SETTLEMENT AGREEMENT

BETWEEN

SARA HAMMOND

AND

BRE INDUSTRIES, INC.

Sara Hammond ("Hammond") and BRE Industries, Inc. (herein referred to as "BRE") (Hammond and BRE are collectively referred to as the "Parties"), enter into this agreement ("Settlement Agreement") for the purpose of avoiding prolonged and costly litigation to settle Hammond's allegations that BRE violated Proposition 65. The effective date of this Settlement Agreement shall be the date upon which it is fully executed by all Parties hereto (the "Effective Date").

1. Introduction

1.1. Hammond alleges she is an individual who seeks to promote awareness of exposures to toxic chemicals and improve human health by reducing or eliminating hazardous substances contained in consumer and industrial products.

1.2. BRE previously sold, imported, distributed, or manufactured at various times clear PVC bags designed to hold electronic devices (for example the iMoshion Clear PVC Bag "Style: 66-0005"; SKU # 400185824703 referred to throughout as the "Covered Product").

1.3. Hammond alleges that the Covered Product contains Di(2-ethylhexyl)phthalate ("DEHP"). Also known as Diethyl Hexyl Phthalate and Bis (2-ethylhexyl) phthalate, and that BRE did not provide a required warning in compliance with

the California Safe Drinking Water and Toxic Enforcement Act of 1986 (Cal. Health & Safety Code § 25249.5, *et seq.* ("Proposition 65")).

1.4. On January 1, 1988 the Governor of California added DEHP to the list of chemicals known to the State to cause cancer, and on October 24, 2003, the Governor added DEHP to the list of chemicals known to the State to cause developmental male reproductive toxicity. These additions took place more than twenty (20) months before Hammond served her "Sixty-Day Notice Of Violation Sent in Compliance With California Health & Safety Code § 25249.7(d)" which is further described below.

1.5. DEHP is referred to hereafter as the "Listed Chemical".

1.6. On or about November 13, 2018 Hammond alleges she served BRE, Burlington Coat Factory and related entities and certain relevant public enforcement agencies with a Sixty-Day Notice of Violation that was sent pursuant to California Health & Safety Code § 25249.7(d) alleging the Covered Product contained the Listed Chemical (the "Notice").

1.7. The Notice alleged that BRE violated Proposition 65 by failing to warn consumers in California that use of the Covered Products exposes persons to the Listed Chemical.

1.8. The Parties enter into this Settlement Agreement to settle disputed claims between them concerning the Parties' and the Covered Products' compliance with Proposition 65 (the "Dispute").

1.9. BRE disputes Hammond's allegations described in this Settlement Agreement and in the Notice.

1.10. By execution of this Settlement Agreement, the Parties do not admit any facts or conclusions of law, including, but not limited to, any facts or conclusions of law regarding any violation of Proposition 65, or any other statutory, regulatory, common law, or equitable doctrine. Nothing in this Settlement Agreement shall be construed as an admission by the Parties of any fact, conclusion of law, issue of law, or violation of law. Nothing in this Settlement Agreement, nor compliance with its terms, shall constitute or be construed, considered, offered, or admitted as evidence of an admission or evidence of fault, wrongdoing, or liability by BRE, its officers, directors, employees, or parents, subsidiaries or affiliated corporations, licensees, licensors, suppliers, distributors or retailers of its products, in any administrative or judicial proceeding or litigation in any court, agency, or forum. Except for the allegations settled and compromised, nothing in this Settlement Agreement shall prejudice, waive, or impair any right, remedy, argument, or defense that Hammond or BRE may have in any other legal proceeding as to allegations unrelated to the Dispute or claims released herein.

2. Release

2.1. This Settlement Agreement is a full, final, and binding resolution between Hammond, acting in her individual capacity, on the one hand, and (a) BRE, and its current owners, parents, subsidiaries, affiliates, sister and related companies, licensees, licensors, suppliers, employees, shareholders, members, officers, directors, insurers, attorneys, predecessors, successors, and assigns (collectively "Releasees") and (b) all entities to whom Releasees directly or indirectly provide, distribute, or sell the Covered Product, including but not limited to Ross Stores

d/b/a DD's Discounts, distributors, wholesalers, customers, retailers, franchisees, and cooperative members ("Downstream Releasees"), on the other hand, of any violation(s) or claimed violation(s) of Proposition 65 or any statutory or common law claim that has been, could have been or may in the future be asserted against the Releasees and Downstream Releasees regarding exposing persons to any Proposition 65 listed chemical or the failure to warn about exposure to any Proposition 65 listed chemical arising in connection with the Covered Product sold or otherwise distributed by BRE prior to the Effective Date, even if sold by Downstream Releasees after the Effective Date.

2.2. Hammond, on behalf of herself and her past and current agents, representatives, attorneys, successors, and/or assignees, hereby waives and releases with respect to the Covered Product all rights to institute or participate in, directly or indirectly, any form of legal action, 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 limited to, investigation fees, expert fees, and attorneys' fees) (collectively "Claims"), against Releasees and the Downstream Releasees that arise under Proposition 65 or any other statutory or common law claims that were or could have been asserted in connection with the Covered Product sold or otherwise distributed by BRE up to the Effective Date, including without limitation to the extent that such claims relate to Releasees' or Downstream Releasees' alleged exposure of persons to any Proposition 65 listed chemicals contained in the Covered Product or any failure

by Releasees or Downstream Releasees to warn about exposures to any Proposition 65 listed chemical contained in the Covered Product.

2.3. Hammond acknowledges that she is familiar with Section 1542 of Civil Code, which provides as follows:

> A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY.

Hammond, on behalf of herself and her past and current agents, representatives, attorneys, successors, and/or assignees expressly waives and relinquishes any and all rights and benefits which she may have under, or which may be conferred on her by the provisions of California Civil Code § 1542 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. The release in this section shall have no force or effect until the full amount of payments set forth below are paid in full.

2.4. BRE's release of Hammond

BRE on its own behalf, and on behalf of its past and current agents, representatives, attorneys, successors and assignees, hereby waives any and all claims against Hammond and her attorneys and other representatives, whether in the course of investigating claims, seeking to enforce Proposition 65 against it in this matter, or with respect to the Covered Product.

3. **BRE's Duties**

3.1. Effective on and after the Effective Date BRE shall not sell the Covered Product for distribution in California in the future and shall not resume sales of the Covered Product in California unless the product meets the reformulation standard set forth in Paragraph 3.2 or unless BRE provides a clear and reasonable warning for any non-reformulated Covered Product that it sells in California.

3.2. Except as provided above, effective on and after the Effective Date, BRE agrees to only sell in California, "Reformulated Covered Products." For purposes of this Settlement Agreement, "Reformulated Covered Products" are Covered Products containing no more than 1,000 parts per million (0.1%) DEHP in any accessible component ("accessible component" is defined as any component that could be touched by a person during reasonably foreseeable use). In order to determine compliance with this reformulation standard, BRE may rely on third party testing from an accredited laboratory.

3.3. The Parties agree that any of the following warnings shall constitute a "Compliant Warning" for the Listed Chemical in the Covered Product:

(a) the text, "**WARNING This product can expose you to chemicals including Di(2-ethylhexyl)phthalate (DEHP), which is known to the State of California to cause cancer or reproductive harm. For more information go to www.P65Warnings.ca.gov.**" accompanied by and placed to the right of a symbol consisting of a black exclamation point in a yellow equilateral triangle with a bold black outline sized to be no smaller than the word "WARNING" as provided by regulations adopted on or about August 30, 2016; or

(b) the text, "**WARNING Cancer or Reproductive Harm – www.P65Warnings.ca.gov.**" accompanied by and placed to the right of a symbol consisting of a black exclamation point in a yellow equilateral triangle with a bold black outline sized to be no smaller than the word "WARNING" as provided by regulations adopted on or about August 30, 2016.

The triangular warning symbol specified in Section 3.3 shall be in yellow with a black exclamation mark; *provided however*, the symbol may be printed in black and white if the Covered Product label is not printed against a yellow background.

3.4. The Parties agree that the specifications for Compliant Warnings in this Settlement Agreement comply with Proposition 65 and its regulations as of the date of this Settlement Agreement, and with regulations adopted on or about August 30, 2016 and which become effective August 30, 2018.

3.5. If modifications or amendments to Proposition 65 or its regulations after the Effective Date are inconsistent with, or provide warning specifications or options different from, the specifications in this Settlement Agreement, Defendant may modify the content and delivery methods of its warnings to conform to the modified or amended provisions of Proposition 65 or its regulations.

4. Payments

4.1. BRE agrees to pay a total of twenty-four thousand ($24,000) dollars within 10 days of the Effective Date. All payments shall be made by check and sent via overnight mail with tracking numbers provided to plaintiff's counsel and addressed as follows:

and further specified as follows:

4.1.1. Civil Penalty: BRE shall issue two separate checks for a total amount of one- thousand dollars ($1,000) as penalties pursuant to California Health & Safety Code § 25249.12 as follows: (a) one check made payable to the State of California's Office of Environmental Health Hazard Assessment (OEHHA) in the amount of seven hundred and fifty dollars ($750), representing 75% of the total penalty; and (b) one check to Sara Hammond in the amount of two hundred and fifty dollars ($250), representing 25% of the total penalty. Additionally, two separate 1099's shall be issued for the above payments. The first 1099 shall be issued to OEHHA, PO Box 4010, Sacramento, CA 95184 (EIN: 68-0284486) in the amount of $750. The second 1099 shall be issued in the amount of $250 to Sara Hammond be addressed to Sara Hammond C/O Joseph D. Agliozzo, Law Corporation and shall be delivered to Joseph D. Agliozzo, Law Corporation, PO Box 3582, Manhattan Beach, CA 90266. At BRE's request, Hammond's counsel shall provide BRE with a W-9 for Hammond.

4.1.2. Attorneys' Fees and Costs: Twenty three thousand dollars ($23,000) shall be paid to Joseph D. Agliozzo, Law Corporation as Hammond's attorney, for reasonable investigation fees and costs, attorneys' fees, and other costs incurred as a result of investigating and bringing this matter to BRE's

attention. At BRE's request, Hammond's counsel shall provide BRE with a W-9 for Joseph D. Agliozzo, Law Corporation.

5. **Authority to Enter Into Settlement Agreement**

5.1. Hammond represents that she has full authority to enter into and legally bind Hammond to this Settlement Agreement.

5.2. The person signing this Settlement Agreement on behalf of BRE represents and warrants that he/she has been granted full authority to enter into and legally bind BRE to this Settlement Agreement.

6. **Report of the Settlement Agreement to the Office of the Attorney General of California**

Hammond shall report this Settlement Agreement to the Attorney General's Office within five (5) days of the Parties' execution of this Settlement Agreement.

7. **Execution in Counterparts and Facsimile**

This Settlement Agreement may be executed in counterparts, which taken together shall be deemed to constitute the same document. A facsimile or portable document format (PDF) signature shall be as valid as the original as an electronic record executed and adopted by a Party with the intent to sign the electronic record pursuant to California Civil Code §§ 1633.1-1633.17.

8. **Entire Agreement**

This Settlement Agreement contains the sole and entire agreement and understanding of the Parties with respect to the subject matter hereof, and all related prior discussions, negotiations, commitments, and understandings. No other promises or agreements, oral or

otherwise, exist to bind any of the Parties or are being relied on by any of the Parties in connection with the execution of this Settlement Agreement.

9. **Modification of Settlement Agreement**

Any modification to this Settlement Agreement shall be in writing and signed by the Parties.

10. **Application of Settlement Agreement**

This Settlement Agreement shall apply to, be binding upon, and inure to the benefit of, Hammond and the Releasees and Downstream Releasees identified in Section 2 above.

11. **Enforcement of Settlement Agreement**

Any party may file suit before the Superior Court of the County of Los Angeles, consistent with the terms and conditions set forth in this Settlement Agreement, to enforce the terms and conditions contained in this Settlement Agreement. The prevailing party shall be entitled to its reasonable attorneys' fees and costs associated with such enforcement.

12. **Notification Requirements**

Any notice required or permitted hereunder shall be effective only if given in writing and delivered in person, certified or registered mail return receipt requested, or traceable overnight delivery service, to the following designees:

For Hammond:

Joseph D. Agliozzo.
Law Office of Joseph D. Agliozzo
PO Box 3582
Manhattan Beach, CA 90266

For BRE:

Bobby Kaveh

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Any party may change its designee(s) for purposes of notification by providing written notice of such change pursuant to this section.

13. Severability

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

14. Governing Law

The terms of this Settlement Agreement shall be governed by the laws of the State of California. In the event that Proposition 65 is repealed, preempted or is otherwise rendered inapplicable by reason of law generally, or as to the Listed Chemical and/or the Covered Product, then BRE shall provide written notice to Hammond 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 Covered Product is so affected.

SARA HAMMOND

Date: April 2, 2019

By: _____

Printed Name: Sara Hammond

BRE INDUSTRIES, INC.

Date: April 2, 2019

By: _____

Printed Name: Bobby Kaveh

Title: proprietor