

# PROPOSITION 65 SETTLEMENT AGREEMENT

## 1. INTRODUCTION

### 1.1 The Parties

This Settlement Agreement (“**Agreement**”) is entered into by and between Keep America Safe and Beautiful (“**KASB**”) and Bee Block Inc. (erroneously noticed as Goodcome Inc. d.b.a. Neewer) (“**Bee Block**”), with KASB and Bee Block each individually referred to as a “**Party**” and, collectively, the “**Parties.**” KASB asserts that it is a California-based non-profit organization proceeding in the public interest pursuant to California Health & Safety Code § 25249.7(d) to ensure that chemicals known to the State of California to cause cancer, birth defects or other reproductive harm are disclosed in or eliminated from consumer products sold in California. KASB alleges Bee Block is a person in the course of doing business for purposes of California Health & Safety Code § 25249.11(b).

### 1.2 Consumer Product Description

KASB alleges that Bee Block manufactures, imports, sells and distributes for sale in California headphones with vinyl/PVC ear cups and cable wires containing diisononyl phthalate (“**DINP**”) including, but not limited to, *Neewer High Output Studio Headphones, NW-2000, #40092410, X002IXWY57, UPC 1 91073 03215 6* and *Neewer 10-Pack 6.5 feet/2 meters DMX Stage Light Cable Wires with 3-Pin Signal XLR Male to Female Connection, #40087133, ASIN B01ELB8K2I*, without providing the health hazard warning that KASB alleges is required by California Health & Safety Code § 25249.5 *et seq.* (“**Proposition 65**”). The headphones with vinyl/PVC ear cups and cable wires that are the subject of this settlement are referred to collectively hereinafter as the “**Products.**” **DINP** is listed pursuant to Proposition 65 as a chemical known to the State of California to cause cancer.

### 1.3 Notice of Violation

On January 20, 2021, KASB served Bee Block Inc. (erroneously as Goodcome Inc. d.b.a. Neewer), Amazon.com, Inc., the California Attorney General and the requisite public

enforcement agencies with a 60-Day Notice of Violation (“**Notice**”), alleging Bee Block violated Proposition 65 by failing to warn its customers and consumers in California that its headphones with vinyl/PVC ear cups can expose users to DINP.

On August 3, 2021, KASB served Bee Block Inc. (erroneously as Goodcome Inc. d.b.a. Neewer), the California Attorney General and the requisite public enforcement agencies with a Supplemental 60-Day Notice of Violation (“**Supplemental Notice**”), alleging Bee Block violated Proposition 65 by failing to warn its customers and consumers in California that its cable wires can expose users to DINP.

The Notice and Supplemental Notice are referred to collectively hereinafter as, the “**Notices.**” No public enforcer has commenced and is diligently prosecuting an action to enforce the allegations in the Notices.

#### **1.4 No Admission**

Bee Block denies the factual and legal allegations contained in the Notices and maintains that all products it has sold or distributed for sale in California, including the Products, have been, and are, in compliance with all laws. Nothing in this Agreement shall constitute or be construed as, nor shall compliance with this Agreement constitute or be construed as, an admission by Bee Block of any fact, finding, conclusion of law, issue of law, or violation of law. This section shall not, however, diminish or otherwise affect Bee Block’s obligations, responsibilities, and duties under this Agreement.

#### **1.5 Effective Date**

For purposes of this Agreement, “**Effective Date**” shall mean February 25, 2022.

### **2. INJUNCTIVE RELIEF: REFORMULATION OR WARNINGS**

#### **2.1 Reformulation Commitment**

Commencing on the Effective Date and continuing thereafter, all Products Bee Block manufactures, imports, sells, ships, or distributes for sale in or into California, directly or through one or more third party retailers or e-commerce marketplaces, shall meet the

Reformulation Standard for Reformulated Products, as defined by Section 2.2, or be accompanied by a clear and reasonable warning pursuant to Section 2.3.

## **2.2 Reformulation Standard**

For purposes of this Agreement, “Reformulated Products” are defined as Products which, if they contain diisononyl phthalate (“**DINP**”), contain such chemical in a maximum concentration of less than 0.1 percent (1,000 parts per million) when analyzed by a laboratory accredited by the State of California, a federal agency, or a nationally recognized accrediting organization. For purposes of compliance with this reformulation standard, testing samples shall be prepared and extracted using Consumer Product Safety Commission (“**CPSC**”) methodology CPSC-CH-C1001.09.3 and analyzed using U.S. Environmental Protection Agency methodology 8270D, or other methodologies utilized by federal or state government agencies to determine phthalate content in a solid substance.

## **2.3 Clear and Reasonable Warnings**


Commencing on or before the Effective Date, Bee Block shall provide clear and reasonable warnings for all Products, which are not Reformulated Products, provided for sale to customers in California in accordance with Title 27 California Code of Regulations §§ 25600, *et seq.* Each warning shall be prominently 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 before purchase or use, and shall be provided in a manner such that it is clearly associated with the specific Product to which the warning applies.

**(a) Warning.** The Warning shall consist of the following statement:



**WARNING:** This product can expose you to diisononyl phthalate, which is known to the State of California to cause cancer. For more information go to [www.P65Warnings.ca.gov](http://www.P65Warnings.ca.gov).

**(b) Short-Form Warning.** Bee Block may, but is not required to, use the following short-form warning (“**Short-Form Warning**”), and subject to the additional requirements in Sections 2.5 and 2.6, as follows:

 **WARNING:** Cancer - [www.P65Warnings.ca.gov](http://www.P65Warnings.ca.gov).

**(c) Foreign Language Requirement.** Where a consumer product sign, label or shelf tag used to provide a warning includes consumer information in language(s) other than English, the warning must also be provided in the other language(s) in addition to English.

## **2.4 Product Warnings**

Bee Block shall affix a warning to the Product label or otherwise directly on all Products, which are not Reformulated Products, provided for sale to consumers located in California and to customers with retail outlets in California, or comply with Title 27 California Code of Regulations § 25600.2. For the purpose of this agreement, “**Product label**” means a display of written, printed or graphic material printed on or affixed to each of the Products or its immediate container or wrapper. A warning provided pursuant to section 2.3(a) or (b) must print the word “**WARNING:**” in all capital letters and in bold font. 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 if the labeling does not use the color yellow, the symbol may be in black and white. If the Short-Form Warning is used, the entire warning shall appear in at least 6-point type and no smaller than the largest type size used for other consumer information on the Products.

## **2.5 Internet Warnings**

If, after the Effective Date, Bee Block sells Products, which are not Reformulated Products, to consumers located in California via the internet, through its own website, affiliated websites or a third-party website, to consumers located in California or to customers with nationwide distribution and e-commerce websites, Bee Block shall provide warnings for each Product both on the Product label in accordance with Section 2.4, and by prominently displaying

the warning to the customer on the website prior to purchase or, in the case of affiliated or third-party websites, requiring them to display the warning on their website. The internet warning or a clearly marked hyperlink to the warning using the word “**WARNING**” shall be given in conjunction with the sale of the Products via the internet either: (a) on the same web page on which the Products are displayed; (b) on the same web page as the virtual cart displaying the Products; (c) on the same page as the price for the Products; or (d) on one or more web pages displayed to a purchaser during the checkout process. The internet warning may use the Short-Form Warning content described in Section 2.3(b) if the warning provided on the Product label also uses the Short-Form Warning content.

## **2.6 Customer Notification**

No later than the Effective Date, Bee Block shall send a letter, electronic or otherwise (“**Notification Letter**”) to any retailer or distributor that Bee Block reasonably understands or believes has any inventory of Products lacking a warning. The Notification Letter shall advise the recipient that the Products contain DINP, a chemical known to the State of California to cause cancer. The Notification letter shall inform the recipient that all Products must have one of the warning statements in Section 2.3 (a) or Section 2.3 (b) displayed to consumers before it is sold in the California market or to a customer in California, and if that retailer or distributor sells Products through the internet, the letter must notify them that the warning must be placed on the product label and be included on their website in the manner set forth in section 2.5.

## **3. MONETARY SETTLEMENT TERMS**

### **3.1 Civil Penalty**

Pursuant to Health and Safety Code § 25249.7(b), Bee Block agrees to pay a civil penalty of \$5,000 within five (5) business days of the Effective Date. Bee Block’s civil penalty payment will be allocated according to Health and Safety Code §§ 25249.12(c)(1) and (d), with seventy-five percent (75%) of the penalty paid to the California Office of Environmental Health Hazard Assessment (“**OEHHA**”), and the remaining twenty-five percent (25%) retained by KASB. Bee Block shall issue its payment in two checks made payable to: (a) “**OEHHA**” in the

amount of \$3,750; and (b) “Keep America Safe and Beautiful” in the amount of \$1,250.

KASB’s counsel shall deliver to OEHHA and KASB their respective portion of the penalty payment.

### **3.2 Reimbursement of Attorneys’ Fees and Costs**

The parties negotiated and reached an accord on the amount of reimbursement to be paid to KASB’s counsel for all work performed through the mutual execution and reporting of this Agreement to the Office of the California Attorney General under contract principles and the Private Attorney General Doctrine codified at CCP § 1021.5 and Cal. Code Regs. tit. 11 § 3201. Within five (5) days of the Effective Date, Bee Block agrees to issue a check in the amount of \$24,000 payable to “Seven Hills LLP” for all fees and costs incurred investigating, bringing this matter to Bee Block’s attention, negotiating a settlement, and reporting its terms to Office of the California Attorney General pursuant to Section 9.

### **3.3 Payments**

All payments payable and due under this Agreement shall be delivered to KASB’s counsel at the following address:

Seven Hills LLP  
Attn: Laralei Paras  
4 Embarcadero Center, Suite 1400  
San Francisco, CA 94111

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

### **4.1 Representations**

Bee Block represents that the sales data it provided to KASB in negotiating this Settlement Agreement was truthful and a material factor upon which KASB relied to determine the amount of civil penalties assessed pursuant to Health & Safety Code § 25249.7 and release of liability.

### **4.2 KASB’s Release of Bee Block**

This Agreement is a full, final and binding resolution between KASB, as an individual entity and *not* on behalf of the public, and Bee Block, of any violation of Proposition 65 that was

or could have been asserted by KASB on behalf of itself, its past and current agents, employees, representatives, attorneys, successors, and/or assignees, against Bee Block, its parents, subsidiaries, affiliated entities under common ownership, Goodcome Inc. d.b.a. Neewer, and including the directors, officers, employees, attorneys, and each entity to whom Bee Block or Goodcome, directly or indirectly distributes or sells Products, including, but not limited, to downstream distributors, wholesalers, customers, retailers, franchisees, cooperative members, and licensees (collectively, “**Releasees**”), based on the alleged failure to warn about alleged exposures to DINP contained in Products that were manufactured, distributed, sold and/or offered for sale in California before the Effective Date, as alleged in the Notices.

In further consideration of the promises and agreements herein contained, KASB as an individual entity and *not* on behalf of the public, on behalf of itself, its past and current agents, employees, representatives, attorneys, successors, and/or assignees, hereby waives and relinquishes all rights to institute or participate in, directly or indirectly, any form of legal action against Releasees, and further releases all claims, actions, 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, whether sought in law or in equity, arising under Proposition 65 with respect to DINP in Products manufactured, distributed, sold and/or offered for sale before the Effective Date (collectively, “**Claims**”).

The Parties further understand and agree that this Section 4.2 release shall not extend upstream to any entities that manufactured the Products or any component parts thereof, or any distributors or suppliers who sold the Products or any component parts thereof to Bee Block, unless such entity is a Releasee. Nothing in this Section affects KASB’s right to commence or prosecute an action under Proposition 65 against a Releasee that does not involve the Products.

#### **4.3 Mutual Waiver of California Civil Code § 1542**

The Parties acknowledge that the Claims in this Settlement Agreement include all known and unknown Claims within the scope of the claims released, discharged, and waived in Section 4.2 except as provided in Section 4.1 hereinabove, and they each waive the provisions of

California Civil Code § 1542 as to any unknown Claims that may have existed prior to and including the Effective Date, except as provided in Section 4.1. Civil Code section 1542 states:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR 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 THE RELEASED PARTY.

**5. SEVERABILITY**

If, subsequent to the execution of this Agreement, any provision of this 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 Agreement shall be governed by the laws of the State of California, without regard to its conflicts of laws principles. In the event that Proposition 65 is repealed, preempted, or is otherwise rendered inapplicable by reason of law generally, or as to the Products, then Bee Block may provide KASB with written notice of any asserted change in the law, and shall have no further injunctive obligations pursuant to this Agreement, with respect to, and to the extent that, the Products are so affected. Nothing in this Agreement shall be interpreted to relieve Bee Block from its obligation to comply with any pertinent state or federal law or regulation.

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**7. NOTICE**

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

For Bee Block:

Yan Ke, President  
Bee Block Inc.  
15 Cotters Lane  
East Brunswick, NJ 08816-2002

For KASB:

Laralei Paras, Partner  
Seven Hills LLP  
4 Embarcadero Center, Suite 1400  
San Francisco, CA 94111

*With a copy to:*

Matthew Kaplan, Esq.  
Tucker Ellis LLP  
515 South Flower Street, 42<sup>nd</sup> Floor  
Los Angeles, CA 90071

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

**8. COUNTERPARTS, FACSIMILE AND PDF SIGNATURES**

This Agreement may be executed in counterparts and by 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. Signatures by scanned and emailed image or facsimile transmission shall have the same force and effect as original signature and as an electronic record adopted and executed by a Party with the intent to sign the electronic record pursuant to Civil Code §§ 1633.1 *et seq.*

**9. COMPLIANCE WITH REPORTING REQUIREMENTS**

KASB and its counsel agree to comply with the reporting requirements of California Health and Safety Code § 25249.7(f).

**10. ENTIRE AGREEMENT**

This Agreement contains the sole and entire agreement and understanding of the Parties with respect to the entire subject matter hereof, and any and all prior discussions, negotiations,

commitments, or understandings related thereto, if any, are hereby merged herein. There are no warranties, representations, or other agreements between the Parties except as expressly set forth herein. No representations, oral or otherwise, express or implied, other than those specifically referred to in this Agreement have been made by, or relied on, any Party hereto. No other agreements not specifically contained or referenced herein, oral or otherwise, shall be deemed to exist or to bind any of the Parties hereto.

**11. MODIFICATION**

This Agreement may be modified only by a written agreement signed by the Parties.

**12. INTERPRETATION**

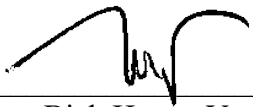
No inference, assumption or presumption shall be drawn, and no provision of this Agreement shall be construed against any Party, based upon the fact that one of the Parties and/or their counsel prepared or drafted any portion of this Agreement. It is conclusively presumed that the Parties participated equally in the drafting of this Agreement.

**13. AUTHORIZATION**

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

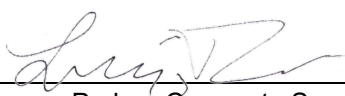
**AGREED TO:**

Date: 2/14/2022

By:   
\_\_\_\_\_  
Ngoc-Bich Hoang Vo, CEO  
Keep America Safe and Beautiful

**AGREED TO:**

Date: 2/14/2022

By:   
\_\_\_\_\_  
Lucas Parker, Corporate Secretary  
Bee Block Inc.