

**PROPOSITION 65 SETTLEMENT AGREEMENT
(Susan Davia AG Notices 2021-00887 and 2021-00886)**

1. INTRODUCTION

1.1 The Parties

This settlement agreement (“Agreement”) is entered into by and between noticing party Susan Davia (“Davia”) and noticed party Johara, Inc. dba Seattle Findings & Supply Center (hereafter, “Johara”), with Davia and Johara each referred to as a “Party” and collectively referred to as the “Parties.”

1.2 Davia

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

1.3 General Allegations

Davia alleges that Johara is responsible for the design, manufacture, distribution and/or sale, in the State of California, of hand tools with vinyl grips & brass craft tools and Liberty sliding brass gauge & caliper that exposed users to di(2-ethylhexyl)phthalate (“DEHP”) and/or lead and lead compounds without first providing “clear and reasonable warning” under Proposition 65. Pursuant to Proposition 65, DEHP and lead are listed as a carcinogen and reproductive toxin and lead compounds are listed as a carcinogen.. DEHP, lead, and lead compounds shall be collectively referred to hereinafter as the “Listed Chemical.”

1.4 Notices of Violation and Complaint

Davia served Johara and various public enforcement agencies with a document entitled “60-Day Notice of Violation,” dated April 16, 2021, that provided public enforcers and the noticed entities with notice of alleged violations of Health & Safety Code § 25249.6 for failing to warn consumers of the presence of lead and DEHP in hand tools with vinyl grips & brass craft tools sold in California (AG Notice 2021-00887).

Davia also served Johara and various public enforcement agencies with a separate document entitled “60-Day Notice of Violation,” also dated April 16, 2021, that provided public enforcers and the

noticed entities with notice of alleged violations of Health & Safety Code § 25249.6 for failing to warn consumers of the presence of lead and lead compounds in the Liberty brand sliding brass gauge & caliper products sold in California (AG Notice 2021-00886).

These April 16, 2021 Notices of Violation from Davia to Johara shall hereafter be collectively referred to as “Notices.”

On November 10, 2021, Davia filed a complaint for civil penalties and injunctive relief (“Complaint”) pursuant to Health & Safety Code § 25249.6 *et seq.* in Marin County Superior Court, Case No. Civ. 2103858, regarding the Covered Product (defined hereafter).

1.5 No Admission

This Agreement resolves claims that are specifically and generally denied and disputed by Johara. The Parties enter into this Agreement pursuant to a full and final settlement of any and all claims between the Parties for the purpose of avoiding prolonged litigation. Johara denies the material factual and legal allegations contained in the Notices, maintains it is not a “[p]erson in the course of doing business under Proposition 65, maintains that it did not knowingly or intentionally expose California consumers to the Listed Chemical and otherwise contends that all Covered Product it has manufactured, distributed, sold and/or offered for sale in California have been and are in compliance with all applicable laws and regulations, including Proposition 65. Nothing in this Agreement shall be construed as an admission by Johara of any fact, finding, issue of law, or violation of law, nor shall compliance with this Agreement constitute or be construed as an admission by Johara of any fact, finding, conclusion, issue of law, or violation of law, such being specifically denied by Johara. However, notwithstanding the foregoing, this section shall not diminish or otherwise affect Johara’s obligations, responsibilities, and duties under this Agreement.

1.6 Johara

Johara alleges it is exempt from Proposition 65 under California Health & Safety Code Section 25249.11(b): since Johara has fewer than ten (10) employees, it is not a “[p]erson in the course of doing business”. Johara’s sales to California consumers occur only online via internet sales as Johara has no “brick and mortar” store in California nor sells its product to any such stores in California.

2. DEFINITIONS

2.1 “Covered Product” shall mean the following products manufactured, distributed, sold and/or offered for sale by Seattle Findings: Liberty brand sliding brass gauge & caliper; brass slide gauge (all sizes, including 35-204, 35-156, 35-170); brass ring stamping block (55-420); mini 4 plier set (46-500); hemostat locking plier (46-454); jump ring plier (46-260); and hole punch plier (46-1241).

2.2 “Effective Date” shall mean fifteen (15) business days after Davia’s counsel confirms in writing that the Complaint has been dismissed with prejudice.

3. INJUNCTIVE-TYPE RELIEF

3.1 Internet Ecommerce Covered Product Warnings

A warning must be given in conjunction with the sale, or offer of sale, by Johara of any Covered Product via any ecommerce website owned, operated, managed or controlled by, or for the benefit of, Johara. A warning will satisfy this requirement if it appears either: (a) on the same web page on which a Covered Product is displayed; (b) on the same web page as the order form for a Covered Product; (c) on the same page as the price for any Covered Product; or (d) on one or more web pages displayed to a purchaser during the checkout process. One of the following warning statements shall be used and shall 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, or through a hyperlink using the word “WARNING”, in the same type size or larger than the Covered Product description text:

⚠CA WARNING: This product can expose you to chemicals including [lead or Di(2-ethylhexyl phthalate) (DEHP) as appropriate] 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.

To clarify the warning above, Johara can use either lead or DEHP as appropriate based on the Covered Product. Alternatively, the following “short form” warning may be used on the ecommerce website, but only if the same warning language also appears on the product label or consumer packaging of the Covered Product itself.

⚠CA WARNING: Cancer and Reproductive Harm -
www.P65Warnings.ca.gov.

4. MONETARY PAYMENTS

4.1 Civil Penalty and Attorney Fees and Dismissal

As a result of Johara's assertion that it is exempt from liability under Proposition 65 and the fact that Johara has nonetheless agreed to provide clear and reasonable warnings with the Covered Product, Johara shall have no obligation to pay any civil penalty or attorney fees or costs under this Agreement. Davia will file a dismissal with prejudice of the Complaint within five (5) business days after the Parties have executed the Agreement.

5. RELEASES

5.1 Davia's Release of Johara

This Agreement is a full, final, and binding resolution between Davia and Johara of any violation of Proposition 65 that was or could have been asserted by Davia, individually and on behalf of herself and her past and current representatives, agents, attorneys, successors and/or assigns ("Releasers") against Johara and each of its respective directors, officers, employees, attorneys, agents, parents, and subsidiaries, predecessors, successors, customers, and assigns ("Releasees"), based on the alleged failure to warn about alleged exposures to DEHP, lead, and lead compounds contained in the Covered Product. Notwithstanding that Johara alleges it is not a person in the course of doing business, compliance with the terms of this Agreement constitutes compliance with Proposition 65 by Johara with respect to the alleged or actual failure to warn about potential exposure to lead, lead compounds and/or DEHP in the Covered Product.

In further consideration of the promises and agreements herein contained, and for so long as Johara remains in compliance with the terms of this Agreement, Releasers hereby waive all rights to maintain, institute or participate in, directly or indirectly, any form of legal action, and releases all claims that they may have, including, without limitation, all actions, and causes of action, in law or in equity, suits, liabilities, demands, obligations, damages, costs, fines, penalties, losses, or expenses, including, but not limited to, investigation fees, expert fees, and attorney fees, arising under Proposition

65 with respect to lead, lead compounds, and DEHP, in the Covered Product designed, manufactured, distributed, sold and/or offered for sale by Johara, against Johara and Releasees.

This section 5.1 release shall not extend upstream to any entities, other than Johara, that manufactured the Covered Product or any component parts thereof, or any distributors or suppliers who sold the Covered Product or any component parts thereof to Johara. Because of the unusual nature of the disputed allegations in Davia's claims against Johara, Davia nonetheless agrees that if Davia or her attorney(s) issue any Proposition 65 60-Day Notice of Violation to any entity upstream of Johara, including but not limited to KSB International, KSB Industries Tools, or any other upstream manufacturer, distributor, vendor or supplier, Davia and her attorneys agree that any Covered Product or any component parts thereof sold to Johara, and resold by Johara into California, shall be excluded from such claim.

5.2 Johara's Release of Davia

The Release by Davia is mutual. Johara, on behalf of itself, its past and current agents, representatives, attorneys, successors, and/or assignees, hereby waives any and all claims against Davia and her attorneys and other representatives, for any and all actions taken or statements made (or those that could have been taken or made) by Davia 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 Covered Product. Johara acknowledges that it is familiar with Section 1542 of the California Civil Code, which provides as follows:

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

Johara expressly waives and relinquishes any and all rights and benefits which it may have under, or which may be conferred on it by the provisions of Section 1542 of the California Civil Code as well as under any other state or federal statute or common law principle of similar effect, to the fullest extent that it may lawfully waive such rights or benefits pertaining to the released matters. In furtherance of such intention, the release hereby given shall be and remain in effect as a full and complete release

notwithstanding the discovery or existence of any such additional or different claims or facts arising out of the released matters.

6. GOVERNING LAW

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

7. NOTICES

When any Party is entitled to receive any notice under this Agreement, the notice shall be sent by certified mail or electronic mail to the following:

For Johara:

Saad Mehaimed
Johara, Inc. dba Seattle Findings & Supply Center
19109 36th Ave W., Ste 103
Lynnwood, WA 98036

With a copy to its counsel:

Malcolm Weiss, Esq.
Jennifer MikoLevine, Esq.
Hunton Andrews Kurth LLP
550 South Hope Street, Suite 2000
Los Angeles, CA 90071
mweiss@hunton.com
jmikolevine@hunton.com

For Davia to:

Proposition 65 Coordinator
Sheffer Law Firm
232 E. Blithedale Ave., Suite 210
Mill Valley, CA 94941
gregs@sheffer-law.net

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

8. COMPLIANCE WITH HEALTH & SAFETY CODE § 25249.7(f)

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

9. MODIFICATION

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

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, and understandings related hereto. No representations, oral or otherwise, express or implied, other than those contained herein have been made by any Party hereto. No other agreements not specifically referred to herein, oral or otherwise, shall be deemed to exist or to bind any of the Parties. No supplementation, modification, waiver, or termination of this Agreement shall be binding unless executed in writing by the Party to be bound. No waiver of any of the provisions of this Agreement shall be deemed or shall constitute a waiver of any of the other provisions whether or not similar, nor shall such waiver constitute a continuing waiver.


11. COUNTERPARTS, FACSIMILE SIGNATURES

This Agreement may be executed in counterparts and by facsimile or portable document format (PDF), each of which shall be deemed an original, and all of which, when taken together, shall constitute one and the same document.

12. AUTHORIZATION

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

IT IS SO AGREED

<p>Dated: March <u>23</u>, 2022</p> <p> Saad Mehaimeed Johara, Inc. dba Seattle Findings & Supply Center</p>	<p>Dated: March __, 2022</p> <p>_____ Susan Davia</p>
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<p>Dated: March __, 2022</p> <p>_____</p> <p>Saad Mehaimed Johara, Inc. dba Seattle Findings & Supply Center</p>	<p>Dated: March ²²__, 2022</p> <p> _____ Susan Davia</p>
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