

# SETTLEMENT AGREEMENT

## 1. INTRODUCTION

### 1.1 Parties

This Settlement Agreement is entered into by and between Dennis Johnson (“Johnson”) and Curio Craft (“Curio Craft”), with Johnson and Curio Craft each individually referred to as a “Party” and collectively as the “Parties.” Johnson is an individual residing in the State of California who seeks to promote awareness of exposures to toxic chemicals and to improve human health by reducing or eliminating hazardous substances used in consumer products. Johnson alleges that Curio Craft is a person in the course of doing business for purposes of the Safe Drinking Water and Toxic Enforcement Act of 1986, California Health and Safety Code section 25249.6 *et seq.* (“Proposition 65”).

### 1.2 General Allegations

Johnson alleges that Curio Craft manufactures, sells, and/or distributes for sale in California, windchimes with exposed soldered joints containing lead. Lead is listed pursuant to Proposition 65 as a chemical known to cause birth defects and other reproductive harm. Johnson alleges that Curio Craft failed to provide the health hazard warning required by Proposition 65 for exposures to lead.

### 1.3 Product Description

The products covered by this Settlement Agreement are specifically defined as, and limited to, the *At Home Gold Chain Windchime, D34 S332078 C3813 T6*, that are manufactured, sold, or distributed for sale in California by Curio Craft (hereinafter referred to as the “Products”).

### 1.4 Notices of Violation

On December 23, 2023, Johnson served At Home Stores, LLC and the requisite public enforcement agencies with a 60-Day Notice of Violation, alleging that the notice recipients violated Proposition 65 by failing to warn customers and consumers in

California of the health hazards associated with exposures to lead from the Products. Curio Craft was subsequently identified as the manufacturer/supplier of the Products.

On July 24, 2024, Johnson served Curio Craft, and the requisite public enforcement agencies with a 60-Day Notice of Violation, alleging that the notice recipients violated Proposition 65 by failing to warn customers and consumers in California of the health hazards associated with exposures to lead from the Products. No public enforcer has commenced and is diligently prosecuting the allegations set forth in the Notices.

### **1.5 No Admission**

Curio Craft denies the material, factual, and legal allegations contained in the Notice and maintains that all of the 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 an admission by Curio Craft of any fact, finding, conclusion, issue of law, or violation of law, nor shall compliance with this Settlement Agreement constitute or be construed as an admission by Curio Craft of any fact, finding, conclusion, issue of law, or violation of law, such being specifically denied by Curio Craft. This Section shall not, however, diminish or otherwise affect Curio Craft's obligations, responsibilities, and duties under this Settlement Agreement.

### **1.6 Effective Date**

For purposes of this Settlement Agreement, the term "Effective Date" shall mean January 30, 2025.

## **2. INJUNCTIVE RELIEF**

### **2.1 Reformulation/Warning Commitment**

As of the Effective Date, Curio Craft shall not manufacture, import, distribute, sell or offer the Products for sale in the State of California unless: (i) the Products are Reformulated Products pursuant to Section 2.2 or (ii) Curio Craft provides a clear and reasonable warning pursuant to Section 2.3. Before providing a clear and reasonable

warning, Curio Craft shall employ its best efforts to manufacture, import, or otherwise acquire Reformulated Products for sale in the State of California. The Parties agree and intend that compliance with the terms of this Settlement Agreement shall constitute compliance with Proposition 65 with respect to exposures to Lead from the Products.

## **2.2 Reformulated Products.**

“Reformulated Products” are defined as those Products that: (a) contain no more than 90 parts per million (“ppm”) lead in any decoration, colored artwork, designs and/or marking on the surface of the Products when analyzed pursuant to U.S. Environmental Protection Agency testing methodologies 3050B or equivalent methodologies utilized by federal or state agencies for the purpose of determining lead content in a solid substance; (b) yield no more than 1.0 microgram of lead on any surface sampled and analyzed pursuant to the NIOSH 9100 testing protocol.

## **2.3 Warnings.**

To the extent that Products manufactured, imported, or otherwise acquired by Curio Craft after the Effective Date do not meet the standard for Reformulated Products, a clear and reasonable warning shall be provided, as set forth herein.

**2.3.2 Warning Content.** For purposes of this Settlement Agreement, the parties agree that a clear and reasonable warning shall consist of one of the following warning statements:

**⚠ WARNING:** Risk of cancer and reproductive harm from exposure to lead.  
See [www.P65Warnings.ca.gov](http://www.P65Warnings.ca.gov)

OR

**⚠ WARNING:** Can expose you to lead, a carcinogen and reproductive toxicant. See [www.P65Warnings.ca.gov](http://www.P65Warnings.ca.gov)

OR

**⚠ WARNING:** This product can expose you to chemicals including lead, 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](http://www.P65Warnings.ca.gov)

The above warning statements must print the word “**WARNING:**” in all capital letters and in bold font, followed by a colon. The warning symbol to the left of the word “**WARNING:**” must be a black exclamation point in a yellow equilateral triangle with a black outline, except that if the sign or label for the Products does not use the color yellow, the symbol may be in black and white. The symbol must be in a size no smaller than the height of the word “**WARNING:**”.

### **2.3.3 Method of Transmission**

**Product Labeling.** Curio Craft shall affix one of the foregoing warning statements to the packaging, labeling or directly to a specific Product. The warning statement shall be affixed to the Product, Products’ packaging or labeling and placed with such conspicuousness, as compared with other words, statements, or designs as to render it likely to be read and understood by an ordinary individual under customary conditions of purchase or use. Where the short-form warning statement is provided on the label, the entire warning must be in a type size no smaller than the largest type size used for other consumer information on the product label. In no case shall the short-form warning statement appear in a type size smaller than six-point type.

**Internet.** In addition to the product labeling, if Curio Craft sells Products via its own proprietary internet website to customers located in California, the warning statement shall appear either: (i) on the same web page on which a Product is displayed and/or described; (ii) on the same page as the price for the Product; or (iii) on one or more web pages displayed to a California purchaser prior to completion of the checkout process. Alternatively, the warning statement shall be provided using a clearly marked hyperlink using the word “**WARNING**” on the product display page, or by otherwise

prominently displaying the warning to the purchaser prior to completing the purchase. If the product label warning is provided using the short-form warning statement, the warning provided on the website may use the same content. A warning is not prominently displayed if the purchaser must search for it in the general content of the website.

**Catalog.** In addition to the product labeling, if Curio Craft sells Products via its own proprietary catalog to customers located in California, one of the foregoing warnings statements must also be provided in the catalog in a manner that clearly associates it with the *specific* item being purchased. The catalog warning statement shall be placed with such conspicuousness, as compared with other words, statements, or designs as to render it likely to be read and understood by an ordinary individual under customary conditions of purchase. If a short-form warning is being provided on the label, the warning provided in the catalog may use the same content.

**Point-of-Sale.** The warning requirements shall be satisfied if Curio Craft provides one of the foregoing warning statements to customers at the point-of-sale, provided all of the following requirements are met: (i) customers purchasing Products directly from California retail stores shall receive one of the foregoing warning statements via register display *and* on customers' printed receipts; (ii) the warning statement appearing on the register display and the receipt shall be displayed with such conspicuousness, as compared with other words, statements, or designs as to render it likely to be read and understood by an ordinary individual under customary conditions of purchase, without requiring the purchaser to seek out the warning; (iii) the warning statement shall be displayed in a manner such that the consumer understands to which *specific* Product the warning statement applies so as to minimize if not eliminate the chances that an overwarming situation will arise.

**Languages.** Where a label or tag used to provide a warning statement includes consumer information about a product in a language other than English, the warning must also be provided in that language in addition to English.

**2.3.4 Safe Harbor Warnings.** The parties acknowledge that the warnings required by this section are not the exclusive methods of providing Proposition 65 warnings and agree that Curio Craft may utilize “safe harbor” warning language and methods promulgated by the Office of Environmental Health Hazard Assessment and contained in 27 CCR §§ 25602-25603, applicable to the chemical and Product, in effect on or after the Effective Date, without being deemed in breach of this Settlement Agreement.

**3. MONETARY SETTLEMENT TERMS**

**3.1 Civil Penalty Payment**

Pursuant to Health and Safety Code section 25249.7(b)(2), and as consideration for the releases contained in Sections 4.1 and 4.2 below, Curio Craft agrees to pay \$600 in civil penalties no later than the Effective Date. The penalty payment will be allocated in accordance with California Health and Safety Code section 25249.12(c)(1) & (d), with 75% of the penalty amount remitted to the California Office of Environmental Health Hazard Assessment (“OEHHA”) and the remaining 25% of the penalty amount paid to Johnson. Curio Craft shall make its payment in two checks, delivered to the address in section 3.3, as follows: (1) “OEHHA” in the amount of \$450; and (2) “Dennis Johnson” in the amount of \$150.

**3.2 Attorneys’ Fees and Costs**

The Parties acknowledge that Johnson and his counsel offered to resolve this dispute without reaching terms on the amount of fees and costs to be reimbursed to his counsel, 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 reached, Curio Craft expressed a desire to resolve Johnson’s fees and costs. The Parties reached an accord on the compensation due to Johnson’s counsel under general contract principles and the private attorney general doctrine codified at Code of Civil Procedure section 1021.5 for all work performed in this matter. Under these legal principles, Curio Craft agrees to

pay, no later than the Effective Date, \$11,900, in the form of a check made payable to “Voorhees & Bailey, LLP,” for all fees and costs incurred investigating, bringing this matter to the attention of Curio Craft’s management, and negotiating a settlement.

### **3.3 Payment Address and Tax Documentation**

Curio Craft may also make the above payments via a single wire transfer in the amount of \$12,500, Johnson’s counsel shall then distribute the appropriate payments to OEHHA and Johnson. All checks under this Settlement Agreement shall be delivered to the following address and shall, thereafter, be delivered by Johnson to the respective payees:

Voorhees & Bailey, LLP  
839 Emerson Street  
Palo Alto, CA 94301

Johnson shall provide IRS W-9 forms for: (i) “Office of Environmental Health Hazard Assessment”, (ii) Dennis Johnson, and (iii) Voorhees & Bailey, LLP. Curio Craft shall issue complete IRS 1099 forms to each payee for their respective payment amount.

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

### **4.1 Johnson’s Release of Proposition 65 Claims**

Johnson acting on his own behalf, and not on behalf of the public, releases Curio Craft, its parents, subsidiaries, affiliated entities under common ownership, directors, officers, agents employees, attorneys, and each entity to whom Curio Craft directly or indirectly distributes or sells the Products, including, but not limited, to downstream distributors, wholesalers, customers, retailers including, but not limited to At Home Stores LLC, franchisees, cooperative members, importers, and licensees (collectively, “Releasees”), from all claims for violations of Proposition 65 through the Effective Date based on unwarned exposures to lead in the Products.

#### **4.2 Johnson's Individual Release of Claims**

Johnson, in his individual capacity only and not in his representative capacity, provides a 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 Johnson of any nature, character, or kind, whether known or unknown, suspected or unsuspected, including but not limited to all failure to warn claims, arising out of alleged or actual exposures to lead in the Products manufactured, imported, distributed, or sold by Curio Craft prior to the Effective Date. Nothing in this Section affects Johnson's right to commence or prosecute an action under Proposition 65 against a Releasee that does not involve Curio Craft's Products.

#### **4.3 Curio Craft's Release of Johnson**

Curio Craft, on its own behalf, and on behalf of its past and current agents, representatives, attorneys, successors, and/or assignees, hereby waives any and all claims against Johnson and his attorneys and other representatives, for any and all actions taken or statements made by Johnson and his 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 Products.

#### **5. SEVERABILITY**

If, subsequent to the execution of this Settlement Agreement, any provision of this Settlement Agreement is deemed by a court to be unenforceable, the validity of the remaining provisions 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 as to the Products, then Curio Craft may provide written notice to Johnson 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.

**7. NOTICE**

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

**For Curio Craft:**

Current President or CEO  
Curio Craft  
Gagan Wali Mainathair Rto-Lakri Road  
Moradabad, Uttar Pradesh, 244001 India

**For Johnson:**

Dennis Johnson  
c/o Voorhees & Bailey, LLP  
Proposition 65 Coordinator  
839 Emerson Street  
Palo Alto, CA 94301

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

**8. 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.

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

Johnson and his attorneys agree to comply with the reporting form requirements referenced in California Health and Safety Code section 25249.7(f).

**10. MODIFICATION**

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

**11. ENTIRE AGREEMENT**

This Settlement Agreement contains the sole and entire agreement of the Parties and any and all prior negotiations and understandings related hereto shall be deemed to have been merged within it. No representations or terms of agreement other than those contained herein exist or have been made by any Party with respect to the other Party or the subject matter hereof.

**12. AUTHORIZATION**

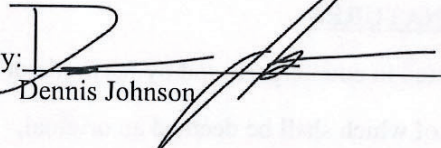
The undersigned are authorized to execute this Settlement Agreement on behalf of their respective Parties and have read, understand, and agreed to all of the terms and conditions of this Settlement Agreement.


**AGREED TO:**

**AGREED TO:**

Date: 1/27/2025

Date: 01 Feb 2025

By:   
Dennis Johnson

By:   
Curio Craft