

SETTLEMENT AGREEMENT

1. INTRODUCTION

1.1 Consumer Protection Group, LLC and Bondhus Corporation

This Settlement Agreement is entered into by and between Consumer Protection Group, LLC ("CPG"), on the one hand, and Bondhus Corporation ("Bondhus"), on the other hand, with CPG and Bondhus collectively referred to as "Parties."

1.2 General Allegations

CPG alleges that Bondhus manufactured and distributed and/or offered for sale, Bondhus 8 pc. ball end screwdriver cover in the State of California containing Diisononyl Phthalate ("DINP") and that such product required, but did not include, a warning under the Safe Drinking Water and Toxic Enforcement Act of 1986, California Health & Safety Code sections 25249.6 *et seq.* ("Proposition 65"). On December 20, 2013, the Governor of California added DINP to the list of chemicals known to the State to cause cancer.

1.3 Product Description

The product that is covered by this Settlement Agreement is defined as Bondhus 8 pc. ball end screwdriver cover (the "Subject Product") that Bondhus has sold, offered for sale or distributed in California and that contains DINP.

1.4 Notice of Violation

On November 26, 2018 (AG No. 2018-02124), CPG served Bondhus and Fry's Electronics, Inc., and the requisite 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 Bondhus, Fry's

Electronics, Inc., and such public enforcers with notice that Bondhus was allegedly in violation of California Health & Safety Code section 25249.6 for failing to warn consumers and customers that the Subject Product exposed users in California to DINP. To the best of the Parties' knowledge, no public enforcer has commenced or is diligently prosecuting the allegations set forth in the Notice.

1.5 **No Admission**

By execution of this Settlement Agreement, Bondhus, and Fry's Electronics, Inc., and each of their respective affiliates and subsidiaries, parents, directors, officers, agents, employees, attorneys, representatives, shareholders, successors, and assigns and each entity to whom Bondhus and/or Fry's Electronics, Inc. directly or indirectly distributes or distributed, or sells or sold, the Subject Product, including but not limited to downstream distributors, wholesalers, customers, purchasers, users, retailers, marketplace retailers, franchisees, cooperative members and licensees (collectively "Releasees"), 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 Releasees 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 the Releasees in any administrative or judicial proceeding or litigation in any court, agency, or forum. Except to the extent released in Section 6 of this Agreement, nothing in this Settlement Agreement shall prejudice, waive, or impair any right, remedy, argument, or defense that CPG or

Bondhus, may have against one another in any other pending legal proceeding as to allegations unrelated to the dispute or claims released herein. Releasees maintain that they have not knowingly manufactured or distributed, or caused to be manufactured or distributed, the Subject Product for sale in California in violation of Proposition 65.

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: WARNING**

2.1 **Reformulation Standards**

“Reformulated Products” are defined as the units of the Subject Product that contains DINP in concentrations less than 0.1 percent (1,000 parts per million).

2.2 **Commitment to Reformulate or Warn**

Bondhus further agrees, promises and represents that, as of the Effective Date, Bondhus shall not sell or offer the Subject Product for sale in the State of California unless they are (i) Reformulated Products; or (ii) Bondhus provides warnings that satisfy Section 2.3 of this Agreement. The requirements under this Section 2.2 of the Agreement shall not apply to any of the Subject Product that is already in the stream of commerce as of the Effective Date.

2.3 **Warning**

The warnings shall be provided in such a conspicuous and prominent manner that will ensure the message is made available and likely to be read, seen, or heard by the

consumer prior to, or at the time of, the sale or purchase. Where required, Bondhus shall provide Proposition 65 warnings as follows:

⚠ WARNING: This product can expose you to [chemicals including] Diisononyl Phthalate (DINP), which is 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.

Or

⚠ WARNING: Cancer -- www.P65Warnings.ca.gov

This shall constitute compliance with Proposition 65. Bondhus may also comply with this Section by providing any other warning that is compliant with Proposition 65 and its implementing regulations in effect at the time of Bondhus's sale or offer of sale of the Subject Product.

3. PENALTIES PURSUANT TO HEALTH & SAFETY CODE SECTION 25249.7(b)

In settlement of all the claims referred to in this Settlement Agreement, Bondhus shall pay a total of Three Thousand Dollars (\$3,000.00) in civil penalties in accordance with this Section. The penalty payment will be allocated in accordance with California Health & Safety Code section 25249.12(c)(1) & (d), with 75% of the funds remitted to the California Office of Environmental Health Hazard Assessment ("OEHHA") and the remaining 25% of the penalty remitted to CPG. CPG's counsel shall be responsible for

delivering OEHHA's portion of any penalty payment made under this Settlement Agreement.

4. REIMBURSEMENT OF FEES AND COSTS

The Parties reached an accord on the compensation due to CPG and its counsel under the Private Attorney General doctrine and principles of contract law. Under these legal principles, Bondhus shall reimburse CPG's counsel for fees and costs, incurred as a result of investigating and bringing this matter to Bondhus' attention. Bondhus shall pay CPG's counsel Twenty-One Thousand Five Hundred Dollars (\$21,500.00) for all attorneys' fees, expert and investigation fees, and related costs associated with this matter and the Notice.

5. PAYMENT INFORMATION

Seven (7) days after the Effective Date, Bondhus shall make a total payment of Twenty-Four Thousand Five Hundred Dollars (\$24,500.00) for the civil penalties and attorney's fees/costs by wire transfer to Plaintiff's counsel Blackstone Law APC:

Bank: First Republic Bank

Routing No.: 321081669

Account No.: 80006597266

Beneficiary: Blackstone Law APC IOLTA

Other than this payment, each side is to bear its own attorneys' fees and costs.

6. **RELEASE OF ALL CLAIMS**

6.1 **Release of Downstream Customers and Upstream Vendors**

In further consideration of the promises and agreements herein contained CPG, in its representative capacity, and on behalf of itself, its past and current agents, representatives, attorneys, successors and/or assignees, hereby waives all rights to institute or participate in, directly or indirectly, any form of legal action and releases all claims relating to the Subject Product, 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) of any nature whatsoever, whether known or unknown, fixed or contingent (collectively "Claims"), against Releasees.

CPG also, in its capacity, on behalf of itself, its past and current agents, representatives, attorneys, successors, and/or assignees and *not* in its representative capacity, provides a general release herein which shall be effective as a full and final accord and satisfaction, as a bar to all actions, causes of action, obligations, costs, expenses, attorneys' fees, damages, losses, claims, liabilities and demands of any nature, character or kind, known or unknown, suspected or unsuspected, against Bondhus and the Releasees with regards to the Subject Product. CPG acknowledges that it is familiar with California Civil Code section 1542, 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.

CPG in its capacity only, and on behalf of itself, its past and current agents, representatives, attorneys, successors, and/or assignees 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 California Civil Code section 1542 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. The release in this section shall have no force or effect until the full amount of payments set forth in above Sections 3, 4 and 5 are paid in full by Bondhus.

6.2 **Bondhus Release of CPG**

Bondhus waives any and all claims against CPG, its attorneys and other representatives, for any and all actions taken, or statements made (or those that could have been taken or made) by CPG and its attorneys and other representatives, whether in the course of investigating claims or otherwise seeking enforcement of Proposition 65 against it in this matter, and/or with respect to the Subject Product. Bondhus represents that its signatory to this Settlement Agreement has full authority to enter into and legally bind Bondhus to this Settlement Agreement.

7. **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 as to the

10. COMPLIANCE WITH HEALTH & SAFETY CODE SECTION 25249.7(f)

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

11. ENTIRE AGREEMENT

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

12. MODIFICATION


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

13. 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 Settlement Agreement.

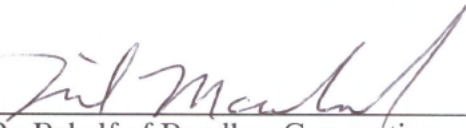
AGREED TO:

Date: February 21, 2020

By: 
On Behalf of Consumer Protection
Group, LLC

AGREED TO:

Date: February 20, 2020

By: 
On Behalf of Bondhus Corporation