

## **SETTLEMENT AGREEMENT**

### **1. INTRODUCTION**

#### **1.1 Consumer Protection Group, LLC and Spinrite, Inc.**

This Settlement Agreement is entered into by and between Consumer Protection Group, LLC ("CPG"), on the one hand, and Spinrite, Inc. ("Spinrite"), on the other hand, with CPG and Spinrite collectively referred to as "Parties." Spinrite is the settling party on behalf of Coats & Clark, Inc. and Jo-Ann Stores, LLC.

#### **1.2 General Allegations**

CPG alleges that Spinrite manufactured, distributed and offered for sale the Susan Bates Xtreme Wood Circular Knitting Needle in the State of California containing Diisononyl phthalate ("DINP"), and that such product did not include warnings pursuant to 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 the Susan Bates Xtreme Wood Circular Knitting Needle (the "Subject Product") that Spinrite has sold, offered for sale or distributed in California and that contains DINP.

#### **1.4 Notice of Violation**

On May 24, 2019 (AG No. 2019-01040), CPG served Coats & Clark Inc. and Jo-Ann Stores, LLC 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 Coats & Clark, Inc., Jo-Ann Stores, LLC and such public enforcers with notice that Coats & Clark, Inc. 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, Spinrite, Coats & Clark, Inc., Jo-Ann Stores, LLC, and each of their respective affiliates and subsidiaries, parents, directors, officers, agents, employees, attorneys, representatives, shareholders, successors, and assigns and each entity to whom Spinrite, Coats & Clark, Inc., Jo-Ann Stores, LLC directly or indirectly distributes or sells the Subject Product, including but not limited to downstream distributors, wholesalers, vendors, customers, retailers, marketplace retailers, franchisees, dealers, cooperative members and licensees (collectively, the "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 for the allegations settled and compromised, nothing in this Settlement Agreement shall

prejudice, waive, or impair any right, remedy, argument, or defense that CPG or Spinrite may have against one another in any other pending legal proceeding as to allegations unrelated to the dispute or claims released herein. Notwithstanding the allegations in the Notices, 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 those Products containing DINP in concentrations less than 0.1 percent (1,000 parts per million).

2.2 **Commitment to Reformulate or Warn**

As of the Effective Date, Spinrite shall not sell or offer the Subject Product for sale in the State of California that caused the alleged violation as described in the Notice unless they are Reformulated Products or Spinrite provides warnings that comply with Proposition 65 law. Spinrite's commitment and/or obligations stated herein shall not contradict the legal mandates as provided for in the Proposition 65 law.

### 2.3 Warning

The Subject Product shall be accompanied by a warning as described in Section 2.4 below as of the Effective Date. The warning requirements set forth in Section 2.4 below shall apply only to the Subject Product that are distributed, marketed, sold or shipped for sale in the State of California. Spinrite further agrees, promises and represents that, as of the Effective Date, to the extent it ships or sells any of the Subject Product in existing inventory that have not been reformulated, it will provide warnings that comply with the Proposition 65 law. The warning requirement shall not apply to any of the Subject Product that is already in the stream of commerce as of the Effective Date.

### 2.4 Warning Language

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, Spinrite shall have an option to provide any one of the following Proposition 65 warnings:

⚠ **WARNING:** This product can expose you to [chemicals including] Diisononyl Phthalate (DINP), which is known to the State of California to cause cancer. For more information go to [www.P65Warnings.ca.gov](http://www.P65Warnings.ca.gov).

**Or**

⚠ **WARNING:** Cancer [www.P65Warnings.ca.gov](http://www.P65Warnings.ca.gov)

This shall constitute compliance with Proposition 65 with respect to the chemical in the Subject Product for any Subject Product in existing inventory.

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

In settlement of all the claims referred to in this Settlement Agreement, Spinrite shall pay a total of Four Thousand Dollars (\$4,000.00) 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, Spinrite shall reimburse CPG's counsel for fees and costs, incurred as a result of investigating and bringing this matter to Spinrite's attention. Spinrite shall pay Consumer Protection's counsel Thirty-six Thousand Dollars (\$36,000.00) for all attorneys' fees, expert and investigation fees, and related costs associated with this matter and the Notice.

**5. PAYMENT INFORMATION**

Fourteen (14) days after the Effective Date, Spinrite shall make a total payment of Forty Thousand Dollars (\$40,000.00) 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 Spinrite, Downstream Customers and Upstream Vendors**

In further consideration of the promises and agreements herein contained, and for the payments to be made pursuant to Sections 3, 4 and 5 above, 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 (a) Spinrite (b) each of Spinrite's downstream distributors, wholesalers,

vendors, licensors, licensees, auctioneers, retailers (including Jo-Ann Stores, LLC and its parent companies), franchisees, dealers, shareholders, cooperative members, customers, owners, purchasers, users, and (c) Spinrite' parent companies, corporate affiliates, subsidiaries, and their respective officers, directors, attorneys, representatives, shareholders, agents, and employees, and sister and parent entities (for purposes of clarity, this Release is intended to apply to any entity defined in Paragraph 1.5 above as "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 Spinrite 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 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.

CPG in its own capacity, 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 Spinrite.

**6.2 Spinrite, Inc. Release of Consumer Protection Group, LLC.**

Spinrite 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. Spinrite represents that its signatory to this Settlement Agreement has full authority to enter into and legally bind Spinrite 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 Subject Product, then Spinrite shall have no further obligations pursuant to this Settlement Agreement, but shall have no recourse to claw back payments already made in accordance with Section 3, 4 and 5 of this Settlement Agreement.



**8. 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 Spinrite:                      Michael J. Hughes, Esq.  
   Neal, Gerber & Eisenberg LLP  
   Two North LaSalle Street, Suite 1700  
   Chicago, IL 60602-3801

For CPG:                              Jonathan M. Genish, Esq.  
   Blackstone Law APC  
   8383 Wilshire Blvd., Suite 745  
   Beverly Hills, CA 90211

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.

**9. COUNTERPARTS; FACSIMILE/E-SIGNATURES**

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

**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**

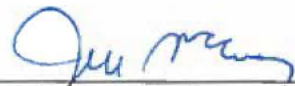
This Settlement Agreement contains the sole and entire agreement and understanding of the Parties with respect to the entire subject matter hereof, and all related prior discussions, negotiations, commitments and understandings. No other agreements, oral or otherwise, exist to bind either of the Parties.

**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.

<b>AGREED TO:</b>	<b>AGREED TO:</b>
Date: <u>May 11</u> , 2020	Date: <u>May 11</u> , 2020
By: _____ On Behalf of Consumer Protection Group, LLC	By:  On Behalf of Spinrite, Inc., Coats & Clark, Inc. and Jo-Ann Stores, LLC