are collectively referred to as the "Notices". To the best of the Parties' knowledge, no public enforcer has commenced and is diligently prosecuting the allegations set forth in the Notices.

### **1.5 No Admission**

Good Ideas denies the material, factual and legal allegations contained in the Notices and maintains that all products that it has sold and distributed in California, including the Products, have been and are in compliance with all laws. Nothing in this Settlement Agreement shall be construed as, nor shall compliance with this Settlement Agreement constitute or be construed as, an admission by Good Ideas 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.

### **1.6 Effective Date**

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

## **2. INJUNCTIVE RELIEF: REFORMULATION**

### **2.1 Injunctive Relief**

Commencing on the Effective Date and continuing thereafter, Good Ideas shall only manufacture for sale, import for sale, and purchase for resale in California Products that are Reformulated Products as defined by Section 2.2.

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## **2.2 Reformulation Standards**

“Reformulated Products” are Products containing DEHP in concentrations of less than 0.1 percent (1,000 parts per million) in each accessible component when analyzed by a laboratory accredited by the State of California, a federal agency, or a nationally recognized accrediting organization. For purposes of compliance with this reformulation standard, testing samples shall be prepared and extracted using Consumer Product Safety Commission (CPSC) methodology CPSC-CH-C1001.09.3 and analyzed using U.S. Environmental Protection Agency (EPA) methodology 8270D, or other methodologies utilized by federal or state government agencies to determine phthalate content in a solid substance.

## **3. MONETARY SETTLEMENT TERMS**

### **3.1 Civil Penalty Payments**

Pursuant to Health and Safety Code § 25249.7(b), and in settlement of all claims alleged in the Notices or referred to in this Settlement Agreement, Good Ideas agrees to pay a total of \$2,500 in civil penalties. The penalty payment will be allocated in accordance with California Health and Safety Code § 25249.12(c)(1) and (d), with 75% of the penalty amount paid to the California Office of Environmental Health Hazard Assessment (OEHHA) and the remaining 25% of the penalty amount retained by Vinocur.

Good Ideas will deliver its civil penalty payment to the address in Section 3.3 by overnight courier, with a tracking number, such that payment is received by plaintiff’s counsel on or before February 15, 2019. Good Ideas shall provide two checks made payable to: (a) “OEHHA” in the amount of \$1,875; and (b) “Laurence Vinocur, Client Trust Account” in the amount of \$625. Thereafter, Vinocur’s counsel shall send OEHHA’s portion of the penalties paid by Good Ideas to OEHHA.

### **3.2 Reimbursement of Attorneys’ Fees and Costs**

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

Shortly after the other settlement terms had been finalized, Good Ideas expressed a desire to resolve Vinocur's Code of Civil Procedure § 1021.5 claim. The Parties then negotiated a resolution of the compensation due to Vinocur's counsel under general contract principles and the private attorney general doctrine codified at California. For all work performed through the mutual execution of this agreement, Good Ideas shall reimburse Vinocur's counsel \$17,800, which payment Good Ideas will deliver to the address in Section 3.3 by overnight courier, with a tracking number, such that the payment is received by plaintiff's counsel on or before February 15, 2019, in the form of a check payable to "The Chanler Group." The reimbursement shall cover all fees and costs incurred by Vinocur investigating, bringing this matter to Good Ideas' attention and negotiating a settlement of the matter.

### **3.3 Payment Address**

All payments required by this Settlement Agreement shall be delivered to the following address:

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

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

### **4.1 Vinocur's Release of Good Ideas**

This Settlement Agreement is a full, final and binding resolution between Vinocur, as an individual and *not* on behalf of the public, and Good Ideas, of any violation of Proposition 65 that was or could have been asserted by Vinocur on behalf of himself, his past and current agents, representatives, attorneys, successors, and/or assignees, against Good Ideas, its parents, subsidiaries, affiliated entities under common ownership, directors, officers, employees, attorneys, including Sterling Technologies, Inc., and each entity to whom Good Ideas directly or indirectly distributes or sells Products, including, but not limited, to downstream distributors, wholesalers, customers, retailers, including Walmart Inc., franchisees, cooperative members, and licensees (collectively, Releasees), based on their failure to warn about alleged exposures to

DEHP contained in the Products that were manufactured, distributed, sold and/or offered for sale by Good Ideas in California before the Effective Date, as alleged in the Notices.

In further consideration of the promises and agreements herein contained, Vinocur as an individual and *not* on behalf of the public, on behalf of himself, his past and current agents, representatives, attorneys, successors, and/or assignees, hereby waives all of Vinocur's rights to institute or participate in, directly or indirectly, any form of legal action and releases all claims that Vinocur may have, including, without limitation, all actions, and causes of action, in law or in equity, suits, liabilities, demands, obligations, damages, costs, fines, penalties, losses, or expenses including, but not exclusively, investigation fees, expert fees, and attorneys' fees arising under Proposition 65 with respect to DEHP in the Products, as alleged in the Notices, manufactured, distributed, sold and/or offered for sale by Good Ideas, before the Effective Date (collectively, Claims), against Good Ideas and Releasees.

The Parties further understand and agree that this Section 4.1 release shall not extend upstream to any entities that manufactured the Products or any component parts thereof, or any distributors or suppliers who sold the Products or any component parts thereof to Good Ideas. Nothing in this Section affects Vinocur's right to commence or prosecute an action under Proposition 65 against a Releasee that does not involve Good Ideas' Products.

**4.2 Good Ideas' Release of Vinocur**

Good Ideas, on behalf of itself, its past and current agents, representatives, attorneys, successors, and assignees, hereby waives any and all claims against Vinocur and his attorneys and other representatives, for any and all actions taken or statements made (or those that could have been taken or made) by Vinocur and his 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.

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**5. SEVERABILITY**

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

**6. GOVERNING LAW**

The terms of this Settlement Agreement shall be governed by the laws of the State of California and apply within the State of California. In the event that Proposition 65 is repealed or is otherwise rendered inapplicable by reason of law generally, or if any of the provisions of this Settlement Agreement are rendered inapplicable or no longer required as a result of any such repeal or preemption or rendered inapplicable by reason of law generally as to the Products, then Good Ideas shall provide written notice to Vinocur of any asserted change in the law and shall have no further injunctive obligations pursuant to this Settlement Agreement with respect to, and to the extent that, the Products are so affected. Nothing in this Settlement Agreement shall be interpreted to relieve Good Ideas from any obligation to comply with any pertinent state or federal toxics control law.

**7. NOTICES**

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

For Good Ideas:

Cary P. Quigley, President  
Good Ideas, Inc.  
10047 Keystone Drive  
Lake City, PA 16423

With a Copy to:

William T. Morton, Esquire  
2225 Colonial Avenue, Suite 206  
Erie, PA 16506

For Vinocur:

Proposition 65 Coordinator  
The Chanler Group  
2560 Ninth Street  
Parker Plaza, Suite 214  
Berkeley, CA 94710-2565

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 AND SIGNATURES**

This Settlement Agreement may be executed in counterparts and by facsimile or pdf signature, each of which shall be deemed an original, and all of which, when taken together, shall constitute one and the same document.

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

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

**10. MODIFICATION**

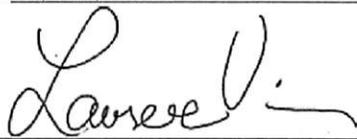
This Settlement Agreement may be modified only by a written agreement of the Parties.

**11. AUTHORIZATION**

The undersigned are authorized to execute this Settlement Agreement and have read, understood and agree to all of the terms and conditions contained herein.

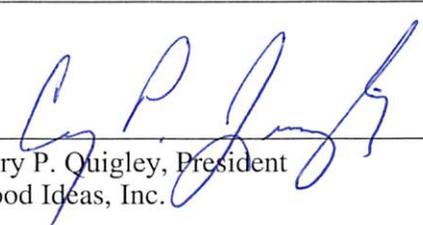
**AGREED TO:**

Date: 2/12/2019

By:   
Laurence Vinocur

**AGREED TO:**

Date: 2/12/2019

By:   
Cary P. Quigley, President  
Good Ideas, Inc.