

# SETTLEMENT AGREEMENT

## 1. INTRODUCTION

### 1.1 Parties

This Settlement Agreement (this “Settlement Agreement”) is entered into by and between Michael DiPirro and his attorneys Law Office of David R. Bush and Jeremy Fietz, Attorney-at-Law, on the one hand, (“DiPirro”) and VENUplus Inc. (“VENUplus”) and its attorneys Sidley Austin LLP on the other hand, with DiPirro and VENUplus individually referred to as a “Party” and collectively as the “Parties.” VENUplus (formerly CTM Group Inc.) and other Violators are also referred to as the “Noticed Parties.” DiPirro 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. VENUplus 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, Health and Safety Code section 25249.6 *et seq.* (“Proposition 65”).

### 1.2 General Allegations

DiPirro alleges that the Noticed Parties manufacture, import, sell, or distribute for sale, in the State of California coin collecting books containing Diethylhexyl phthalate (“DEHP”) without first providing the clear and reasonable exposure warning required by Proposition 65.

DEHP is listed pursuant to Proposition 65 as a chemical that is known to the State of California to cause cancer and birth defects or other reproductive harm (hereinafter the “Listed Chemical”).

### 1.3 Product Description

The products covered by this Settlement Agreement are Coin Collecting Books containing the Listed Chemical that are manufactured, sold, or distributed for sale in California by the Noticed Parties, including, but not limited to the *Two-pack of Penny Passport Souvenir Collecting Book with Free Pressed Pennies* (the “Products”).

### 1.4 Notice of Violation

On or about December 13, 2022, DiPirro served VENUplus and certain requisite public enforcement agencies with a 60-Day Notice of Violation (the “Notice”), a document that informed

the recipients of DiPirro's allegation that VENUplus violated Proposition 65 by failing to warn its customers and consumers in California that the Products expose users to the Listed Chemical. To the best of the Parties' knowledge, no public enforcer has commenced and is diligently prosecuting the allegations set forth in the Notice.

### **1.5 No Admission**

The Noticed Parties deny the material, factual, and legal allegations contained in the Notice and maintain that all of the products they have manufactured, sold, or distributed for sale in California, including the Products, have been, and are, in compliance with all laws. Nothing in this Settlement Agreement shall be construed as an admission by the Noticed Parties of any fact, finding, conclusion of law, issue of law, or violation of law; nor shall compliance with this Settlement Agreement constitute or be construed as an admission by the Noticed Parties of any fact, finding, conclusion of law, issue of law, or violation of law, the same being specifically denied by the Noticed Parties. This section shall not, however, diminish or otherwise affect the Noticed Parties' 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 day the final requisite signature is applied to the Settlement Agreement.

## **2. INJUNCTIVE RELIEF: PRODUCT WARNING**

**2.1 Product Warnings.** Within thirty days of the Effective Date, for all Products that contain the Listed Chemical, and are shipped to a California address for sale by the Noticed Parties, or any agent, distributor, or affiliated company working on behalf of the Noticed Parties, the Noticed Parties shall provide a clear and reasonable warning on each Product as set forth below in Section 2.3. Each warning shall be prominently placed with such conspicuousness as compared with other words, statements, designs, or devices as to render it likely to be read and understood by an ordinary individual under customary conditions before purchase or use. The warning shall be affixed to or printed on the Product itself, or on the Product's packaging, container, labeling, or on a placard, shelf tag, sign or electronic device. Each warning shall be

provided in a manner such that the consumer or user understands to which specific Product the warning applies, so as to minimize the risk of consumer confusion.

**2.2 Internet Warnings.** In addition to the warning specified in Section 2.1 above, for all Products that Noticed Parties offer for sale directly to consumers in California via the internet, Noticed Parties shall provide a warning for such Products by including the warning set forth below in Section 2.3 on one or more of the following: (a) on the same web page on which a Covered Product is displayed; (b) on the same web page as the order form for a Covered Product; (c) on the same web page as the price for any Covered Product; or (d) on one or more web pages displayed to a purchaser during the checkout process. The internet warning described above can also be delivered through a hyperlink using the word “[California Prop 65] WARNING” (language in brackets optional) which then takes the user to a display of the warning set out in Paragraph 2.3.

**2.3 Text of the Warning.** The Noticed Parties shall use one of the warning options set forth below, which shall include a symbol consisting of a black exclamation point in a yellow equilateral triangle with a bold black outline as shown below (the symbol may be black or white if the color yellow is otherwise not used on the Product’s packaging):

(a) Warning Option One:



**WARNING: This product can expose you to DEHP, a chemical 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).**

(b) Warning Option Two:



**WARNING (DEHP): Cancer & Reproductive Harm  
[www.P65Warnings.ca.gov](http://www.P65Warnings.ca.gov)**

VENUplus shall be deemed to be in compliance with this Settlement Agreement by either adhering to the warning provisions contained in §§ 2.1 - 2.3 of this Settlement Agreement or by complying with warning regulations approved or adopted by the State of California’s Office of Environmental Health Hazard Assessment (“OEHHA”) applicable to the product and the exposure at issue.

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

**3.1 Civil Penalty Payment Pursuant to Health & Safety Code § 25249.7(b).** The Noticed Parties shall make a civil penalty payment of \$10,000.00, in accordance with this section, on or before the Effective Date. The penalty payment will be allocated in accordance with California Health & Safety Code § 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 DiPirro in accordance with Section 3.2 below. The penalty payment shall be remitted in accordance with the procedure set out in Section 3.2.

**3.2 Payments.** All payments shall be delivered within three (3) business days of the Effective Date to the bank account of Jeremy Fietz, Attorney at Law (via wire transfer, or ACH payment; number provided upon request) or by physical check to the office of Jeremy Fietz, Attorney at Law, 4241 Montgomery Drive, #123, Santa Rosa CA 95405, and for the latter option shall be in the form of three checks for the following amounts made payable to:

- (a) “Jeremy Fietz, Attorney at Law” in the amount of \$7,500 (dollars), for payment of civil penalty to OEHHA. Counsel for DiPirro agree to forward such funds to OEHHA in a timely manner.
- (b) “Jeremy Fietz, Attorney at Law ” in the amount of \$2,500 ( dollars), as payment of civil penalty to Michael DiPirro. Counsel for DiPirro agree to forward such funds in a timely manner.
- (c) “Jeremy Fietz, Attorney at Law” in the amount of \$43,500 (dollars), as payment for attorneys’ fees and costs pursuant to Section 4 below.

For any payment that is returned for any reason, including insufficient funds, a payment must be made by VENUplus in form of a cashier’s check within three (3) calendar days of notification of insufficient funds, plus a 10% service fee paid to DiPirro’s attorneys. Any payment that is not actually received by the due date will also be subject to a 10% late fee.

**3.3 Issuance of 1099 Forms.** The Noticed Parties shall provide DiPirro’s counsel, Jeremy Fietz, Attorney-at-Law, with one 1099 form for the entire settlement amount. Such

1099 shall be made on the Form 1099 MISC with the amount reported in box 10 (“Gross proceeds paid to an attorney”). The Noticed Parties acknowledge that 1099 shall NOT be issued under form 1099 NEC. A W9 shall be provided by Jeremy Fietz, Attorney at Law after this Settlement Agreement has been fully executed by the Parties.

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

The parties acknowledge that DiPirro 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 this fee issue to be resolved after the material terms of the agreement had been settled. The Noticed Parties then expressed a desire to resolve the fee and cost issue shortly after the other settlement terms had been finalized. The parties then attempted to (and did) reach an accord on the compensation due to DiPirro and his counsel under general contract principles and the private attorney general doctrine codified at California Code of Civil Procedure § 1021.5, for all work performed through the mutual execution of this Settlement Agreement. The Noticed Parties shall together pay a total of \$43,500.00 for fees and costs incurred as a result of investigating, bringing this matter to the Noticed Parties’ attention, and negotiating a settlement in the public interest.

#### **5. CLAIMS COVERED AND RELEASED**

##### **5.1 DiPirro’s Release of VENUplus**

This Settlement Agreement is a full, final, and binding resolution between DiPirro and the Noticed Parties of any violation of Proposition 65 that was or could have been asserted by DiPirro, on behalf of himself, or on behalf of his past and current agents, representatives, attorneys, successors, and assignees, against either of the Noticed Parties, its parents, subsidiaries, affiliated entities under common ownership, directors, officers, employees, attorneys, and each entity to whom either Noticed Party directly or indirectly distributes or sells the Products (“Releasees”), including its downstream distributors and retailers including Amazon.com, but not including its upstream suppliers and manufacturers, for unwarned exposures to the Listed Chemical from the Products manufactured, distributed, sold or distributed for sale in California by the Noticed Parties prior to the Effective Date.

In further consideration of the promises and agreements herein contained, DiPirro, on his

own behalf and on behalf of his 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 that he may have against the Noticed Parties and Releasees, including, without limitation, all actions and causes of action, suits, liabilities, demands, obligations, damages, costs, fines, penalties, losses, or expenses, including, without limitation, investigation fees, expert fees, and attorneys' fees arising under Proposition 65 for exposures to the Listed Chemical from Products distributed, sold, or distributed for sale in California by the Noticed Parties prior to the Effective Date.

## **5.2 Noticed Parties Release of DiPirro**

Each Noticed Party, on its own behalf and on behalf of its past and current agents, representatives, attorneys, successors, and assignees, hereby waives any and all claims that it may have against DiPirro 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 DiPirro and his attorneys and other representatives, whether in the course of investigating claims, otherwise seeking to enforce Proposition 65 against it in this matter, or with respect to the Products.

## **6. SEVERABILITY**

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

## **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 Products, then the Noticed Parties may provide written notice to DiPirro of any asserted change in the law, and have no further obligations pursuant to this Settlement Agreement, with respect to, and to the extent that, the Products are so affected. Nothing in this Consent Judgment shall be interpreted to relieve Defendant from any obligation to comply with any pertinent state or federal toxics control laws.

**8. NOTICES**

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

For VENUplus:

Maureen Gorsen  
Sidley Austin, LLP  
1999 Avenue of the Stars, 17th Floor,  
Los Angeles, CA, 90067

AND

For Michael DiPirro:

Jeremy Fietz, Attorney-at-Law  
4241 Montgomery Drive, #123  
Santa Rosa CA 95405

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

**9. CONFIDENTIALITY**

The Parties hereto mutually agree not to publicize this settlement and shall not contact or report this matter to any member of the media. If any party hereto breaches this Confidentiality provision, the non-breaching parties will have all remedies available to them under this Agreement, at law or in equity. The parties understand that DiPirro must comply with the Attorney General reporting requirements and will do so through the standard upload to the AG web portal.

Nothing in this section shall be construed as prohibiting any of the parties hereto from complying with a subpoena duces tecum or other lawful process; provided, however, that upon being served with any demand that would possibly require any disclosure of Confidential Matters, the party served shall notify the other parties of such service in sufficient time to permit the other parties to object to such disclosure.

**10. COUNTERPARTS; FACSIMILE SIGNATURES**

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

**11. POST-EXECUTION ACTIVITIES**

DiPirro agrees to comply with the reporting form requirements referenced in Health and Safety Code section 25249.7(f).

**12. MODIFICATION**

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

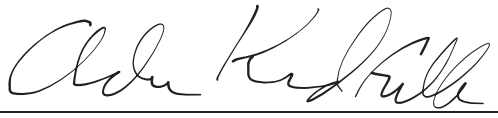
AGREED TO:

AGREED TO:

Date: April 14, 2023

Date: April 18, 2023

By:   
Michael DiPirro

By:   
VENUplus Inc.  
Print Name: Andrew Kindfuller  
Title: CEO