## SUPPLEMENTAL 60-DAY NOTICE OF VIOLATION OF CALIFORNIA HEALTH & SAFETY CODE § 25249.7(d) (PROPOSITION 65)

Date: July 8, 2022
To: Wei Wu, Chief Executive Officer, GoPlus Corp.; Wei Wu, Chief Executive Officer, Costway.com, Inc.; California Attorney General's Office; District Attorney's Office for 58 Counties; and City Attorneys for San Francisco, San Diego, San Jose, Sacramento & Los Angeles

From: Keep America Safe and Beautiful

## I. <u>INTRODUCTION</u>

Keep America Safe and Beautiful is a California nonprofit corporation acting in the interest of the general public, pursuant to California Health & Safety Code § 25249.7(d). Keep America Safe and Beautiful seeks to promote awareness of exposures to toxic chemicals in products sold in California and, if possible, to improve human health by eliminating hazardous substances contained in such items, promoting corporate responsibility.

This Supplemental 60-Day Notice of Violation ("**Notice**") supplements the 60-Day Notice of Violation sent on April 14, 2022, and is being provided to the alleged violators, GoPlus Corp. and Costway.com, Inc. ("**Notice Recipients**"), as well as the California Attorney General's Office, the District Attorney's Offices for 58 Counties, and City Attorneys for San Francisco, San Diego, San Jose, Sacramento and Los Angeles.

Keep America Safe and Beautiful provides this Notice after identifying violations of California's Safe Drinking Water and Toxic Enforcement Act of 1986, codified at California Health & Safety Code § 25249.5 *et seq.* ("**Proposition 65**"), based on the failure to provide a clear and reasonable health hazard warning in connection with the sale or use of the products, listed below, in the State of California. The Notice Recipients are hereby given notice they violated and continue to violate Proposition 65 with respect to the warning requirement, codified at California's Health & Safety Code § 25249.6: "No person in the course of doing business shall knowingly and intentionally expose any individual to a chemical known to the State to cause cancer or reproductive toxicity without first giving a clear and reasonable warning to such individual." Without proper warnings about the toxic effects of exposures to listed chemicals, citizens in California lack the information necessary to make an informed decision as to whether or how to eliminate or reduce their risk of exposure from the reasonably foreseeable use of products containing listed chemicals.

## II. NATURE OF ALLEGED VIOLATIONS

**<u>Product</u>**. The specific type or category of products ("**Products**") that are the subject of this Notice are as follows:

Exemplar Product	Category/Type	Retailer	Manufacturer/Distributor
Heavy Duty Trailer Lock	Clamps with	Amazon.com	Goplus Corp.; Costway.com,
Wheel Clamp	Vinyl/PVC Grips		Inc.
Model: TL25972			
ASIN: B00NEAZDHI			

Sonart 61-Key Electronic	Seats with	Target	GoPlus Corp.; Costway.com,
Keyboard Piano Starter Set	Vinyl/PVC	Corporation	Inc.
with Stand Bench	Upholstery	target.com	
Headphones		_	
Model No. MU70008			
UPC 6 51357 492125 0			
TCIN: 84130324			

Identified above are specific examples of Products recently purchased and witnessed as being available for sale or use in the State of California, within the *categories* of offending products covered by this Notice. The identified retailers, manufacturers and/or distributors of the Products are based on publicly available information.

The Exemplar Products are identified for the Notice Recipients' benefit to assist in their investigation into the alleged violations that are the subject of this Notice. The specific identified Exemplar Products are not intended to be an exhaustive list of all such products potentially in violation of Proposition 65. It is Keep America Safe and Beautiful's position the Notice Recipients are now obligated to conduct a good faith investigation into other products within the categories or of the types, identified above, that were manufactured, imported, sold or distributed for sale, or that have otherwise been in the Notice Recipients' custody or control during the relevant period, identified below, to ensure the requisite health hazard warnings are provided to individuals in California prior to purchase.

**Listed Chemical.** The chemicals that are the subject of this Notice is di(2-ethylhexyl) phthalate ("DEHP"). The State of California listed DEHP as a chemical known to cause cancer on January 1, 1988, and as a chemical known to cause developmental and male reproductive toxicity on October 24, 2003.

**Routes of Exposure.** The exposures subject to this Notice result from the purchase, acquisition and handling of Products containing DEHP. Exposures occur when individuals, including children and/or women in their reproductive years, handle, touch or otherwise utilize (1) clamps with vinyl/PVC grips containing DEHP and (2) seats with vinyl/PVC upholstery containing DEHP in accordance with the Products' reasonably foreseeable and intended uses, resulting in exposures through ingestion and dermal absorption. Individuals ingest DEHP when they touch or handle the Products, transferring the chemical from their fingers or hands to their mouths. Dermal absorption of DEHP occurs when individuals handle, touch, or utilize the Products.

<u>Violations and Time Period of Exposure.</u> Keep America Safe and Beautiful alleges the Notice Recipients knowingly and intentionally exposed, and continue to knowingly and intentionally expose, individuals within the State of California to DEHP, without first giving a health hazard warning regarding the chemical's toxic effects, as required by Proposition 65, by failing to provide clear and reasonable warnings to consumers and users the Products can expose users to DEHP.

The California State Plan for Occupational Safety and Health incorporates the provisions of Proposition 65, as approved by Federal OSHA on June 6, 1997. This approval specifically placed certain conditions with regard to occupational exposures on Proposition 65, including that it does not apply to the conduct of manufacturers occurring outside the State of California. The approval also provides that an employer may use the means of compliance in the general hazard communication requirements to comply with Proposition 65. It also requires that supplemental

enforcement is subject to the supervision of the California Occupational Safety and Health Administration. Accordingly, any settlement, civil complaint, or substantive court orders in this matter must be submitted to the Attorney General of the State of California.

Exposures caused by the use of the Products have occurred each day since the Products were introduced into the California marketplace, but, at a minimum, since July 8, 2021, and, potentially, as far back as July 8, 2019. Because the Products lack clear and reasonable warnings regarding the toxic effects of exposures to DEHP, each Product sold during this period and not accompanied by a warning constitutes a violation by the Notice Recipients and/or other sellers of the Products, whether sold directly through retailers located in, or with locations in, California, via the internet, or through catalog purchases by customers and individuals located in California. Moreover, these exposures are ongoing and will continue either until clear and reasonable warnings are provided to protect consumers and users or until these known toxic chemicals are removed from the Products or reduced to allowable levels.

## III. <u>RESOLUTION OF NOTICED CLAIMS</u>

Consistent with the public interest goals of Proposition 65, Keep America Safe and Beautiful seeks to pursue a constructive resolution of this matter to quickly rectify ongoing violations of California law. To that end, based on the allegations set forth in this Notice and pursuant to Health & Safety Code § 25249.7(d), Keep America Safe and Beautiful intends to file a private enforcement action in the public interest sixty (60) days after effective service of this Notice, unless the appropriate public enforcement agencies have commenced and are diligently prosecuting an action to rectify these allegations. If the Notice Recipients seek to resolve the claims alleged in this Notice without litigation, they may contact Keep America Safe and Beautiful's counsel at the address listed below.

It should be noted neither Keep America Safe and Beautiful or its counsel can: (1) finalize any settlement until after the expiration of the 60-day Notice period; or (2) speak for the California Attorney General or any District or City attorney in receipt of this Notice. Therefore, while reaching an agreement with Keep America Safe and Beautiful will satisfy its claims, the agreement may not satisfy any public prosecutors.

## IV. GENERAL INFORMATION AND SUMMARY OF PROPOSITION 65

A copy of a summary of Proposition 65's provisions, prepared by the Office of Environmental Health Hazard Assessment ("**OEHHA**") is enclosed with the copy of the Notice served on the Notice Recipients for their reference. For further general information concerning Proposition 65, contact OEHHA's Proposition 65 Implementation Office at (916) 445-6900.

## V. <u>CERTIFICATE OF MERIT</u>

Pursuant to Health & Safety Code § 25249.7(d) and Cal. Code. Regs. tit 11, § 3100, a Certificate of Merit is attached hereto. A copy of the Notice and Certificate of Merit is served on the California Attorney General and marked "Attorney General Copy: Contains Official Information Pursuant to Evidence Code Section 1040" with all supporting documentation, as required by Cal. Code. Regs. tit 11, § 3102, attached thereto.

### VI. <u>CONTACT INFORMATION</u>

Please direct all questions, issues or communications regarding this 60-Day Notice of Violation and its potential resolution to Keep America Safe and Beautiful's counsel at the following address:

Keep America Safe and Beautiful c/o Laralei S. Paras, Esq. Seven Hills LLP 4 Embarcadero Center, Suite 1400 San Francisco, California 94111 Telephone: (415) 926-7247

<u>Attachments:</u> Certificate of Merit; Proof of Service; The Safe Drinking Water and Toxic Enforcement Act of 1986 (Proposition 65): A Summary (to Violator(s) only); and Additional Confidential Supporting Information for Certificate of Merit (to AG only.)

Printed on 100% Post-Consumer Recycled Paper.

### **CERTIFICATE OF MERIT**

Health and Safety Code § 25249.7(d)

Re: Keep America Safe and Beautiful 's Notice of Proposition 65 Violations

I, Laralei S. Paras, hereby declare and certify:

- 1. This Certificate of Merit accompanies the attached sixty-day notice in which it is alleged the parties identified in the notice violated California Health & Safety Code § 25249.6 by failing to provide clear and reasonable warnings.
- 2. I am an attorney for the noticing party.
- 3. I have consulted with one or more persons with relevant and appropriate experience or expertise who have reviewed facts, studies or other data regarding the alleged exposure to and the lack of warnings for the listed chemical that is the subject of the notice.
- 4. Based on the information obtained through those consultations and on other information in my possession, I believe there is a reasonable and meritorious case for the private action. I understand "reasonable and meritorious case for the private action" means the information provides a credible basis that all elements of the noticing party's case can be established and the information did not prove the alleged violator would be able to establish any of the affirmative defenses set forth in the statute.
- 5. The copy of this Certificate of Merit of Merit served on the Attorney General attaches to it factual information sufficient to establish the basis for this certificate, including the information identified in California Health & Safety Code § 25249.7(h)(2), i.e., the identity of the persons consulted with and relied on by the certifier and (2) the facts, studies or other data reviewed reviewed by that person.)

Dated: July 8, 2022

Laralei S. Paras

### PROOF OF SERVICE

I, the undersigned, declare under penalty of perjury:

I am over the age of 18 years of age and not a party to this case. Seven Hills LLP's address is 4 Embarcadero Center, Suite 1400, San Francisco, CA 94111.

On July 8, 2022, I caused to be served the following:

### SUPPLEMENTAL 60-DAY NOTICE OF VIOLATION SENT IN COMPLIANCE WITH HEALTH & SAFETY CODE § 25249.7(d);

# THE SAFE DRINKING WATER AND TOXIC ENFORCEMENT ACT OF 1986 (PROPOSITION 65): A SUMMARY; and

### **CERTIFICATE OF MERIT**

XXXX by **Certified First Class Mail** through the United States Postal Service by placing true and correct copies of the above documents in a sealed envelope, individually addressed to each alleged violator listed below and providing such envelope to a United States Postal Service Representative:

Wei Wu, Chief Executive Officer GoPlus Corp. 11250 Poplar Ave Fontana, CA, 92337 Wei Wu, Chief Executive Officer Costway.com, Inc. 11250 Poplar Ave Fontana, CA, 92337

On July 8, 2022, I caused to be served true and correct copies of the following documents:

#### SUPPLEMENTAL 60-DAY NOTICE OF VIOLATION SENT IN COMPLIANCE WITH HEALTH & SAFETY CODE § 25249.7(d); and CERTIFICATE OF MERIT

## **CERTIFICATE OF MERIT**

XXXX by **First Class Mail** through the United States Postal Service by placing copies of the above documents in a sealed envelope, addressed to each entity on the attached "Service List" and providing such envelope to a United States Postal Representative, with correct postage.

XXXX via **Electronic Mail**, by sending copies of the above documents, addressed individually, to the Recipient listed on the attached "Electronic Mail Service List".

On July 8, 2022, I caused to be served true and correct copies of the following documents:

# SUPPLEMENTAL 60-DAY NOTICE OF VIOLATION SENT IN COMPLIANCE WITH HEALTH & SAFETY CODE § 25249.7(d);

## **CERTIFICATE OF MERIT; and**

## CERTIFICATE OF MERIT ATTACHMENTS

XXXX via **Electronic Mail**, by uploading the documents, addressed to California Attorney General at their website address, listed under the "Electronic Upload Service List".  $\nabla /$ 

Executed on the 8<sup>th</sup> day of July in the year 2022 at Folsom, California.

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## **SERVICE LIST**

The Honorable Michael Atwell	The Honorable Jackie Lacey	The Honorable Todd Riebe
Alpine County District Attorney	Los Angeles County District Attorney	Amador County District Attorney
P.O. Box 248	211 West Temple Street, Ste 1200	708 Court Street, #202
Markleeville, CA 96120	Los Angeles, CA, 90012	Jackson, CA 95642
The Honorable Michael Ramsey		Del Norte County District Attorney
Butte County District Attorney	Colusa County District Attorney	450 H street, Room 171
25 County Center Drive, Suite 245	346 5th Street, Suite 101	Crescent City, CA 95531
Oroville, CA 95965	Colusa, CA 95932	
The Honorable Vern Pierson	The Honorable Gilbert Otero	The Honorable Dwayne Stewart
	Imperial County District Attorney	Glenn County District Attorney
778 Pacific Street	940 West Main Street, Suite 102	P.O. Box 430
Placerville, CA 95667	El Centro, CA 92243	Willows CA 95988
The Honorable Maggie Fleming	The Honorable Donald Anderson	The Honorable Lisa Green
Humboldt County District Attorney	Lake County District Attorney	Kern County District Attorney
825 5 <sup>th</sup> Street, 4 <sup>th</sup> Floor	255 N. Forbes Street	1215 Truxtun Avenue
Eureka, CA 95501	Lakeport, CA 95453	Bakersfield, CA 93301
The Honorable Keith Fagundes	The Honorable Mike Feuer	The Honorable David Linn
Kings County District Attorney 1400	Office of the City Attorney, Los Angeles	Madera County District Attorney
West Lacey Blvd.	Kames K. Hahn Hall East	209 West Yosemite Avenue
Hanford, CA 93230	200 North Main Street, 8th Floor	Madera, CA 93637
	Los Angeles, CA 90012	
The Honorable Edward Berberian	The Honorable Todd Spitzer	The Honorable C. David Eyster
Marin County District Attorney	Orange County District Attorney	Mendocino County District Attorney
3501 Civic Center Drive, Room 130	300 North Flower Street	P.O. Box 1000
San Rafael, CA 94903	Santa Ana, CA 92703	Ukiah, CA 9548
The Honorable Birgit Fladager	The Honorable Candace Hooper	The Honorable Tim Kendall
Stanislaus County District Attorney	San Benito District Attorney	Mono County District Attorney
832 12th street, Suite 300	419 4th Street	P.O. Box 2053
Modesto, CA 95353	Hollister, CA 95023	Mammoth Lakes, CA 93546
The Honorable Stephen Wagstaffe	The Honorable Michael Ramos	The Honorable Stephanie Bridgett
San Mateo County District Attorney	San Bernardino County District Attorney	
400 County Center, Third Floor	303 W. Third Street	1355 West Street
Redwood City, CA 94063	San Bernardino, CA 92415	Redding, CA 96001
The Honorable James Kirk Andrus	The Honorable Krishna Abrams	The Honorable Amanda Hopper
Siskiyou County District Attorney	Solano County District Attorney	Sutter County District Attorney
P.O. Box 986	675 Texas Street, Suite 4500	446 Second Street, Suite 102
Redding, CA 96097	Fairfield, CA 94533	Yuba City, CA 95991
The Honorable Laura Krieg	The Honorable James Sanchez	The Honorable Eric Heryford
Tuolumne County District Attorney		Trinity County District Attorney
423 N. Washington Street	915 I Street, 4 <sup>th</sup> Floor	P.O. Box 310
Sonora, CA 95370	Sacramento, CA 95814	Weaverville, CA 96093
The Honorable Lawrence Allen	The Honorable Gregg Cohen	The Honorable Patrick McGrath
Sierra County District Attorney	Tehama County District Attorney	Yuba County District Attorney
100 Courthouse Square	P.O. Box 519	215 Fifth street, Suite 152
Downieville, CA 95936	Red Bluff, CA 96080	Marysville, CA 95901
The Honorable Jordan Funk		19101 yovinc, CA 93701
Modoc County District Attorney		
204 S. Court Street Room 202		
Alturas, CA 96101	l	

### **ELECTRONIC MAIL SERVICE LIST**

Alameda County District Attorney         San Joaquin County District Attorney         Sacramento County District Attorney           776 Oakport Street, Suite 650         222 E. Weber Avenue, Room 202         Sucramento, CA 95814           CEPDProp65@acgir.org         DAConsumer.Environmental@sicda.org         Prop65@acgir.seq.acg.acg.acg.acg.acg.acg.acg.acg.acg.acg			
7776 Oakport Street, Suite 650       222 E. Weber Avenue, Room 202       901 G Street         Oakland, CA 94621       Stockton, CA 95202       Sacramento, CA 95814         CEPDProp65@acgiv.org       DAConsumer.Environmental@sjcda.org       Prop65@ascda.org         The Honorable Allison Haley       The Honorable Jeffrey S. Rosell       The Honorable Summer Stephan         Sand Cuzz County District Attorney       Santa Cruz County District Attorney       San Diego County District Attorney         Napa, C.A 94559       Santa Cruz, CA 95060       San Diego, CA 92101         CEPD@countyofnapa.org       Prop65D.@stantacruzzounty.us       SanDiego, CA 92101         CIPD@countyofnapa.org       Prop65D.%stantacruzzounty.us       San Diego, CA 92101         Sol Second Street       200 Street       1200 Third Avenue         Woodland, CA 94695       Susanville, CA 96130       San Diego, CA 92101         Strept       San Francisco, CA 94103       Santa Barbara County         San Francisco, CA 94103       Santa Barbara County       San Francisco, CA 94103         San Jase, CA 95110       San Francisco, CA 94103       Santa Barbara County         San Jasec, CA 95110       San Francisco, CA 94103       Santa Barbara, CA 93101         PU@das.sccgov.org       DAProp65@sdcca, 92101       Santa Barbara Caus         PU@das.sccgov.org       Posof	The Honorable Nancy O'Malley	The Honorable Tori Verber Salzar	Honorable Anne Marie Schubert
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CEPDProp65@acgiv.org         DAConsumer.Environmental@sjcda.org         Prop65@acda.org           The Honorable Allison Haley         The Honorable Jeffrey S. Rosell         The Honorable Summer Stephan           Napa County District Attorney         Santa Craz County District Attorney         300 West Broadway           Napa, CA 94559         Santa Craz County District Attorney         300 West Broadway           Napa, CA 94559         Santa Craz County District Attorney         SanDiego DAProp65@sdcda.org           The Honorable Jeff W. Reisig         Michelle Latimer, Program Coordinator         Mark Ankcorn, Deputy City Attorney           Yolo County District Attorney         Lassen Street         1200 Third Avenue           Woodland, CA 95695         Susanville, CA 96130         San Diego, CA 92101           Stefed@yolocounty.org         Maletha M. Sargent         Christopher Dalbey,           Sunta Clara County         San Street         San birgo, Ca 92101           Santa Clara County         San Francisco, CA 94103         Santa Barbara Street           San Jose, CA 95110         San Francisco, CA 94103         Santa Barbara County           San Soe, CA 95110         San Francisco, CA 94103         Santa Barbara County           PU@da.scegov.org         alethea.sargent@gsgv.org         DAProp65@cs.santa-barbara.ca.us           The Honorable Gregory D. Totten,	· ·		
The Honorable Allison Haley         The Honorable Jeffrey S. Rosell         The Honorable Summer Stephan           Napa County District Attorney         Santa Cruz Conty District Attorney         San Diego County District Attorney           1127 First St, Suite C         701 Ocean Street         San Diego CA 92101           CEPD@countyofnapa.org         Prop65DA@santacruz.county.us         San Diego CA 92101           CEPD@countyDistrict Attorney         Lassen County         Mark Ankcorn, Deputy City Attorney           Yol Sceond Street         220 S. Lassen Street         1200 Third Avenue           Woodland, CA 95695         Susanville, CA 96130         San Diego, CA 92101           Supervising Deputy District Attorney         Alethea M. Sargent         Christopher Dalbey,           Supervising Deputy District Attorney         San Francisco District Attorney of Sant Barbara County         Santa Barbara Street           San Jose, CA 95110         San Francisco, CA 94103         Santa Barbara, CA 93101         Santa Barbara, CA 93101           EPU/Qda.scogov.org         Dethorable Barbara Yook         Valeric Lopez, Deputy City Attorney           Yentura, CA 93009         San Andras, CA 95249         San Francisco, CA 94103         Sant Barbara, CA 93101           EPU/Qda.scogov.org         Diedwaras County District Attorney         Santa Barbara, CA 93101         Santa Francisco, CA 94102			
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CÉPD@countyofnapa.orgProp65DA@santacruzcounty.usSanDicgoDAProp65@sdcda.orgThe Honorable Jeff W. ReisigMichelle Latimer, Program CoordinatorMark Ankcorn, Deputy City AttorneyYolo County District AttorneyLassen CountyCity of San Diego301 Second Street220 S. Lassen Street1200 Third AvenueWoodland, CA 95695Susanville, CA 96130San Diego, CA 92101cfepd@yolocounty.orgmlatimer@co.lassen.ca.usCity/AttyProp65@sandiego.govBud PorterAlethea M. SargentChristopher Dalbey,Supervising Deputy District AttorneySan Francisco District Attorney's OfficeSanta Barbara CountySan Jose, CA 95110San Francisco, CA 94103Santa Barbara CausEPU@da.scegov.orgalethea.sargent@gfgov.orgDAProp65@co.santa-barbara.ca.usThe Honorable Gregory D. Totten,The Honorable Barbara YookValerie Lopez, Deputy City Attorney800 S Victoria Avenue891 Mountain Ranch Road1390 Market Street, 7* Floor900 Ward StreetEric J. DobrothJeannine M. Pacioni900 Ward StreetCounty Govt Center Annex, 4* Floor900 Ward StreetCounty Govt Center Annex, 4* Floor900 Ward StreetCounty Govt Gent Annex, CA 9300901 Martinez, CA 94533San Luis Obispo County902 Ward StreetCounty Govt Center Annex, 4* Floor903 Wards StreetCounty Govt Center Annex, 4* Floor904 Wards StreetCunty Ostirict Attorney905 Wards Street201 San Luis Obispo County904 Wards StreetCunty Govt Center Annex, 4* Floor <t< td=""><td></td><td></td><td></td></t<>			
The Honorable Jeff W. Reisig         Michelle Latimer, Program Coordinator         Mark Ankcorn, Deputy City Attorney           Yolo County District Attorney         Lassen County         City of San Diego           301 Second Street         220 S. Lassen Street         1200 Third Avenue           Woodland, CA 95695         Susanville, CA 96130         San Diego, CA 92101           efped@yolocounty.org         mlatimer@co.lassen.ca.us         CityAttyProp65@sandiego.gov           Bud Porter         Alethea M. Sargent         Christopher Dalbey,           Santa Clara County         San Francisco District Attorney's Office         Santa Barbara County           San Jose, CA 95110         San Francisco District Attorney's Office         Santa Barbara, CA 93101           EPU@da.sccgov.org         DAProp65@co.santa-barbara.ca.us           The Honorable Gregory D. Totten,         The Honorable Barbara Yook         Valerie Lopez, Deputy City Attorney           Ventura County District Attorney         San Andreas, CA 95249         San Francisco, CA 94103           Sane Andreas, CA 95249         San Francisco, CA 94102         Jaennie M. Pacioni           Ventura, CA 93009         San Andreas, CA 95249         San Francisco, CA 94102           Vascey Grassini         Eric J. Dobroth         Jeannine M. Pacioni           Deputy District Attorney         Obeputy District Attorney </td <td></td> <td></td> <td></td>			
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## **ELECTRONIC UPLOAD SERVICE LIST**

Office of the California Attorney General Proposition 65 Enforcement Reporting ATTN: Prop 65 Coordinator P.O. Box 70550 Oakland, CA 94612-0550 https://oag.ca.gov/prop65/add-60-day-notice