

# SETTLEMENT AGREEMENT

## 1. INTRODUCTION

### 1.1 Parties

This Settlement Agreement is entered into by and between Anthony E. Held, Ph.D., P.E. (“Held”) and Shurtape Technologies, LLC (“Shurtape”), with Held and Shurtape each individually referred to as a “Party” and collectively as the “Parties.” Held 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. Shurtape 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, California Health & Safety Code § 25249.6 *et seq.* (“Proposition 65”).

### 1.2 General Allegations

Held alleges that Shurtape manufactures, imports, sells, or distributes for sale in California, vinyl/PVC electrical tape containing di(2-ethylhexyl)phthalate (“DEHP”) without first providing a warning that is “clear and reasonable.” DEHP is listed pursuant to Proposition 65 as a chemical known to cause cancer and birth defects or other reproductive harm. Shurtape denies these allegations and, alleges that the Proposition 65 warning on the Products fully complies with the warning requirements under Proposition 65.

### 1.3 Product Description

The products covered by this Settlement Agreement include all vinyl/PVC electrical tape containing DEHP that is manufactured, sold and/or distributed for sale in California by Shurtape including, but not limited to, *Duck Electrical Tape, #551117, UPC #0 75353 04005 8* (collectively, the “Products”).

### 1.4 Notice of Violation

On November 25, 2014, Held served Shurtape and the requisite public enforcement agencies with a 60-Day Notice of Violation (“Notice”), alleging that Shurtape violated Proposition 65 when it failed to provide a clear and reasonable warning to its customers and

consumers in California, informing them of the health hazards associated with exposures to DEHP. 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**

Shurtape 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 Shurtape 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 Shurtape of any fact, finding, conclusion, issue of law, or violation of law, the same being specifically denied by Shurtape. This Section shall not, however, diminish or otherwise affect Shurtape'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 June 1, 2015.

## **2. INJUNCTIVE RELIEF: REFORMULATED PRODUCTS**

### **2.1 Reformulated Products**

Commencing on the Effective Date, and continuing thereafter, Shurtape shall only purchase for sale or manufacture for sale in California, Reformulated Products, or Products that are to be sold with a clear and reasonable health hazard warning pursuant to Section 2.2, below. For purposes of this Settlement Agreement, "Reformulated Products" are Products that contain a maximum DEHP concentration of 1,000 parts per million when analyzed pursuant to U.S. Environmental Protection Agency testing methodologies 3580A and 8270C, or equivalent methodologies utilized by state or federal agencies to measure DEHP content in a solid substance.

## 2.2 Clear and Reasonable Warnings

Shurtape agrees that as of the Effective Date, all Products it sells and/or distributes in California (except for Products already in the stream of commerce, as provided in Section 2.3, below) which do not qualify as Reformulated Products, will bear a clear and reasonable warning pursuant to this Section. Shurtape further agrees that the warning will be prominently placed with such conspicuousness when 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 of use. For purposes of this Settlement Agreement, a clear and reasonable warning for the Products shall consist of a warning affixed to the packaging, label, tag, or directly to a Product sold in California and containing one of the following statements:

**WARNING:** This product contains DEHP, a chemical known to the State of California to cause birth defects and other reproductive harm.

or

**WARNING:** This product contains chemicals known to the State of California to cause cancer and birth defects and other reproductive harm.

or

**WARNING:** This product contains chemicals known to the State of California to cause cancer and birth defects (or other reproductive harm).

An example of the labeling that Shurtape will provide for the Products bearing a warning in a substantially similar form as those set forth above is attached hereto as Exhibit A.

## 2.3 Grace Period for Existing Inventory of Products

Shurtape represents that it currently has a health hazard warning in place for the Products. Held agrees that, until it exhausts its current inventory of Products, it may continue to sell and offer for sale in California those Products labeled with the following statement: "This product

contains one or more chemicals known to the state of California to cause cancer and birth defects or other reproductive harm. Wash hands after using.”

**3. MONETARY SETTLEMENT TERMS**

**3.1 Civil Penalty Payment**

Pursuant to Health and Safety Code section 25249.7(b)(2), and in settlement of all claims alleged in the Notice or referred to in this Settlement Agreement, Shurtape agrees to pay a \$2,000 civil penalty to be delivered on or before April 1, 2015 in the form of a single check made payable to “Anthony E. Held, Client Trust Account.” The penalty payment will be allocated in accordance with California Health and Safety Code section 25249.12(c)(1) and (d), with 75% of the penalty remitted to the California Office of Environmental Health Hazard Assessment (“OEHHA”) and the remaining 25% retained by Held. Held’s counsel shall be responsible for delivering OEHHA’s portion of the civil penalty payment to OEHHA.

**3.2 Reimbursement of Held’s Attorneys’ Fees and Costs**

The Parties reached an accord on the compensation due to Held and his 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, on or before the April 1, 2015, Shurtape agrees to pay \$13,000 in the form of a check payable to “The Chanler Group” for all fees and costs incurred by Held investigating, bringing this matter to the attention of Shurtape’s management, and negotiating a settlement in the public interest.

**3.3 Payment Address**

All payments required by this Settlement Agreement shall be delivered to:

The Chanler Group  
Attn: Proposition 65 Controller  
2560 Ninth Street  
Parker Plaza, Suite 214  
Berkeley, CA 94710

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

##### **4.1 Held's Release of Shurtape**

This Settlement Agreement is a full, final, and binding resolution between Held and Shurtape, of any violation of Proposition 65 that was or could have been asserted by Held, on his own behalf or on behalf of his past and current agents, representatives, attorneys, successors, and assignees, against Shurtape and its parents, subsidiaries, affiliated entities under common ownership (including, without limitation, STM Industries, Inc. and Shurtech Brands, LLC), its directors, officers, employees, attorneys, and each entity to whom Shurtape directly or indirectly distributes or sells Products including, but not limited to, its downstream distributors, wholesalers, customers, retailers, franchisees, cooperative members, licensors, and licensees ("Releasees"), alleging a failure to warn about exposures to DEHP in Products sold by Shurtape prior to the Effective Date (including, without limitation, any Products sold in accordance with Section 2.3, above).

In further consideration of the promises and agreements herein contained, Held, on his own behalf and on behalf of his past and current agents, representatives, attorneys, successors, and assignees, hereby waives any right to institute or participate in, directly or indirectly, any form of legal action and releases all claims that he may have, including, without limitation, all actions and causes of action in law and in equity, all suits, liabilities, demands, obligations, damages, costs, fines, penalties, losses, or expenses including, but not exclusively, investigation fees, expert fees, and attorneys' fees arising under Proposition 65 with respect to alleged or actual exposures to DEHP and/or diisononyl phthalate (DINP) from Products sold or distributed for sale by Shurtape before the Effective Date (including, without limitation, any Products sold in accordance with Section 2.3, above). The releases provided by Held under this Settlement Agreement are provided solely on Held's behalf and are not releases on behalf of the public.

##### **4.2 Shurtape's Release of Held**

Shurtape, on its own behalf and on behalf of its past and current agents, representatives, attorneys, successors, and assignees, hereby waives any and all claims against Held and his

attorneys and other representatives, for any and all actions taken or statements made by Held 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 agreement is held 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 Shurtape may provide written notice to Held of the asserted change in the law, and shall have no further 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 notices 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 Shurtape:

Mark Hawes  
Director of Environment & Safety  
Shurtape Technologies, LLC  
1712 8<sup>th</sup> Street Drive SE  
Hickory, NC 28602

For Held:

The Chanler Group  
Attn: Prop 65 Coordinator  
2560 Ninth Street  
Parker Plaza, Suite 214  
Berkeley, CA 94710

with a copy to:

Chris M. Amantea, Esq.  
Squire Patton Boggs  
555 South Flower Street, 31st Floor  
Los Angeles, California 90071

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)**

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

**10. MODIFICATION**

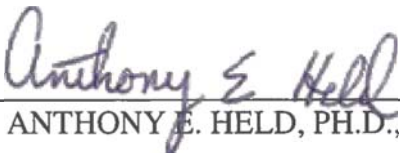
This Settlement Agreement may be modified only by written agreement of the Parties.

**11. 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: March 25, 2015

By:   
ANTHONY E. HELD, PH.D., P.E.

**AGREED TO:**

Date: March 23, 2015

By:   
SHURTAPE TECHNOLOGIES, LLC