

## SETTLEMENT AGREEMENT

### 1. INTRODUCTION

#### 1.1 Parties

This Settlement Agreement is entered into by and between Whitney R. Leeman, Ph.D. (“Leeman”) and Horizon Global Corporation (“Horizon Global”), with Leeman and Horizon Global each individually referred to as a “Party” and, collectively, as the “Parties.” Leeman 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. Horizon Global employs ten or more individuals 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 and Safety Code § 25249.6 *et seq.* (“Proposition 65”).

#### 1.2 General Allegations

Leeman alleges that Horizon Global manufactures, sells, and distributes for sale in California dust pans with vinyl/PVC grips containing di(2-ethylhexyl)phthalate (“DEHP”), and that it does so without first providing the health hazard warning required by Proposition 65. DEHP is listed pursuant to Proposition 65 as a chemical known to cause birth defects or other reproductive harm.

#### 1.3 Product Description

The products covered by this Settlement Agreement are dust pans with vinyl/PVC grips containing DEHP that are sold or distributed for sale in California by Horizon Global including, but not limited to, the *Harper Heavy Duty Jumbo Metal Dust Pan, Item No. 485, UPC #0 98991 00485 5*, hereinafter “Products”.

#### 1.4 Notice of Violation

On December 29, 2015, Leeman served Horizon Global, the California Attorney General, and other requisite public enforcers with a 60-Day Notice of Violation (“Notice”), alleging that Horizon Global violated Proposition 65 when it failed to warn its

customers and consumers in California of the health risks associated with exposures to DEHP from the Products. To the best of the Parties' knowledge, no public enforcer has commenced or is diligently prosecuting an action to enforce the violations alleged in the Notice.

### **1.5 No Admission**

Horizon Global denies the material, factual, and legal allegations in the Notice, and maintains that all of the products that it has sold and 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 Horizon Global 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 Horizon Global of any fact, finding, conclusion, issue of law, or violation of law, such being specifically denied by Horizon Global. This Section shall not, however, diminish or otherwise affect Horizon Global'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 23, 2016.

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

### **2.1 Commitment to Reformulate or Provide Warnings**

Commencing on the Effective Date and continuing thereafter, Horizon Global agrees to only manufacture for sale or purchase for sale in California, Products that are either (1) "Reformulated Products", as defined in Section 2.2, or (2) Products that are sold or shipped with one of the clear and reasonable warnings set forth in subsection 2.3.

### **2.2 Reformulated Products**

For purposes of this Settlement Agreement, Reformulated Products are defined as Products containing DEHP in a maximum concentration of 1,000 parts per million (0.1%)

when analyzed pursuant to Consumer Product Safety Commission's CPSC-CH-C1001-09.3 method or other equivalent methodologies utilized by state or federal agencies for the purpose of determining DEHP content in a solid substance, such as U.S. Environmental Protection Agency testing methodologies 3580A and 8270C.

### **2.3 Clear and Reasonable Warnings**

Commencing on the Effective Date, for all Products other than Reformulated Products, Horizon agrees that it will only sell or distribute for sale Products bearing a clear and reasonable warning in compliance with this Section. For purposes of this Agreement, a clear and reasonable 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. Each warning shall be provided in a manner such that the consumer or user understands to which specific Product(s) the warning applies, so as to minimize the risk of consumer confusion. Horizon shall affix a warning to the packaging, labeling or directly on any Products that are not Reformulated Products sold in California that states one of the following:

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

Or

**WARNING:** This product contains a chemical known to the State of California to cause cancer and birth defects or other reproductive harm.<sup>1</sup>

### **2.4 Grace Period for Existing Inventory of Products**

Horizon Global represents it implemented a health hazard warning for the Products, after receiving the Notice. Until it exhausts its current inventory of Products,

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<sup>1</sup> For Products Horizon Global knows or reasonably believes that, in addition to DEHP, another Proposition 65-listed chemical is present in the Product, the word "chemicals" may be substituted for "chemical".

Leeman agrees Horizon Global may continue to sell and offer for sale in California those Products labeled with the following statement: “Warning: This product contains chemicals known to the State of California to cause cancer, birth defects or other reproductive harm.”

### **3. MONETARY SETTLEMENT TERMS**

#### **3.1 Civil Penalty Payments**

Pursuant to Health and Safety Code § 25249.7(b)(2), and in settlement of all claims alleged in the Notice or referred to in this Settlement Agreement, Horizon Global agrees to pay \$15,500 in civil penalties. Each penalty payment will be allocated in accordance with California Health and Safety Code §§ 25249.12(c)(1) & (d), with 75% of the penalty amount paid to the California Office of Environmental Health Hazard Assessment (“OEHHA”) and the remaining 25% of the penalty amount retained by Leeman. Leeman’s counsel shall be responsible for delivering OEHHA’s portion of any penalty payment(s) made under this Settlement Agreement.

##### **3.1.1 Initial Civil Penalty**

Within five days of the Effective Date, Horizon Global shall make an initial civil penalty payment of \$5,500, in a single check made payable to “Whitney R. Leeman, Client Trust Account.”

##### **3.1.2 Final Civil Penalty; Waiver**

On December 31, 2016, Horizon Global will make a final civil penalty payment of \$10,000. Pursuant to title 11 Cal. Code Regs. § 3203(c), the final civil penalty will be waived in its entirety if, by December 15, 2016, an officer of Horizon Global provides Leeman’s counsel with a signed declaration certifying that, as of the date of the declaration, all Products sold or distributed for sale in California by Horizon Global are Reformulated Products, and that Horizon Global will continue to offer only Reformulated Products in California in the future. The option to provide a declaration certifying complete reformulation in lieu of making the final civil penalty payment required by this

Section is a material term, and time is of the essence.

### **3.2 Attorneys' Fees and Costs**

The Parties reached an accord on the compensation due to Leeman and her counsel under general contract principles and the private attorney general doctrine codified at Code of Civil Procedure § 1021.5 for all work performed in this matter. Under these legal principles, within five days of the Effective Date, Horizon Global agrees to pay \$24,500 to Leeman and her counsel for all fees and costs incurred in investigating, bringing this matter to the attention of Horizon Global's management, and negotiating a settlement. Horizon Global's payment shall be delivered in the form of a check payable to "The Chanler Group."

### **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 Leeman's Release of Horizon Global**

This Settlement Agreement is a full, final, and binding resolution between Leeman and Horizon Global, of any violation of Proposition 65 that was or could have been asserted by Leeman on her own behalf and not on behalf of the general public, on behalf of her past and current agents, representatives, attorneys, successors, and assignees, against Horizon Global, its parents, subsidiaries, affiliated entities under common ownership, directors, officers, employees, attorneys, and each entity to whom Horizon Global directly or indirectly distributes or sells Products, including, but not limited, to its downstream distributors, wholesalers, customers, retailers, franchisees, cooperative members, and licensees ("Releasees"), based on the failure to warn about

exposures to DEHP in Products manufactured, sold or distributed for sale in California by Horizon Global before the Effective Date, as alleged in the Notice.

In further consideration of the promises and agreements herein contained, Leeman on her own behalf and on behalf of her past and current agents, representatives, attorneys, successors, and assignees, hereby waives any and all rights that she may have to institute or participate in, directly or indirectly, any form of legal action, and releases all claims against Horizon Global and Releasees including, without limitation, all actions and causes of action, 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 the alleged or actual failure to warn about exposures to DEHP in Products manufactured, distributed, sold or offered for sale by Horizon Global, before the Effective Date.

The releases provided by Leeman under this Settlement Agreement are provided solely on Leeman's behalf and are not releases on behalf of the public.

#### **4.2 Horizon Global's Release of Leeman**

Horizon Global, 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 Leeman and her attorneys and other representatives, for any and all actions taken or statements made by Leeman and her 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.

#### **5. 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.

#### **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 otherwise rendered inapplicable by reason of law generally, or as to the Products, then Horizon Global may provide written notice to Leeman 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 Horizon Global:

Jay Goldbaum, Esq.  
Legal Director and Chief Compliance Officer  
Horizon Global Corporation  
39400 Woodward Avenue, Suite 130  
Bloomfield Hills, MI 48304

with a copy to:

Elizabeth V. McNulty, Esq.  
Taylor Anderson LLP  
19100 Von Karman Avenue  
Suite 820  
Irvine, Ca. 92612

For Leeman:

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

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)**

Leeman and her attorneys agree to comply with the reporting form requirements referenced in California Health and Safety Code § 25249.7(f).

**10. MODIFICATION**

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

**11. AUTHORIZATION**

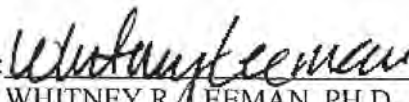
The undersigned are authorized to execute this Settlement Agreement on behalf of their respective Parties and have read, understood, and agree to all of the terms and conditions of this Settlement Agreement.


**AGREED TO:**

**AGREED TO:**

Date: 6/27/2016

Date: June 25, 2016

By:   
WHITNEY R. LEEMAN, PH.D.

By:   
Jay Goldbaum, Legal Director and Chief  
Compliance Officer  
HORIZON GLOBAL CORPORATION