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Gregory M. Sheffer, State Bar No. 173124
SHEFFER LAW FIRM
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Mill Valley, CA 94941
Telephone: 415.388.0911

Attorneys for Plaintiff
SUSAN DAVIA

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF MARIN
UNLIMITED CIVIL JURISDICTION

SUSAN DAVIA,

Plaintiff,

v.

GROBET FILE COMPANY OF AMERICA,
LLC, GROBET USA, ESSLINGER & CO.,
INC., TESTEQUITY LLC, TECHNI-TOOL
AND DOES 1-150,

Defendants.

Case No. CIV2102515

**CONSENT TO JUDGMENT SETTLEMENT
AGREEMENT**

Action Filed: June 25, 2021
Trial Date: None Assigned

1 **1. INTRODUCTION**

2 **1.1 The Parties**

3 This settlement agreement (“Agreement” or “Settlement Agreement”) is entered into by and
4 between plaintiff Susan Davia (“Davia”) and defendants Grobet File Company of America, LLC
5 dba Grobet USA (hereafter collectively, “Grobet”), with Davia and Grobet each referred to as a
6 “Party” and collectively referred to as the “Parties.”

7 **1.2 Davia**

8 Davia is an individual residing in the State of California who seeks to promote awareness of
9 exposure to toxic chemicals and improve human health by reducing or eliminating hazardous
10 substances contained in consumer products.

11 **1.3 Grobet**

12 Grobet is a person in the course of doing business for purposes of the Safe Drinking Water
13 and Toxic Enforcement Act of 1986, California Health & Safety Code §§ 25249.6 *et seq.* (“Proposition
14 65”).

15 **1.4 General Allegations**

16 Davia alleges that Grobet participated in the manufacture, distribution and/or sale, in the
17 State of California, of brass craft caliper/gauge and pin vise products made with components that
18 expose users to lead and lead compounds without first providing “clear and reasonable warning”
19 under Proposition 65. Davia also alleges that Grobet participated in the manufacture, distribution
20 and/or sale, in the State of California, of cases for brass craft caliper/gauge products made with
21 vinyl components that expose users to di(2-ethylhexyl)phthalate (“DEHP”) and
22 di(isononyl)phthalate (DINP) and hemostat clamp products with vinyl grips that expose users to
23 DEHP, without first providing “clear and reasonable warning” under Proposition 65. Pursuant to
24 Proposition 65, DEHP is listed as a developmental toxin and carcinogen. Pursuant to Proposition
25 65, DINP is listed as a carcinogen. Lead, DEHP and DINP shall be collectively referred to
26 hereinafter as the “Listed Chemical.”

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1 **1.5 Notice of Violation**

2 On March 19, 2021, Davia served Grobet File Company of America, LLC and various public
3 enforcement agencies with a document entitled “60-Day Notice of Violation” that provided public
4 enforcers and the noticed entities with notice of alleged violations of Health & Safety Code §
5 25249.6 for purportedly failing to warn consumers of the presence of Lead, DEHP and DINP found
6 in brass craft caliper/gauge with vinyl case Covered Products (defined hereafter) sold in California
7 (AG Notice 2021-00684)(hereafter “Notice”).

8 On October 22, 2021, Davia served Grobet File Company of America, LLC, Grobet File
9 Company of America, Inc. and various public enforcement agencies with a document entitled
10 “Supplemental 60-Day Notice of Violation” that provided public enforcers and the noticed entities
11 with notice of alleged violations of Health & Safety Code § 25249.6 for purportedly failing to warn
12 consumers of the presence of Lead, DEHP and DINP found in brass craft caliper/gauge with vinyl
13 case Covered Products (defined hereafter) sold in California (AG Notice 2021-02596)(hereafter
14 “Notice 2”).

15 On February 18, 2022, Davia served Grobet File Company of America, LLC, Grobet File
16 Company of America, Inc. and various public enforcement agencies with a document entitled
17 “Supplemental 60-Day Notice of Violation” that provided public enforcers and the noticed entities
18 with notice of alleged violations of Health & Safety Code § 25249.6 for purportedly failing to warn
19 consumers of the presence of Lead and Lead Compounds found in brass craft pin vise Covered
20 Products (defined hereafter) sold in California (AG Notice 2022-00353)(hereafter “Notice 3”).

21 On May 16, 2022, Davia served Grobet File Company of America, LLC, Grobet USA and
22 various public enforcement agencies with a document entitled “Supplemental 60-Day Notice of
23 Violation” that provided public enforcers and the noticed entities with notice of alleged violations
24 of Health & Safety Code § 25249.6 for purportedly failing to warn consumers of the presence of
25 DEHP found in hemostat clamps with vinyl grip Covered Products (defined hereafter) sold in
26 California (AG Notice 2022-00966)(hereafter “Notice 4”).

27 Grobet received Notice 1, Notice 2, Notice 3 and Notice 4 (collectively, “Notices”). Grobet
28 represent that, as of the date it executes this Agreement, it is not aware of any public enforcer that is

1 diligently prosecuting a Proposition 65 enforcement action related to any Listed Chemical in the
2 Covered Products, as identified in the Notices.

3 **1.6 Complaint**

4 On June 25, 2021, Davia filed a Complaint in the Superior Court of the State of California
5 for the County of Marin, Case No. CIV2102515, alleging violations by Grobet of Health and Safety
6 Code § 25249.6 based on the alleged exposures to Lead in the brass caliper/gauge Covered
7 Products and DEHP and DINP in the vinyl case Covered Products.

8 On August 25, 2022, Davia filed a First Amended Complaint in the Superior Court of the
9 State of California for the County of Marin, Case No. CIV2102515, alleging violations by Grobet of
10 Health and Safety Code § 25249.6 based on the alleged consumer exposures to Lead from the brass
11 caliper/gauge and pin vise Covered Products, alleged consumer exposures to DEHP and DINP
12 from the vinyl case Covered Products and alleged consumer exposures to DEHP from the hemostat
13 clamps with vinyl grip Covered Products (the “Action”).

14 **1.7 No Admission**

15 This Agreement resolves claims that are denied and disputed by Grobet. The Parties enter
16 into this Agreement pursuant to a full, final and binding settlement of any and all claims between
17 the Parties for the purpose of avoiding prolonged litigation. Grobet denies the material factual and
18 legal allegations contained in the Notice, maintains that it did not knowingly or intentionally
19 expose California consumers to any Listed Chemical through the reasonably foreseeable use of the
20 Covered Products (defined hereafter) and further contend that all Covered Products they have
21 manufactured, distributed and/or sold in California have been and are in compliance with all
22 applicable laws. Nothing in this Agreement shall be construed as an admission by Grobet of any
23 fact, finding, issue of law, or violation of law, nor shall compliance with this Agreement constitute
24 or be construed as an admission by Grobet of any fact, finding, conclusion, issue of law, or violation
25 of law, all of which are specifically denied by Grobet. However, notwithstanding the foregoing,
26 this section shall not diminish or otherwise affect Grobet’ obligations, responsibilities, and duties
27 under this Agreement.

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1 **1.8 Consent to Jurisdiction**

2 For purposes of this Agreement only, the Parties stipulate that the Marin County Superior
3 Court has jurisdiction over Grobet as to the allegations in the Notice received from Davia, and this
4 Agreement, that venue is proper in County of Marin, and that the Marin County Superior Court
5 has jurisdiction over the Parties in any action to enforce the provisions of this Agreement.

6 **2. DEFINITIONS**

7 **2.1** The term “Lead Covered Product” shall mean all shall mean all Grobet brass craft
8 caliper/gauge products and brass pin vise products sold by Grobet, including but not limited to,
9 Grobet Brass Caliper 100mm (35.0204 A) and Grobet pin vise double ended #58.240.

10 **2.2** The term “Lead Free” Lead Covered Products shall mean any brass component of
11 any Lead Covered Product that contains less than 100 parts per million (“ppm”) Lead when
12 analyzed pursuant to EPA testing methodologies 3050B and 6010B, or equivalent methodologies
13 utilized by Federal or State agencies for the purpose of determining Lead content in a solid
14 substance.

15 **2.3** The term “Phthalate Covered Product” shall mean all vinyl product packaging and
16 storage cases for Grobet brass caliper/gauge products containing DINP, including, but not limited
17 to, Grobet Brass Caliper 100mm (35.0204 A) and all hemostat clamp products with vinyl grips
18 containing DEHP, including, but not limited to, Grobet USA Hemostat Straight Serrated 46.454
19 with red vinyl grips.

20 **2.4** “Phthalate Free” Phthalate Covered Products shall mean any accessible component
21 of any Phthalate Covered Product contains less than or equal to 1,000 parts per million (“ppm”) of
22 DEHP, DINP, DBP, di-isodecyl phthalate (“DIDP”), di-n-hexyl phthalate (“DnHP”) and butyl
23 benzyl phthalate (“BBP”) as determined by a minimum of duplicate quality controlled test results
24 using Environmental Protection Agency (“EPA”) testing methodologies 3580A and 8270C or
25 equivalent methodologies utilized by federal or state agencies to determine the presence and
26 measure the quantity of phthalates in solid substances.

27 **2.5** “Effective Date” shall mean March 1, 2022.

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1 **3. INJUNCTIVE-TYPE RELIEF**

2 **3.1 Product Reformulation Commitment**

3 **3.1.1** No later than the Effective Date, Grobet shall provide the Lead Free concentration
4 standards of Section 2.2 to any then-current vendor of any Lead Covered Product and instruct such
5 entity not to provide any Covered Product that does not meet the Lead Free concentration
6 standards of Section 2.2. No later than the Effective Date, Grobet shall also provide the Phthalate
7 Free concentration standards of Section 2.2 to any then-current vendor of any Phthalate Covered
8 Product and instruct such entity not to provide any Covered Product that does not meet the
9 Phthalate Free concentration standards of Section 2.4. Grobet shall maintain copies of all vendor
10 correspondence relating to the Lead Free and Phthalate Free concentration standards for two (2)
11 years after the Effective Date and shall produce such copies to Davia within fifteen (15) days of
12 receipt of reasonable request made in writing from Davia.


13 **3.1.2** After the Effective Date, Grobet shall provide the Lead Free concentration standards
14 of Section 2.2 to any New Vendor of any Lead Covered Product and instruct such entity not to
15 provide any Covered Product that does not meet the Lead Free concentration standards of Section
16 2.2. After the Effective Date, Grobet shall also provide the Phthalate Free concentration standards
17 of Section 2.2 to any new vendor of any Phthalate Covered Product and instruct such entity not to
18 provide any Covered Product that does not meet the Phthalate Free concentration standards of
19 Section 2.4. "New Vendor" means any vendor of Covered Products from whom Grobet was not
20 obtaining Covered Products as of the Effective Date. Prior to purchase and acquisition of any Lead
21 or Phthalate Covered Product from any New Vendor, Grobet shall obtain written confirmation and
22 laboratory test result from the New Vendor demonstrating compliance with the Lead Free
23 concentration standard for any Covered Product. For two (2) years after the Effective Date, for
24 every Covered Product Grobet manufactures, causes to be manufactured, orders, causes to be
25 ordered or otherwise obtains from a New Vendor, Grobet shall maintain copies of all testing of
26 such products demonstrating compliance with this section, shall maintain copies of all vendor
27 correspondence relating to the Lead Free concentration standards and shall produce such copies to
28 Davia within fifteen (15) days of receipt of reasonable request made in writing from Davia.

1 **3.1.3** As of April 1, 2022, Grobet shall not purchase or otherwise obtain any Covered
2 Product that is not Lead Free and shall not purchase or otherwise obtain any Covered Product
3 consumer packaging that is not Phthalate Free. For every Covered Product Grobet purchases or
4 otherwise obtains after April 1, 2022, Grobet shall, for a period of two (2) years after placing the
5 order, maintain copies of all testing of such products demonstrating compliance with this section,
6 shall maintain copies of all vendor correspondence relating to the Lead Free or Phthalate Free
7 concentration standards of Section 2.2 and shall produce such copies to Davia within fifteen (15)
8 days of receipt of reasonable request made in writing from Davia.

9 **3.2 Previously Distributed Covered Products.**

10 **3.2.1** Customer Notification - No later than the Effective Date, Grobet shall send a letter,
11 electronic or otherwise (“Notification Letter”) to: (1) Esslinger & Co., Inc., TestEquity LLC and
12 Techni-Tool, (2) each retailer or distributor in California to which Grobet, after March 1, 2020,
13 supplied any Covered Product, and (3) any other retailer or distributor that serves California
14 customers and that Grobet reasonably understands or believes has any inventory of Covered
15 Products. The Notification Letter shall advise the recipient that Covered Products “contain a
16 chemical known to the State of California to cause birth defect or other reproductive harm”. The
17 Notification letter shall inform the recipient apply a Proposition 65 warning label to each Covered
18 Product or its immediate packaging, which label shall contain one of the following warnings, before
19 it is sold in the California market or to a California customer:

20 For Lead Covered Products:

21  **WARNING:** Cancer and Reproductive
22 Harm - www.P65Warnings.ca.gov

23 For brass craft caliper/gauge Covered Products with vinyl cases containing DINP:

24  **WARNING:** Cancer -
25 www.P65Warnings.ca.gov

26 For hemostat clamp Covered Products with vinyl grips containing DEHP:
27
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1 **⚠WARNING:** Cancer and Reproductive
2 Harm - www.P65Warnings.ca.gov

3 The Notification Letter shall be sent with return receipt requested. The Notification Letter shall
4 request written confirmation from the recipient, within 15 days of receipt, that all such inventory
5 for California sale has been, or will be, labelled with the warning language identified in this section.

6 **3.2.2** Grobet shall maintain records of compliance correspondence, inventory reports or
7 other communication confirming compliance with § 3.2.1 for two (2) years from the Effective Date
8 and shall produce copies of such records upon reasonable written request by Davia.

9 **3.3 Existing Inventory Product Labels**

10 For any Covered Products obtained by Grobet before March 1, 2022, that remain in their
11 inventory and are not confirmed to be Lead Free and Phthalate Free, Grobet shall not sell or ship
12 any of such Covered Product unless Grobet either have confirmation that the product meets the
13 Lead Free and Phthalate Free requirements of Section 2.2 or Grobet has complied with all warning
14 requirements set forth in Section 3.3.1.

15 **3.3.1 Covered Product Label.**

16 For all remaining inventory of Covered Products that are not both Lead Free and Phthalate
17 Free, Grobet shall affix a label to the Covered Product or its immediate packaging that states:

18 For Lead Covered Products:

19 **⚠WARNING:** This product can expose you
20 to [chemicals including] Lead, which is known
21 to the State of California to cause cancer and
22 birth defects or other reproductive harm. For
23 more information go to
24 www.P65Warnings.ca.gov;

23 or

24 **⚠WARNING:** Cancer and Reproductive
25 Harm - www.P65Warnings.ca.gov

26 For brass craft caliper/gauge Covered Products with vinyl cases containing DINP:


27 **⚠WARNING:** This product can expose you
28 to [chemicals including] DINP, which is known

1 to the State of California to cause cancer. For
2 more information go to
3 www.P65Warnings.ca.gov;


4 or

5  **WARNING:** Cancer -
6 www.P65Warnings.ca.gov

7 For hemostat clamp Covered Products with vinyl grips containing DEHP:

8  **WARNING:** This product can expose you
9 to [chemicals including] DEHP, which is known
10 to the State of California to cause cancer and
11 birth defects or other reproductive harm. For
12 more information go to
13 www.P65Warnings.ca.gov;

14 or

15  **WARNING:** Cancer and Reproductive
16 Harm - www.P65Warnings.ca.gov

17 The label shall be prominently affixed with such conspicuousness as compared with other words,
18 statements, designs, or devices, as to render it likely to be read and understood by an ordinary
19 individual under customary conditions *before* purchase or use.

20 **3.3.2 Internet Website Warning.**

21 A warning must be given on an e-commerce or other website owned or operated by or for
22 any of Grobet in conjunction with the advertisement, marketing, sale or offer of sale of any Covered
23 Product that is not confirmed to be both Lead Free and Phthalate Free. A warning will satisfy this
24 requirement if it appears either: (a) on the same web page on which a Covered Product is
25 displayed; (b) on the same web page as the order form for a Covered Product; (c) on the same page
26 as the price for any Covered Product; or (d) on one or more web pages displayed to a purchaser
27 during the checkout process. One of the following warning statements shall be used and shall
28 appear in any of the above instances adjacent to or immediately following the display, description,
or price of the Covered Product for which it is given in the same type size or larger than the
Covered Product description text:

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For Lead Covered Products:

⚠️WARNING: This product can expose you to [chemicals including] Lead, which is known to the State of California to cause cancer and birth defects or other reproductive harm. For more information go to www.P65Warnings.ca.gov;

For brass craft caliper/gauge Covered Products with vinyl cases containing DINP:

⚠️WARNING: This product can expose you to [chemicals including] DINP, which is known to the State of California to cause cancer. For more information go to www.P65Warnings.ca.gov;

For hemostat clamp Covered Products with vinyl grips containing DEHP:

⚠️WARNING: This product can expose you to [chemicals including] DEHP, which is known to the State of California to cause cancer and birth defects or other reproductive harm. For more information go to www.P65Warnings.ca.gov;

4. MONETARY PAYMENTS

4.1 Civil Penalty

As a condition of settlement of all the claims referred to in this Settlement Agreement, Grobet shall cause to be paid a total of \$2,400 in civil penalties in accordance with California Health & Safety Code § 25249.12(c)(1) & (d).

4.2 Augmentation of Penalty Payments

For purposes of the penalty assessment under this Agreement, Davia is relying entirely upon Grobet and their counsel for accurate, good faith reporting to Davia of the nature and amounts of sales activity of the Covered Products during the relevant period. If within nine (9) months of the Effective Date, Davia discovers and presents to Grobet evidence that during the relevant period the Covered Products have been sold to retailers or California consumers by Grobet in sales volumes materially different (more than 25%) than those identified by Grobet prior to

1 execution of this Agreement, then Grobet shall be liable for an additional penalty amount of
2 \$10,000.00. Grobet shall also pay reasonable, additional attorney fees expended by Davia in
3 discovering such additional sales and reporting them to Grobet in accordance with this section.
4 Davia agrees to provide Grobet with a written demand for such additional penalties and attorney
5 fees under this Section. After service of such demand, Grobet shall have thirty (30) days to pay the
6 additional civil penalties amount demanded or negotiate with Davia as to an agreed amount of fees
7 and penalties to be paid in accordance with the method of payment of penalties and fees identified
8 in Section 4.4. Should the parties dispute whether Davia has provided appropriate evidence of
9 “sales volumes materially different (more than 25%) than those identified by Grobet prior to
10 execution of this Agreement”, then the parties shall have the issue decided by a mutually agreed
11 upon Mediator, each side to bear its own costs of the mediation. Should mediation not be
12 successful in resolving the matter then, within thirty (30) days of the mediation, Davia shall be
13 entitled to file an action for breach of this Agreement in which the sole issues for resolution by the
14 Court shall be: (1) whether during the relevant period Covered Products were sold to retailers or
15 California consumers by Grobet in sales volumes materially different (more than 25%) than those
16 identified by Grobet prior to execution of this Agreement; and (2) if the Court finds in favor of
17 Davia on issue no. 1, the amount of legal fees, if any, Davia is entitled to recover for discovering the
18 additional sales and reporting them to Grobet in accordance with this section. In any action
19 brought under this Section 4.2, the prevailing party shall be entitled to recover its attorney’s and
20 other fees and costs.

21 **4.3 Reimbursement of Davia’s Fees and Costs**

22 The Parties acknowledge that Davia and her counsel refused to consider any reimbursement
23 of plaintiff’s fees or costs until all other terms of the settlement were reached. The Parties then
24 reached an accord on the reimbursement due to Davia and compensation of her counsel under
25 general contract principles and consistent with the private attorney general doctrine codified at
26 California Code of Civil Procedure section 1021.5. Under these principles, Grobet shall reimburse
27 plaintiff the amount of \$45,250 for fees and costs incurred investigating and negotiating a resolution
28 of this matter. Such payment shall be made payable to “Sheffer Law Firm”.

1 **4.4 Payment Procedures**

2 No later than fifteen (15) days after execution of this Agreement, Grobet shall deliver all
3 settlement payment funds required by this Agreement to its counsel. Within one (1) week of
4 receipt of the settlement funds, Grobet’s counsel shall confirm receipt in writing to plaintiff’s
5 counsel and, thereafter, hold Grobet’s settlement payment checks or payment(s) until such time as
6 the Court approves this settlement as contemplated by Section 6. Within five (5) business days of
7 the date plaintiff provides electronic mail notice to counsel for Grobet that the Court has approved
8 this settlement, Grobet’s counsel shall deliver the settlement payments to plaintiff’s counsel as
9 follows:

10 a civil penalty check payable to “OEHHA” (Memo line “Prop 65 Penalties, 2021-00684”), in
11 the amount of \$1,800;

12 a civil penalty check payable to “Susan Davia” (Memo line “Prop 65 Penalties, 2021-00684”)
13 in the amount of \$600; and

14 an attorney fee and cost reimbursement check payable to “Sheffer Law Firm” (Memo line
15 “2021-00684”) in the amount of \$45,250.

16 All Section 4.1 and Section 4.3 civil penalty and attorney fee/cost payments shall be
17 delivered to plaintiff’s counsel at the following address:

18 Sheffer Law Firm
19 Attn: Proposition 65 Controller
20 232 E. Blithedale Avenue, Suite 210
21 Mill Valley, CA 94941

22 All Section 4.2 civil penalty and attorney fee/cost payments, if any, shall be delivered to
23 plaintiff’s counsel at the following address on or before the date agreed upon pursuant to that
24 section or as ordered by the Court:

25 Sheffer Law Firm
26 Attn: Proposition 65 Controller
27 232 E. Blithedale Avenue, Suite 210
28 Mill Valley, CA 94941

29 Grobet shall be liable for payment of interest, at a rate of 10% simple interest, for all
30 amounts due and owing from it under this Section that are not received by Sheffer Law Firm within
31 two business days of the due date for such payment.

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4.5 Issuance of 1099 Forms

After this Agreement has been executed and funds have been transmitted to Davia’s counsel at the address set forth in Section 4.4., Grobet shall cause three separate 1099 forms to be issued, as follows:

- (a) The first 1099 shall be issued to the Office of Environmental Health Hazard Assessment, P.O. Box 4010, Sacramento, CA 95814 (EIN: 68-0284486) in the amount paid pursuant to Sections 4.1 and 4.2 (if any);
- (b) The second 1099 shall be issued to Davia in the amount paid pursuant to Sections 4.1 and 4.2 (if any), whose address and tax identification number shall be provided to Grobet upon request; and
- (c) The third 1099 shall be issued to the Sheffer Law Firm (EIN: 55-08-58910) in the amount paid pursuant to Section 4.3 and 4.2 (if any).

5. RELEASES

5.1 DAVIA’S RELEASE OF DEFENDANTS

5.1.1 Plaintiff acting on her own behalf and in the public interest releases Grobet File Company of America, LLC dba Grobet USA, and each of their directors, officers, employees, attorneys, agents, and parents (“Releasees”) as well as retailers Esslinger & Co., Inc., TestEquity, LLC and Techni-Tool, from all claims for violations of Proposition 65 up through the Effective Date based on exposure to Lead, DEHP and DINP from the Lead Covered Products and Phthalate Covered Products as set forth in the Notices. Compliance with the terms of this Consent Judgment constitutes compliance with Proposition 65 with respect to exposures to Lead, DEHP and DINP from Lead Covered Products and Phthalate Covered Products as set forth in the Notices.

5.1.2 Davia also, in her individual capacity and on behalf of her past and current representatives, agents, attorneys, successors and/or assigns, provides a general 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

1 demands of Davia, of any nature, character or kind, known or unknown, suspected or
2 unsuspected, arising out of the subject matter of the Notice as to Covered Products manufactured,
3 distributed or sold by Grobet or Releasees before the Effective Date. Davia acknowledges that she
4 is familiar with section 1542 of the California civil code, which provides as follows:

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6 A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE
7 CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO
8 EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE
9 RELEASE AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE
10 MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE
11 DEBTOR OR RELEASED PARTY.

12 Davia, in her individual capacity expressly waives and relinquishes all rights and benefits
13 that she may have under, or which may be conferred on her by the provisions of Section 1542 of the
14 California Civil Code as well as under any other state or federal statute or common law principle of
15 similar effect, to the fullest extent that she may lawfully waive such rights or benefits pertaining to
16 the released matters. In furtherance of such intention, the release hereby given shall be and remain
17 in effect as a full and complete release notwithstanding the discovery or existence of any such
18 additional or different claims or facts arising out of the released matters.

19 This Section 5 release shall not release any obligations created by or set forth in this
20 Agreement. The Parties further understand and agree that this Section 5 release shall not extend
21 upstream to any entities, other than Grobet, that manufactured any Covered Product or any
22 component parts thereof, or any distributors or suppliers who sold Covered Products or any
23 component parts thereof to Grobet.

24 **5.2 DEFENDANTS RELEASE OF DAVIA**

25 Grobet, on behalf of themselves and their agents, representatives, attorneys, successors,
26 and/or assignees, hereby waive any and all claims against Davia and her attorneys and other
27 representatives, for any and all actions taken or statements made (or those that could have been
28 taken or made) by Davia and her attorneys and other representatives arising out of the subject
matter of the Notice and the Covered Products, whether in the course of investigating claims in this
matter, otherwise seeking to enforce Proposition 65 against Grobet and Releasees in this matter, or

1 negotiating this Agreement. Grobet acknowledge that it is familiar with Section 1542 of the
2 California Civil Code, which provides as follows:

3
4 A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE
5 CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO
6 EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE
7 RELEASE AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE
8 MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE
9 DEBTOR OR RELEASE PARTY.

10 Grobet expressly waive and relinquishes all rights and benefits which they may have under,
11 or which may be conferred on it by the provisions of Section 1542 of the California Civil Code as
12 well as under any other state or federal statute or common law principle of similar effect, to the
13 fullest extent that it may lawfully waive such rights or benefits pertaining to the released matters
14 identified in this Section 5.2. In furtherance of such intention, the release hereby given shall be and
15 remain in effect as a full and complete release notwithstanding the discovery or existence of any
16 such additional or different claims or facts arising out of the released matters.

17 This Section 5 release shall not release any obligations created by or set forth in this
18 Agreement.

19 **6. COURT APPROVAL**

20 This Agreement is effective upon execution but must also be approved by the Court. If the
21 Court does not approve this Agreement in its entirety, the Parties shall meet and confer to
22 determine whether to modify the terms of the Agreement and to resubmit it for approval. In
23 meeting and conferring, the Parties agree to negotiate in good faith to reach agreement on any
24 actions reasonably necessary to amend and/or modify this Agreement in order to further the
25 mutual intention of the Parties in entering into this Agreement. The Agreement shall become null
26 and void if, for any reason, it is not approved and entered by the Court, as it is executed, within one
27 year after it has been fully executed by all Parties. The Parties agree that, upon Court approval, a
28 Court judgment shall be entered on the terms of this Agreement.

1 **7. SEVERABILITY**

2 If any of the provisions of this Agreement are found by a court to be unenforceable, the validity of
3 other provisions of this Agreement, upon express consent of all Parties, shall not be affected and
4 shall remain in full force and effect.

5 **8. GOVERNING LAW**

6 The terms of this Agreement shall be governed by the laws of the State of California.

7 **9. NOTICES**

8 When any Party is entitled to receive any notice under this Agreement, the notice shall be
9 sent by FedEx (or other tracked delivery service) or electronic mail to the following:

10 **For Grobet:**

11 Current President
12 Grobet File Company of America, LLC
13 750 Washington Avenue
14 Carlstadt, NJ 07072

15 **For Grobet' Counsel:**

16 Khaled Taqi-Eddin, Esq. (SBN 220923)
17 Hawkins Parnell & Young LLP
18 1 Post Street, Suite 2400
19 San Francisco, California 94104
20 ktaqi-eddin@hpylaw.com

21 **For Davia:**

22 Proposition 65 Coordinator
23 Sheffer Law Firm
24 232 E. Blithedale Avenue, Suite 210
25 Mill Valley, CA 94941

26 Any Party may modify the person and address to whom the notice is to be sent by sending each
27 other Party notice by certified mail and/or other verifiable form of written communication.

28 **10. COMPLIANCE WITH HEALTH & SAFETY CODE § 25249.7(F)**

Davia agrees to comply with the reporting form requirements of California Health & Safety
Code §25249.7(f).

1 **11. MODIFICATION**

2 This Agreement may be modified only by written agreement of the Parties or court order.

3 **12. ENTIRE AGREEMENT**

4 This Agreement contains the sole and entire agreement and understanding of the Parties
5 with respect to the entire subject matter hereof, and all prior discussions, negotiations,
6 commitments, and understandings related hereto. No representations, oral or otherwise, express or
7 implied, other than those contained herein have been made or relied on by any Party hereto (other
8 than the sales figures provided to Davia). No other agreements not specifically referred to herein,
9 oral or otherwise, shall be deemed to exist or to bind any of the Parties. No supplementation,
10 modification, waiver, or termination of this Agreement shall be binding unless executed in writing
11 by the Party to be bound. No waiver of any of the provisions of this Agreement shall be deemed or
12 shall constitute a waiver of any of the other provisions whether or not similar, nor shall such waiver
13 constitute a continuing waiver.

14 **13. ATTORNEY'S FEES**

15 In any dispute concerning any matter related to this Agreement, the prevailing Party shall
16 be entitled to recover its costs and expenses, including attorneys' fees and costs. Except as
17 otherwise specifically provided herein, each Party shall bear its own costs and attorney's fees in
18 connection with the Notice. Nothing in this Section shall preclude a Party from seeking an award
19 of sanctions pursuant to law.

20 **14. ENFORCEMENT**

21 Prior to bringing any motion, order to show cause, or other proceeding to enforce
22 Proposition 65 or any terms of this Agreement relating to the alleged sale in California of any
23 Covered Product without a warning and which is alleged to not be Lead Free, in actual or alleged
24 violation of this Agreement, Davia shall provide a Notice of Violation ("NOV") to Grobet. The
25 NOV shall include, for each Covered Product alleged to be violation of this Agreement: the date of
26 alleged violations(s), place of sale, date and proof of purchase (if relevant), and any test data
27 obtained by Davia regarding each such Covered Product. Davia shall take no further action
28 regarding any alleged violation nor seek any monetary recovery for herself, her agents or her

1 counsel if, within 30 days of receiving such NOV, Grobet demonstrates (1) that the Covered
2 Product was manufactured distributed, sold or offered for sale by Grobet before January 1, 2022; or
3 (2) that, following service of the NOV, Grobet directed the retailer or distributor of the Covered
4 Product to take corrective action by placing an appropriate warning on the Covered Product(s)
5 compliant with Section 3.3 of this Agreement; or (3) that the Covered Products are Phthalate Free
6 and Lead Free.

7 **15. NEUTRAL CONSTRUCTION**

8 Both Parties and their counsel have participated in the preparation of this Agreement and
9 this Agreement is the result of the joint efforts of the Parties. This Agreement was subject to
10 revision and modification by the Parties and has been accepted and approved as to its final form by
11 each of the Parties. Accordingly, any uncertainty or ambiguity existing in this Agreement shall not
12 be interpreted against any Party as a result of the manner of the preparation of this Agreement.
13 Each Party to this Agreement agrees that any statute or rule of construction providing that
14 ambiguities are to be resolved against the drafting Party should not be employed in the
15 interpretation of this Agreement and, in this regard, the Parties hereby waive California Civil Code
16 Section 1654. The Parties further agree that the section headings are for convenience only and shall
17 not affect interpretation of this Agreement.

18 **16. COUNTERPARTS, FACSIMILE SIGNATURES**

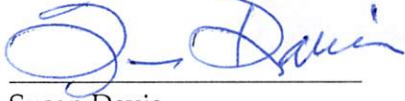
19 This Agreement may be executed in counterparts and by facsimile or portable document
20 format (PDF), each of which shall be deemed an original, and all of which, when taken together,
21 shall constitute one and the same document. Signatures by scanned and e-mailed image or
22 facsimile transmission shall have the same force and effect as original signatures and as an
23 electronic record executed and adopted by a Party with the intent to sign the electronic record
24 pursuant to Civil Code §§ 1633.1 *et seq.*

25 **17. AUTHORIZATION**

26 Each of the persons signing this agreement represents and warrants that he or she is
27 authorized and has the capacity to execute this Agreement on behalf of the respective Party and has
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1 read, understood, and agrees to all the terms and conditions of this Agreement on behalf of such
2 Party.

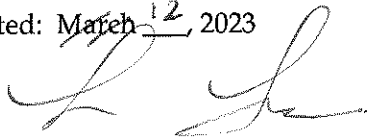
3 **IT IS SO AGREED**

<p>4 Dated: March __, 2023</p> <p>5 _____</p> <p>6 Current President</p> <p>7 Grobet File Company of America, LLC</p> <p>8</p>	<p>9 Dated: ^{JUNE} March 16 2023</p> <p>10 </p> <p>11 _____</p> <p>12 Susan Davia</p>
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1 read, understood, and agrees to all the terms and conditions of this Agreement on behalf of such
2 Party.

3 **IT IS SO AGREED**

4 5 Dated: March ^{June} 12, 2023 6  7 Current President CFO 8 Grobet File Company of America, LLC	9 10 Dated: March __, 2023 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 _____ Susan Davia
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