

SETTLEMENT AND RELEASE AGREEMENT

1. INTRODUCTION

1.1. Ecological Alliance LLC and Shurtape Technologies, LLC

This Settlement Agreement is entered into by and between Ecological Alliance LLC (“Alliance”), on the one hand, and Shurtape Technologies, LLC (“Shurtape”), on the other hand, with Alliance and Shurtape collectively referred to as the (“Parties”).

1.2. Shurtape Allegations

Alliance alleges that Shurtape manufactured and distributed and offered for sale in the State of California: anti-fatigue mats containing Di(2-ethylhexyl)phthalate [DEHP] and that such sales have not included warnings pursuant to the Safe Drinking Water and Toxic Enforcement Act of 1986, California Health & Safety Code sections 25249.6 *et seq.* (“Proposition 65”). California has identified and listed DEHP under Proposition 65 as a chemical known to the State of California to cause cancer, birth defects or other reproductive harm.

1.3. Product Description

The products that are covered by this Settlement Agreement are defined as anti-fatigue mats that Shurtape has sold, offered for sale or distributed in California. All such items shall be referred to herein as the (“Covered Products”).

1.4. Notice of Violation

On September 27, 2024, Alliance served Shurtape, Walmart, 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” (“Notice”) that provided Shurtape and such public enforcers with notice that Shurtape was allegedly in violation of California Health & Safety Code section 25249.6 for failing to warn consumers and customers

that the Covered Products exposed users in California to DEHP. 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

The Parties enter into this Settlement Agreement to settle disputed claims between them as set forth herein and in the Notice concerning Shurtape's compliance with Proposition 65. Shurtape denies the material factual and legal allegations contained in Alliance's Notice and maintains that all products it has manufactured for sale and distribution in California, including the Covered Products, have been and are in compliance with Proposition 65 or any other statutory, regulatory, common law or equitable doctrine. Nothing in this Settlement Agreement shall be construed as an admission by Shurtape of any fact, finding, issue of law, or violation of law; nor shall compliance with this Settlement Agreement constitute or be construed as an admission by Shurtape of any fact, finding, conclusion, issue of law, or violation of law, such being specifically denied by Shurtape on its behalf. However, nothing in this section shall diminish or otherwise affect the obligations, responsibilities, and duties of Shurtape under this Settlement Agreement. Notwithstanding the allegations in the Notice, Shurtape maintains that it has not knowingly manufactured, or caused to be manufactured, the Covered Products 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: REFORMULATION AND WARNINGS

2.1. Compliance Generally

Within ninety (90) days of the Effective Date, Shurtape, at its sole discretion, agrees to either (a) cease selling, offering for sale, or distributing the Covered Product in California (subject to the limitations discussed in Section 2.5), (b) offer for sale or distribute in California Covered Products pursuant to Section 2.2 and 2.3 below, or (c) provide a clear and reasonable Proposition 65 warning pursuant to Section 2.4 below.

2.2. Reformulation of Covered Products

Within ninety (90) days of the Effective Date, Shurtape shall manufacture, import, or otherwise source for authorized sale in California only Reformulated Covered Products, as defined pursuant to Section 2.2 below, unless such Covered Products are labeled with a clear and reasonable Proposition 65 warning pursuant to Section 2.2 below. Covered Products that were supplied to third parties by Shurtape up to ninety (90) days before the Effective Date shall be deemed exempted from the requirements of this Section 2 and shall be permitted to be sold through as previously manufactured, packaged and labeled.

2.3. Reformulation Standards


“Reformulated Covered Products” are defined as those Covered Products containing DEHP in concentrations less than 0.1 percent (1,000 parts per million) when analyzed pursuant to U.S. Environmental Protection Agency testing methodologies 3580A and 8270C or any other


methodology utilized by federal or state agencies for the purpose of determining the DEHP content in a solid substance.

2.4. Clear and Reasonable Warning Language

Where required, Shurtape shall provide Proposition 65 warnings on the Product's label as follows:

(a) Shurtape may use either of the following warning statements in full compliance with this Section:

(1)  **WARNING:** This product can expose you to chemicals including Di(2-ethylhexyl)phthalate [DEHP], which are known to the State of California to cause cancer, birth defects or other reproductive harm. For more information go to www.P65Warnings.ca.gov

(2)  **WARNING:** Cancer and Reproductive Harm – www.P65Warnings.ca.gov.

(b) If Shurtape uses any of the above warning statements to effectuate its compliance, it shall also include a symbol consisting of a black exclamation point in a yellow equilateral triangle with a bold black outline. Where the label is not printed using the color yellow, the symbol may be printed in black and white. The symbol shall be placed to the left of the text of the warning, in a size no smaller than the height of the word "WARNING."

(c) The requirements for warnings, set forth in subsection (a) above are imposed pursuant to the terms of this Settlement Agreement. The Parties

recognize that these are not the exclusive methods of providing a warning under Proposition 65 and its implementing regulations.

(d) Foreign Languages. Additionally, if a Product's labeling is provided in a language other than English, the warning will be provided in that language in addition to English.

(e) Online Sales. If Shurtape sells Covered Products via an internet website it controls to customers located in California, the warning requirements of this section shall be satisfied if the foregoing warning appears either: (a) on the same web page on which Covered Products are displayed and/or described; (b) on the same page as the price for the Covered Products; (c) on one or more web pages displayed to a California purchaser prior to purchase during the checkout process; or (d) via a hyperlink taking the customer to a separate page containing the warning language, provided that the hyperlink appears on the same page as either the Covered Products description or where the Covered Products price is displayed, or appears prior to completion of the sale at checkout. Alternatively, a symbol consisting of a black exclamation point in a yellow or white equilateral triangle may appear adjacent to or immediately following the display, description, price, or checkout listing of the Covered Products, if the warning statement appears elsewhere on the same web page in a manner that clearly associates it with the Covered Products to which the warning applies.

(f) If Proposition 65 warnings for DEHP should no longer be required, Shurtape shall have no further obligations pursuant to this Settlement Agreement.

2.5. Existing Inventory of Covered Products

The injunctive-type requirements of Section 2 shall not apply to Covered Products that are already in the stream of commerce prior to the Effective Date, and such Covered Products shall be deemed exempted from the requirements of Section 2 and shall be permitted to be sold through as previously manufactured, packaged, and labeled. For the avoidance of doubt, Covered Product in the stream of commerce specifically includes, but is not limited to, Covered Products already distributed to downstream distributors, wholesalers, vendors, licensors, licensees, auctioneers, retailers (including, but not limited to, Walmart, Inc., Walmart.com, Wal-Mart Stores East, L.P., and any of Walmart's past, current, and future agents, parents, subsidiaries, and affiliated entities under common ownership), franchisees, dealers, shareholders, cooperative members, customers, owners, purchasers, and users.

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

In settlement of all the claims referred to in this Settlement Agreement, Shurtape shall pay a total of \$500 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 Alliance. Alliance'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 Alliance and its counsel under the private attorney general doctrine and principles of contract law. Under these legal principles, Shurtape shall reimburse Alliance's counsel for fees and costs, incurred as a result of

investigating and bringing this matter to Shurtape's attention. Shurtape shall pay Alliance's counsel \$15,000 for all attorneys' fees, expert and investigation fees, and related costs associated with this matter and the Notice.

5. PAYMENT INFORMATION

By January 30, 2025, Shurtape shall make a total payment of Fifteen Thousand Five Hundred Dollars (\$15,500) for the civil penalties and attorney's fees / costs by wire transfer to Plaintiff's counsel Custodio & Dubey LLP:

Bank: Bank of America, N.A.

Routing No.: 026009593

Account No.: 325149324377

Beneficiary: Custodio & Dubey LLP

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

6. RELEASE OF ALL CLAIMS

6.1. Release of Shurtape, Downstream Entities, and Upstream Vendors

In further consideration of the promises and agreements herein contained, and for the payments to be made pursuant to Sections 3 and 4 above, Alliance, 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 Covered Products, 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) Shurtape, Shurtape's parent companies, corporate affiliates,

subsidiaries, and their respective officers, directors, attorneys, representatives, shareholders, agents, and employees, and sister and parent entities, and each of them (collectively, "Shurtape Releasees") (b) each of Shurtape's downstream distributors, wholesalers, vendors, licensors, licensees, auctioneers, retailers (including but not limited to Walmart, Inc., Walmart Stores East, L.P., and each of Walmart's past and current corporate affiliates, subsidiaries, and their respective officers, members, directors, attorneys, representatives, shareholders, agents, and employees, sister and parent entities, and successors and assignees), franchisees, dealers, shareholders, cooperative members, customers, owners, purchasers, and users (collectively, "Downstream Releasees").

Alliance also, on behalf of itself, its past and current agents, representatives, attorneys, successors, and/or assignees and *not* in its representative capacity, provides Shurtape, Shurtape Releasees, and Downstream Releasees 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 any nature, character or kind, known or unknown, suspected or unsuspected, against Shurtape, Shurtape Releasees, and the Downstream Releasees. Alliance 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.

Alliance, 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.

6.2. Shurtape's Release of Alliance

Shurtape waives any and all claims against Alliance, its attorneys and other representatives, for any and all actions taken, or statements made (or those that could have been taken or made) by Alliance 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 Covered Products.

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, or as to the Covered Products, then Shurtape shall have no further obligations pursuant to 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 Shurtape: Brandon A. Prince, Esq.
 Nelson Mullins Riley & Scarborough LLP
 19191 South Vermont Ave., Suite 900
 Torrance, CA 90502

For Alliance: Vineet Dubey, Esq.
 Custodio & Dubey LLP
 445 S. Figueroa St., Suite 2520
 Los Angeles, CA 90071

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)

Alliance 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 Shurtape 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.

<p style="text-align: center;">AGREED TO:</p> <p>Date: January <u>17</u> 2025</p> <p>By:  On Behalf of Ecological Alliance LLC</p>	<p style="text-align: center;">AGREED TO:</p> <p>Date: January <u>17</u>, 2025</p> <p>By:  On Behalf of Shurtape Technologies, LLC</p>
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