

CONFIDENTIAL SETTLEMENT AGREEMENT AND RELEASE OF ALL CLAIMS

This Confidential Settlement Agreement and Release of Claims (the “Agreement”) is entered into this 11th day of April 2022 (the “Effective Date”) by and among Keep America Safe and Beautiful, on the one hand, and Urban Armor Gear, LLC, on the other, under the following terms, conditions, and obligations:

1. PARTIES TO THE AGREEMENT AND RELEASED ENTITIES:

1.1 The collective “Parties” to this Agreement are:

1.1.1 Keep America Safe and Beautiful, and its current, former, and/or future members, agents, employees, officers, directors, attorneys, accountants, advisors, contractors, insurers and reinsurers, partners, partnerships, divisions, direct and/or indirect subsidiaries, employees of any direct and/or indirect subsidiaries, parents, shareholders, assigns, successors, heirs, predecessors-in-interest, joint ventures, commonly controlled or affiliated persons and/or organizations (collectively, “KASB”); and,

1.1.2 Urban Armor Gear, LLC, and its current, former, and/or future members, agents, employees, officers, directors, attorneys, accountants, advisors, contractors, insurers and reinsurers, partners, partnerships, divisions, direct and/or indirect subsidiaries, employees of any direct and/or indirect subsidiaries, parents, shareholders, assigns, successors, heirs, predecessors-in-interest, joint ventures, commonly controlled or affiliated persons and/or organizations (collectively, “UAG”).

1.1.3 KASB and UAG are sometimes collectively referred to as the “Parties.”

2. RECITALS AND DEFINITIONS:

2.1 WHEREAS, on or about August 26, 2021, KASB served UAG and Target Corporation (“Target”), and various public enforcement agencies eligible to initiate Proposition 65 actions on behalf of the People of the State of California, with a document entitled “Notice of Violation of California Health & Safety Code § 25249.6, et seq.” (the “Notice”) alleging that UAG and Target were in violation of Proposition 65 and California Health & Safety Code § 25249.6, et seq., for failing to warn California consumers and customers that use of UAG Apple AirPods Pro Hardcase cases, including, but not limited to, UPC No. 812451033625 (collectively, the “Products”) will expose them to the chemical Bisphenol A (“BPA”);

2.2 WHEREAS, no public enforcer has prosecuted the allegations set forth in the Notice;

2.3 WHEREAS, UAG does not admit and denies the material, factual, and legal allegations contained in the Notice, and maintains that to its knowledge all Products sold, distributed, or offered for sale in California have been and are in compliance with all laws, including, without limitation, Proposition 65;

2.4 WHEREAS, the Parties desire to avoid the risk, uncertainty, inconvenience and expense of litigation, and therefore have agreed to fully settle any and all claims asserted by KASB in the Notice and/or that could have been asserted as to the Products including, but not limited to, under Proposition 65, and/or under any and all similar laws and/or regulations, any and all claims relating to the Products, as well as any and all claims and causes of action that KASB might have against manufacturers, distributors, customers, retailers, and affiliates, who allegedly violated Proposition 65 by distributing or offering for sale the Products in California, including without limitation UAG, Target, and/or any affiliated or related entity; and,

2.5 NOW, THEREFORE, in consideration for the mutual covenants and other good and valuable consideration as set forth herein, the receipt and sufficiency of which are hereby expressly acknowledged, the Parties agree to the following confidential terms and settlement:

3. DISCHARGES AND RELEASES:

3.1 Recitals Incorporated: All recitals stated in Section 2 are hereby incorporated into this Agreement and affirmed.

3.2 KASB's Release: For and in consideration of this Agreement, the receipt of which is hereby acknowledged, KASB, on behalf of itself, its agents, employees, representatives, assigns, executors, trustees, attorneys, partners, and each of them (the "Releasing Parties") hereby jointly and severally forever release and discharge UAG, together with each of its respective past, present, and future officers, directors, employees, agents, stockholders, attorneys, servants, representatives, parent entities, subsidiary entities, affiliate entities, partners, insurers, and to the predecessors, successors, heirs, executors, administrators, and assigns, and all entities and persons from whom UAG obtains and to whom it directly or indirectly distributes or sells the Products, including but not limited to each of its current or former manufacturers, vendors, suppliers, distributors, marketplace hosts, wholesalers, licensors, licensees, auctioneers, retailers, franchises, dealers, customers, owners, purchasers, and users, and/or any affiliated or related entity, together with each of their respective past, present, and future officers, directors, employees, agents, stockholders, attorneys, servants, representatives, parent entities, subsidiary entities, affiliate entities, partners, insurers, and to the predecessors, successors, heirs, executors, administrators, and assigns of each of the foregoing (collectively, the "Released Parties"), from any and all claims, causes of action, suits, demands, rights, liabilities, damages, lawsuits, losses, fees, costs or expenses of any kind whatsoever, whether known or unknown, (including, but not limited to, any monetary, injunctive and/or declaratory relief as well as for reimbursement of attorneys' fees, costs and expenses relating thereto), relating to and/or arising out of the Notice, the Products, and/or the Parties' relationship. This release expressly applies to all claims regarding the Products, including, but not limited to, all claims arising from or relating to Proposition 65, any federal, state, or local law, statute or ordinance, rule or principle of common law or doctrine in law or equity, known or unknown, suspected or unsuspected, foreseen or unforeseen, real or imaginary, actual or potential. KASB represents and warrants that it is not aware of any other individuals who have claims against the Released Parties. KASB, on its own behalf and on behalf of the Releasing Parties, acknowledges that it may be releasing claims that are presently unknown and that the release contained in this Agreement is intended to and does fully, finally and forever discharge all such released claims, whether now asserted or unasserted, known or unknown, it may have against the Released Parties. For the avoidance of doubt,

“Released Parties” includes Target, and its current or former parents, affiliates, subsidiaries, officers, directors, attorneys, representatives, shareholders, agents, successors, and employees.

3.3 Waiver of Civil Code Section 1542: In consideration for this Agreement, and to the extent necessary for effect in the State of California, KASB acknowledges that the release herein includes potential claims and costs which may not be known or suspected to exist, and that KASB hereby agrees that all rights under Section 1542 of the Civil Code of California, and any similar law of any state or territory of the United States, are hereby expressly waived, unless otherwise stated. California Civil Code Section 1542 states 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 RELEASED PARTY.

In making this waiver, KASB acknowledges that it may hereafter discover facts in addition to or different from those which he now believes to be true with respect to the subject matters released herein, but he affirms that he has taken that possibility into account in reaching this Agreement and that, notwithstanding the discovery or existence of any such additional or different facts as to which KASB expressly assumes the risk, it fully, finally and forever settle and releases any and all such claims, known or unknown, suspected or unsuspected, disclosed or undisclosed, contingent or non-contingent, whether or not concealed or hidden, which now exist or heretofore have existed.

4. NO ADMISSION BY THE PARTIES: It is understood and acknowledged that this Agreement is the release of disputed claims and that the consideration is not to be construed as an admission of liability on the part of those released, and those parties released and have denied liability on the claims herein and intend merely to avoid the continuance of litigation.

5. CONSIDERATION:

5.1 Final Settlement Payment:

5.1.1 Within fifteen (15) days of receipt by UAG of all documents identified in Section 5.2 below, UAG shall issue payment(s) totaling Eleven Thousand Four Hundred Dollars (\$11,400.00) to the Law Office of Stephanie Sy, Esq., Law Corporation in the form of a check made out to “Stephanie Sy, Esq., Law Corporation” and delivered to the following payment address:

Stephanie Sy, Esq., Law Corporation
Law Office of Stephanie Sy, LP
11622 El Camino Real, Suite 100
San Diego, CA 92130-2051
Tax Identification Number: 853630344

5.1.2 These payments compensate KASB for any and all claimed damages and and/or monetary sums, including, but not limited to, attorneys' fees, expert fees, costs, and expenses incurred and/or to be incurred, relating to and/or arising out of the Notice and/or the Products, and no other amount is owed.

5.2 Penalties Pursuant To Health & Safety Code Section 25249.7(b): The settlement of all claims in this Agreement includes a total of \$100.00 in civil penalties in accordance with California Health & Safety Code Section 25249.7, subdivision (b), which is included in the total settlement amount paid pursuant to section 5.1.1 above. The penalty payment will be allocated by KASB's counsel in accordance with California Health & Safety Code section 25249.12, subdivisions (c)(1) and (d), with 75% of the funds remitted to the California Office of Environmental Health Hazard Assessment ("OEHHA") and the remaining 25% of the penalty remitted to KASB. KASB's counsel shall be responsible for delivering OEHHA's portion of any penalty payment made under this Agreement.

5.3 Receipt of Necessary Documents: UAG shall make the above payments only after receiving all of the following documents: (i) complete W-9 Forms from KASB and Law Office of Stephanie Sy, LP; and, (ii) a fully executed copy this Agreement.

5.4 Tax Liability: In paying any and all amounts, none of the Parties make any representation regarding the tax consequences or liability arising from said payments. All Parties understand and agree that any and all tax liability that may be due or become due because of the payments referenced herein is the sole responsibility of KASB and its counsel, and that KASB and its counsel will be responsible to pay any such taxes that may be due or become due. KASB and its counsel agree to bear all tax consequences, if any. KASB and its counsel further agree to indemnify, defend and hold UAG and the Released Parties harmless from and against any tax or tax withholdings claims, amounts, interest, penalties, fines, fees or assessments brought or sought by any taxing authority or governmental agency with regard to the above-recited sums.

6. REPRESENTATION AND WARRANTY REGARDING CLAIMANTS OR LEGAL CLAIMS: KASB and its counsel represent and warrant that they are not aware of any potential plaintiffs other than KASB who intend to make demands or bring litigation against UAG and/or its affiliates. KASB and its counsel further represent and warrant that they have not been notified or otherwise informed of any such intention or consideration thereof.

7. GOOD FAITH: The Parties agree that the settlement is made in good faith and the Parties may apply for a good faith settlement determination.

8. NO PRODUCT REMEDIATION REQUIRED: KASB agrees that no remediation of any kind is required as to the Products. KASB additionally represents and warrants that no remediation of any kind is required on any UAG products pursuant to Proposition 65, or any other similar law of any state or territory of the United States.

9. LACK OF KNOWLEDGE OF CLAIMS: KASB and its counsel hereby represent, affirm and warrant that they do not have any nor know of any present and/or future claims, actions, demands, lawsuits, and/or the basis for any claim against UAG and the Released Parties.

10. CONFIDENTIALITY:

10.1 The Parties agree that the terms of this Agreement and the negotiations relating to this settlement are and shall remain confidential and the Parties shall not disclose to any third party the terms of this Agreement or anything regarding the Parties' negotiations relating to them. The terms of this Agreement may only be disclosed: (i) to the Parties' respective legal counsel on a need to know basis; (ii) to any person who is necessary to carry out the provisions of this Agreement; (iii) to the Parties' respective professional representatives, including attorneys, accountants, financial advisors, tax preparers, and insurance carriers, (v) to the extent such disclosure is required for enforcement of this Agreement and/or required by the regulations of California Proposition 65 and/or the State of California Office of Attorney General; (vi) to the extent disclosure is required by a document request, subpoena, or by court order, provided however, that the disclosing party must give sufficient advance notice to the non-disclosing party to permit the non-disclosing party to seek a protective order or otherwise object and/or (vii) as required by law.

10.2 The Parties expressly acknowledge and agree that the confidentiality obligations set forth herein are material inducements to the Parties to enter into this Agreement. Furthermore, the Parties acknowledge and agree that the disclosure of information related to the terms or existence of this Agreement as prohibited by this provision would cause immediate, irreparable injury for which money damages would be an inadequate remedy, and that the Parties will be entitled to injunctive relief, as provided for under applicable law or equity, without being required to post any bond or other security, in the event of any such breach. Injunctive relief will not be deemed the exclusive remedy for any such breach, but will be in addition to all other remedies available under applicable law or equity.

11. AUTHORITY TO ENTER INTO AGREEMENT: The Parties represent and warrant that they have authority to enter into this Agreement and bind themselves to the terms and conditions herein.

12. NO FURTHER PAYMENT OBLIGATIONS: KASB expressly acknowledges and agrees that UAG will send the entire settlement payment to KASB's counsel identified below and UAG has no further obligations regarding the settlement payment, including but not limited to allocation thereof.

13. NON-DISPARAGEMENT: The Parties each agree not to make any disparaging comments about any other Party to any third person or in any forum including, without limitation, through any social media or any other media outlets with respect to the matters settled and released hereby. Nothing herein shall limit or restrict any Party's rights to enforce this Agreement in the event of any alleged breach thereof by another Party and the litigation privilege in connection therewith shall not be deemed abrogated in any manner.

14. NO RELIANCE OR INDUCEMENT: The Parties agree that they received no inducement, promise or offer of any kind whatsoever except for the consideration delineated herein, and that this Agreement is executed without reliance on any statement or representation by those released, or their representatives, or anyone, other than the sole consideration described above.

15. NON-ASSIGNMENT: The Parties hereby represent that they have not and will not make any assignment of claims, demands, actions, lawsuits, or administrative proceedings released herein, and the Parties represent that no assignment whatsoever has taken place regarding or related to their claims. The Parties each represent that it has not commenced nor prosecuted, and will not commence nor prosecute, any action or proceeding for damages or any form of relief against any of the other Parties, based upon the claims, demands, and causes of action released in this Agreement. The Parties further represent that each is the owner of such claims, demands, and causes of action released in this Agreement and have not assigned nor transferred any of the same. This Agreement shall constitute a judicial bar of the institution of any such action or proceeding, or any assignment thereof.

16. NO RESCISSION: This Agreement is intended to be final and binding regardless of any claim or misrepresentation, promise made without intention of performing, concealment of fact, mistake of fact or law, duress, or any act, omission or circumstances heretofore or hereafter occurring in any other circumstances whatsoever.

17. ATTORNEY FEES OR COSTS:

17.1 The Parties agree that, except as agreed to in this Agreement, they are responsible for their own attorneys' fees and costs relating to this Agreement.

17.2 The prevailing Party to any action or motion to enforce the terms of this Agreement and/or breach thereof shall be entitled to recover his/her/its reasonable attorneys' fees and costs in connection with such action or motion.

18. EFFECT OF AGREEMENT: This Agreement shall inure to the benefit of the Parties and the Released Parties, and their direct and/or indirect subsidiaries, employees of any direct and/or indirect subsidiaries, assignees, representatives, successors, past and present members, directors, managers, shareholders, officials, employees, agents, contractors, servants, administrators, officers, representatives, assignors, heirs, member agencies, attorneys, insurers, reinsurers, and underwriters.

19. EFFECTUATION AND COUNTERPART SIGNATURES: The Parties shall execute any and all documents and take any other actions as may be necessary to carry out the terms of the Agreement. This Agreement may be executed in counterparts. The counterparts so executed shall constitute one agreement notwithstanding that the signatures of all Parties do not appear on the same page. Signatures delivered electronically are fully enforceable and binding.

20. LEGAL REPRESENTATION: The Parties represent and acknowledge that each of them has had the opportunity to be represented by legal counsel with respect to this Agreement and that each party has had the opportunity to be fully advised with respect to all rights that are affected by this Agreement.

21. APPLICABLE LAW, INTERPRETATION, AND ENFORCEMENT:

21.1 The Parties hereby agree that this Agreement is made, executed and entered into, and is intended to be performed within the State of California, and that this is a California Agreement and is to be construed under the laws of the State of California.

21.2 The Parties agree that this Agreement is an enforceable settlement. The Parties stipulate that this document can be introduced into evidence to enforce the settlement, notwithstanding the Confidentiality provision of this Agreement. However, in the event that the Agreement is introduced into evidence under this provision, the settlement amount shall be redacted. Any action or motion to enforce the terms of this Agreement shall be venued in the Orange County Superior Court, State of California. The prevailing Party to such action or motion shall be entitled to recover his/her/its reasonable attorneys' fees and costs in connection with such action or motion.

21.3 The Parties agree that any and all controversies and/or claims arising out of or relating to this Agreement, or the breach thereof, shall exclusively fall under the laws of the State of California, with the forum of law and venue selection being exclusively in the Orange County Superior Court, State of California. If for any reason, it is determined that the Orange County Superior Court, State of California does not have jurisdiction, then the Parties consent to the exclusive jurisdiction and venue of the United States District Court, Central District of California, Southern Division.

22. CONSTRUCTION OF AGREEMENT: This Agreement shall be construed as if it were drafted by all Parties.

23. INTEGRATION AND MODIFICATION: This Agreement contains the entire agreement between the Parties and may not be altered, amended or modified in any respect, except by a writing duly executed by the Parties.

24. MATERIAL PROVISIONS MUST BE ENFORCED: In the event that one or more material provisions of this Agreement is held to be invalid, modified, illegal, unenforceable, fails, or is removed in any respect, this Agreement, and each of its terms, conditions and covenants, will be held valid and enforceable, unless the invalid provision is held to be material, upon which the Agreement must be renegotiated between the Parties to effectuate all material provisions to the satisfaction of the Parties hereto.

25. SEVERABILITY: The Parties explicitly acknowledge and agree that the provisions of this Agreement are both reasonable and enforceable. However, if any portion or provision of this Agreement (including, without implication of limitation, any portion or provision of any section of this Agreement) is determined to be illegal, invalid or unenforceable by any court of competent jurisdiction and cannot be modified to be legal, valid or enforceable, the remainder of this Agreement shall not be affected by such determination and shall be valid and enforceable to the fullest extent permitted by law, and said illegal, invalid or unenforceable portion or provision shall be deemed not to be a part of this Agreement.

26. INFORMED CONSENT: Each party to this Agreement acknowledges being represented by independent legal counsel of his, her, or its own choice throughout all negotiations which precede the execution of this Agreement, and that such Party has read this entire Agreement, and been advised by such independent legal counsel as to the meaning of this Agreement and its legal effect and executed it with the consent and upon the advice of said independent counsel.

27. NOTICE REQUIREMENTS: Each notice (“Notice”) provided for under this Agreement shall be in writing and sent by electronic email and depositing it with a nationally recognized overnight courier service that obtains receipts (Federal Express or UPS Next Day Air), addressed to the appropriate party (and marked to a particular individual’s attention, if so indicated) as hereinafter provided. Each Notice shall be effective upon being so deposited, but the time period in which a response to any notice must be given or any action taken with respect thereto shall commence to run from the date of receipt of the Notice by the addressee thereof, as evidenced by the return receipt. Rejection or other refusal by the addressee to accept or the inability to deliver because of a changed address of which no Notice was given shall be deemed to be the receipt of the Notice sent. Any party shall have the right from time to time to change the address or individual’s attention to which notices to shall be sent by giving to the other party at least ten (10) days prior Notice thereof. The Parties’ addresses for providing Notices are as follows:

UAG:

c/o J. David Bournazian, Esq.
K&L Gates LLP
1 Park Plaza, Twelfth Floor | Irvine, CA 92614
Telephone: (949) 253-0900 | Fax: (949) 253-0902
David.Bournazian@KLGates.com

KASB:

c/o Stephanie Sy, Esq.
Law Office of Stephanie Sy, LP
11622 El Camino Real, Suite 100
San Diego, CA 92130-2051
Telephone: (858) 746-9554 | Fax: 858-746-5199
stephaniesly@gmail.com

28. ENFORCEMENT: The Parties agree that the failure of any party to enforce or exercise any right, condition, term, or provision of this Agreement shall not be construed as or deemed a relinquishment or waiver thereof, and the same shall continue in full force and effect.

Signatures on Next Page

BY YOUR SIGNING HEREIN, YOU ACKNOWLEDGE YOU HAVE READ AND CONSENT TO ALL TERMS CONTAINED IN THIS AGREEMENT.

ACCEPTED AND AGREED:

KEEP AMERICA SAFE AND BEAUTIFUL

Dated: April 20, 2022



By: NGOC BICH VO

Title: Chief Executive Officer

URBAN ARMOR GEAR, LLC

Dated: April __, 2022


By: _____

Title: _____

APPROVED AS TO FORM AND CONTENT

Dated: April 19, 2022

LAW OFFICE OF STEPHANIE SY, LP

By: 
Stephanie Sy, Esq.
Counsel for Keep America Safe and Beautiful

Dated: April __, 2022

K&L GATES LLP

By: _____
J. David Bournazian, Esq.
Counsel for Urban Armor Gear, LLC

BY YOUR SIGNING HEREIN, YOU ACKNOWLEDGE YOU HAVE READ AND CONSENT TO ALL TERMS CONTAINED IN THIS AGREEMENT.

ACCEPTED AND AGREED:

KEEP AMERICA SAFE AND BEAUTIFUL


Dated: April __, 2022

By: _____

Title: _____

URBAN ARMOR GEAR, LLC

Dated: April 12, 2022



By: Scott W. Hardy

Title: CEO

APPROVED AS TO FORM AND CONTENT

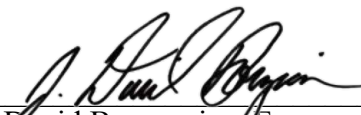
Dated: April __, 2022

LAW OFFICE OF STEPHANIE SY, LP

By: _____
Stephanie Sy, Esq.
Counsel for Keep America Safe and
Beautiful

Dated: April 27, 2022

K&L GATES LLP

By: 

J. David Bournazian, Esq.
Counsel for Urban Armor Gear, LLC