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Gregory M. Sheffer, State Bar No. 173124
SHEFFER LAW FIRM
232 E. Blithedale Ave., Suite 210
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.

COMPASS HEALTH BRANDS CORP., 4MD
MEDICAL SOLUTIONS LLC AND DOES 1-
150,

Defendants.

Case No. CIV2104125

**CONSENT TO JUDGMENT SETTLEMENT
AGREEMENT**

Action Filed: December 9, 2021
Trial Date: None Assigned

1 **1. INTRODUCTION**

2 **1.1 The Parties**

3 This consent to judgment settlement agreement (“Agreement” or “Settlement
4 Agreement”) is entered into by and between noticing party Susan Davia (“Davia”) and noticed
5 party Compass Health Brands (“Compass”), with Davia and Compass 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 Compass**

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

15 **1.4 General Allegations**

16 Davia alleges that Compass is responsible for the design, manufacture, distribution and/or
17 sale, in the State of California, of oxygen cylinder carry bags with vinyl windows that are alleged to
18 expose users to di(2-ethylhexyl)phthalate (“DEHP”) without first providing “clear and reasonable
19 warning” under Proposition 65. Pursuant to Proposition 65, DEHP is listed as a carcinogen and
20 reproductive toxin. DEHP shall be referred to hereinafter as the “Listed Chemical.”

21 **1.5 Notice of Violation**

22 On September 14, 2021, Davia served Compass and various public enforcement agencies
23 with a document entitled “60-Day Notice of Violation” that provided public enforcers and the
24 noticed entities with notice of alleged violations of Health & Safety Code § 25249.6 for failing to
25 warn consumers of the presence of DEHP found in the oxygen cylinder shoulder bag products
26 with vinyl windows sold in California (AG Notice 2021-02292). This September 14, 2021, Notice of
27 Violation shall hereafter be referred to as “Notice.” Compass represents that, as of the date it

1 executes this Agreement, it is not aware of any public enforcer that is diligently prosecuting a
2 Proposition 65 enforcement action related to DEHP in the oxygen cylinder shoulder bag products
3 as identified in the Notice.

4 **1.6 Complaint**

5 On December 9, 2021, Davia filed a Complaint in the Superior Court of the State of California
6 for the County of Marin, Case No. CIV2104125, alleging violations by Defendants of Health and
7 Safety Code § 25249.6 based on the alleged exposures to DEHP in the Covered Products (the
8 “Action”).

9 **1.7 No Admission**

10 This Agreement resolves claims that are denied and disputed by Compass. The Parties
11 enter into this Agreement pursuant to a full and final settlement of any and all claims between the
12 Parties for the purpose of avoiding prolonged litigation. Compass denies the material factual and
13 legal allegations contained in the Notice, maintains that it did not knowingly or intentionally
14 expose California consumers to the Listed Chemical through the reasonably foreseeable use of the
15 Covered Products and otherwise contends that, all Covered Products it has manufactured,
16 distributed and/or sold in California have been and are in compliance with all applicable laws and
17 regulations, including Proposition 65. Nothing in this Agreement shall be construed as an
18 admission by Compass of any fact, finding, issue of law, or violation of law, nor shall compliance
19 with this Agreement constitute or be construed as an admission by Compass of any fact, finding,
20 conclusion, issue of law, or violation of law, such being specifically denied by Compass. However,
21 notwithstanding the foregoing, this section shall not diminish or otherwise affect Compass’
22 obligations, responsibilities, and duties under this Agreement.

23 **1.8 Consent to Jurisdiction**

24 For purposes of this Agreement only, the Parties stipulate that the Marin County Superior
25 Court has jurisdiction over Compass as to this Agreement, that venue for any action to enforce this
26 Agreement is proper in County of Marin, that this Agreement shall be construed as made pursuant
27 to Code of Civil Procedure Section 664.6 and the Marin County Superior Court shall be considered
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1 to have jurisdiction to enforce the provisions of this Agreement until performance in full of the
2 terms of the settlement.

3 **2. DEFINITIONS**

4 **2.1** "Covered Product" shall mean all "Zephyr" or "Air Lift" branded oxygen
5 cylinder carry bags with vinyl windows distributed by Compass, including, but not limited to,
6 AirLift Comfort Shoulder Bag for D Cylinder (Model No. 32N), AirLift Comfort Shoulder Bag for
7 M9/C Cylinder (Model No. 34N) and Air Lift Shoulder Bag for M7 Cylinders (Model No. 38N).

8 **2.2** "Phthalate Free" Covered Products shall mean any accessible component of any
9 Covered Product contains less than or equal to 1,000 parts per million ("ppm") of DEHP, DINP, di-
10 n-butyl phthalate ("DBP"), di-isodecyl phthalate ("DIDP"), di-n-hexyl phthalate ("DnHP") and
11 butyl benzyl phthalate ("BBP") as determined by a minimum of duplicate quality controlled test
12 results using Environmental Protection Agency ("EPA") testing methodologies 3580A and 8270C
13 or equivalent methodologies utilized by federal or state agencies to determine the presence and
14 measure the quantity of phthalates in solid substances.

15 **2.3** "California Customer" means any direct customer of Compass with a California
16 ship to or billing address or any retail customer who Compass reasonably believes sells products
17 into California.

18 **2.4** "Effective Date" shall mean September 15, 2021.

19 **3. INJUNCTIVE-TYPE RELIEF**

20 **3.1 Products No Longer in Compass's Control**

21 No later than the Effective Date, Compass shall send a letter, electronic or otherwise
22 ("Notification Letter") to the manager for any retail California Customer to which Compass has
23 distributed or sold Covered Products since September 1, 2020, and which retail California
24 Customer Compass reasonably believes continues to maintain any inventory of Covered Products
25 that are not labelled with a clear and reasonable Proposition 65 warning equivalent to one of those
26 in Section 3.3.. The Notification Letter shall advise the recipient that Covered Products "have been
27 tested for the presence of phthalates and found to contain DEHP, a chemical known to the State of
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1 California to cause cancer and reproductive harm,” and request that the recipient either pull all
2 Covered Products from store displays and return its entire inventory of Covered Products to
3 Compass or label the Covered Products remaining in inventory for sale in or to California with a
4 label that complies with Section 3.3. The Notification Letter shall request a response from the
5 recipient within 15 days, confirming that the letter was received. Compass shall maintain records
6 of all correspondence or other communications generated pursuant to this Section for two years
7 after the Effective Date and shall promptly produce copies of such records upon Davia’s written
8 request.

9 **3.2 Product Reformulation Commitment**

10 **3.2.1** No later than the Effective Date, Compass shall provide the Phthalate Free
11 concentration standards of Section 2.2 to its then-current vendors or manufacturers of any Covered
12 Product and request such entities not to incorporate any raw or component materials that do not
13 meet the Phthalate Free concentration standards of Section 2.2 into any Covered Product or to
14 supply any Covered Product to Compass that is not Phthalate Free. For a period of two years after
15 the Effective Date, Compass shall maintain copies of all vendor correspondence relating to the
16 Phthalate Free concentration standards and shall produce such copies to Davia within fifteen (15)
17 days of receipt of written request from Davia, which request may be made no more than one time
18 per calendar year.

19 **3.2.2** After the Effective Date, Compass shall provide the Phthalate Free concentration
20 standards of Section 2.2 to any new vendors or manufacturers of any Covered Product and request
21 such entities not to incorporate any raw or component materials that do not meet the Phthalate
22 Free concentration standards of Section 2.2 into any Covered Product. Prior to purchase and
23 acquisition of any Covered Product from any new vendor, Compass shall obtain a written
24 confirmation and accompanying laboratory test result from the new vendor demonstrating
25 compliance with the Phthalate Free concentration standard in all materials comprising the Covered
26 Product. For every Covered Product Compass manufactures, causes to be manufactured, orders,
27 causes to be ordered or otherwise obtains from a new vendor after the Effective Date, Compass
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1 shall maintain copies of all testing of such products demonstrating compliance with this section,
2 shall maintain copies of all vendor correspondence relating to the Phthalate Free concentration
3 standards for two (2) years from the Effective Date. Compass shall produce such copies to Davia
4 within fifteen (15) business days of receipt of written request from Davia, which request may be
5 made no more than one time per calendar year.


6 **3.2.3** As of November 1, 2022, Compass shall not manufacture, cause to be manufactured,
7 purchase or otherwise obtain any Covered Product unless such Covered Product either meets the
8 Phthalate Free concentration standards of this Agreement or is labelled with a Covered Product
9 Warning pursuant to Section 3.3 when sold or distributed to California Customers.

10 **3.3 Interim Covered Product Warnings**


11 **3.3.1** As of the Effective Date, Compass shall not distribute, sell or ship, or cause to be
12 distributed, sold or shipped, any Covered Product to a California Customer unless such Covered
13 Product is either confirmed to be Phthalate Free or is shipped with product package label as set
14 forth hereafter.

15 Each such warning utilized by Compass for any Covered Product shall be prominently
16 placed either on the product, its labeling or its packaging with such conspicuousness as compared
17 with other words, statements, designs, or devices as to render it likely to be read and understood
18 by an ordinary individual under customary conditions *before* purchase or use.

19 Each warning shall either be printed directly on the Covered Product consumer cardboard
20 packaging or shall be affixed to the consumer cardboard packaging. Each warning shall include
21 the yellow triangle with an internal exclamation point and state:

22  **WARNING:** The vinyl materials of this product can
23 expose you to chemicals, including DEHP, that are
24 known to the State of California to cause cancer. For
more information go to www.P65Warnings.ca.gov.

25 or

26  **WARNING:** Cancer and Reproductive Harm. -
27 www.P65Warnings.ca.gov

28 **3.4 Internet Ecommerce Covered Product Warnings**

1 A warning must be given in conjunction with the sale, or offer of sale, by Compass of any
2 Covered Product not confirmed by Compass to be Phthalate Free via any ecommerce website
3 owned, operated, managed or controlled by, or for the direct benefit of, Compass. A warning will
4 satisfy this requirement if it appears either: (a) on the same web page on which a Covered Product
5 is displayed; (b) on the same web page as the order form for a Covered Product; (c) on the same
6 page as the price for any Covered Product; or (d) on one or more web pages displayed to a
7 purchaser during the checkout process. One of the following warning statements shall be used and
8 shall appear in any of the above instances adjacent to or immediately following the display,
9 description, or price of the Covered Product for which it is given, or through a hyperlink using the
10 word "WARNING", in the same type size or larger than the Covered Product description text:

11
12 **⚠WARNING:** This product can expose you to chemicals,
13 including DEHP, that are known to the State of California
14 to cause cancer. For more information go to
15 www.P65Warnings.ca.gov.

16 Alternatively, the following "short form" warning may be used on the ecommerce website, but
17 only if the same warning language also appears on the product label or consumer packaging of the
18 Covered Product itself.

19 **⚠WARNING:** Cancer and Reproductive Harm -
20 www.P65Warnings.ca.gov.

21 **4. MONETARY PAYMENTS**

22 **4.1 Civil Penalty**

23 As a condition of settlement of all the claims referred to in this agreement, Compass shall
24 pay a total of \$3,200 in civil penalties in accordance with California Health & Safety Code §
25 25249.12(c)(1) & (d), with 75% of the funds remitted to the California Office of Environmental
26 Health Hazard Assessment ("OEHHHA") and the remaining 25% of the penalty remitted to Davia.

27 **4.2 Augmentation of Penalty Payments**

28 For purposes of the penalty assessment under this Agreement, Davia is relying entirely

1 upon Compass for accurate, good faith reporting to Davia of the nature and amounts of relevant
2 sales activity. If within nine (9) months of the Effective Date, Davia discovers and presents
3 evidence to counsel for Compass that the Covered Products have been distributed in California in
4 sales volumes materially different (more than 25%) than those identified by Compass prior to
5 execution of this Agreement, and Compass does not provide Davia with competent and credible
6 evidence to dispute this claim, then Compass shall be liable for an additional penalty amount of
7 \$10,000.00. Davia agrees to provide counsel for Compass with a written demand for all such
8 additional penalties and attorney fees under this Section. After service of such demand, Compass
9 shall have thirty (30) days to either present evidence to counter this claim or to agree to the amount
10 of fees and penalties owing by Compass and submit such payment to Davia in accordance with the
11 method of payment of penalties and fees identified in Section 4.1 and 4.4. Should this thirty (30)
12 day period pass without any such resolution between the parties and payment of such additional
13 penalties and fees, Davia shall be entitled to file a formal legal claim for the additional civil
14 penalties pursuant to this Section and the prevailing party to such action shall be entitled to all
15 reasonable attorney fees and costs relating to such claim.

16 **4.3 Reimbursement of Davia's Fees and Costs**

17 The Parties acknowledge that Davia and her counsel offered to resolve this dispute without
18 reaching terms on the amount of fees and costs to be reimbursed to them, thereby leaving this fee
19 issue to be resolved after the material terms of the agreement had been settled. Compass expressed
20 a desire to resolve the fee and cost issue shortly after the other settlement terms had been finalized.
21 The Parties then attempted to (and did) reach an accord on the compensation due to Davia and her
22 counsel under general contract principles and the private attorney general doctrine codified at
23 California Code of Civil Procedure section 1021.5, for all work performed in this matter, except fees
24 that may be incurred on appeal. Under these legal principles, Compass shall pay Davia's counsel
25 the amount of \$28,500 for fees and costs incurred investigating, litigating and enforcing this matter.

26 **4.4 Payment Procedures**

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

7 a civil penalty check payable to "OEHHA" (EIN: 68-0284486, Memo line "Prop 65 Penalties,
8 2021-02292"), in the amount of \$2,400;

9 a civil penalty check payable to "Susan Davia" (Tax ID to be supplied, Memo line "Prop 65
10 Penalties, 2021-02292") in the amount of \$800;

11 an attorney fee and cost reimbursement check payable to "Sheffer Law Firm" (EIN 55-08-
12 58910, Memo line "2021-02292") in the amount of \$28,500.

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

15 Sheffer Law Firm
16 Attn: Proposition 65 Controller
232 E. Blithedale Avenue, Suite 210
17 Mill Valley, CA 94941

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

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

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

27 While the obligations of this agreement are binding upon execution, the Release of Compass
28 shall not become effective until after all monetary payments have been made by Compass and all

1 funds have cleared.

2 **4.5 Issuance of 1099 Forms**

3 After this Agreement has been executed and the settlement funds have been transmitted to
4 Davia's counsel, Compass shall issue three separate 1099 forms, as follows:

5 (a) issued to the Office of Environmental Health Hazard Assessment, P.O. Box 4010,
6 Sacramento, CA 95814 (EIN: 68-0284486) in the amount paid pursuant to Sections 4.1 and
7 4.2;

8 (b) issued to Davia in the amount paid pursuant to Sections 4.1 and 4.2, whose address and
9 tax identification number shall be furnished upon request; and

10 (c) issued to the Sheffer Law Firm (EIN: 55-08-58910) in the amount paid pursuant to
11 Section 4.2 and 4.3.

12 **5. RELEASES**

13 **5.1 DAVIA'S RELEASE OF COMPASS**

14 **5.1.1** Plaintiff acting on her own behalf and in the public interest releases Compass, 4MD
15 Medical Solutions, LLC, and each of their directors, officers, employees, attorneys, agents, parents,
16 and subsidiaries ("Releasees") from all claims for violations of Proposition 65 up through the
17 Effective Date based on exposure to DEHP from the Covered Products as set forth in the Notice of
18 Violation. Compliance with the terms of this Consent Judgment constitutes compliance with
19 Proposition 65 with respect to exposures to DEHP from Covered Products as set forth in the Notice
20 of Violations.

21 **5.1.2** Davia also, in her individual capacity and on behalf of her past and current
22 representatives, agents, attorneys, successors and/or assigns, provides a general release herein
23 which shall be effective as a full and final accord and satisfaction, as a bar to all actions, causes of
24 action, obligations, costs, expenses, attorneys' fees, damages, losses, claims, liabilities and demands
25 of Davia, of any nature, character or kind, known or unknown, suspected or unsuspected, arising
26 out of the subject matter of the Notice as to Covered Products manufactured, distributed or sold by
27 Compass or Releasees before the Effective Date. Davia acknowledges that she is familiar with

1 section 1542 of the California civil code, which provides as follows:

2
3 A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE
4 CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT
5 TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE
6 RELEASE AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE
7 MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE
8 DEBTOR OR RELEASED PARTY.

9 Davia, in her individual capacity and on behalf of her past and current representatives,
10 agents, attorneys, successors and/or assigns expressly waives and relinquishes any and all rights
11 and benefits that she may have under, or which may be conferred on her by the provisions of
12 Section 1542 of the California Civil Code as well as under any other state or federal statute or
13 common law principle of similar effect, to the fullest extent that she may lawfully waive such rights
14 or benefits pertaining to the released matters. In furtherance of such intention, excepting Section
15 4.2, the release hereby given shall be and remain in effect as a full and complete release
16 notwithstanding the discovery or existence of any such additional or different claims or facts
17 arising out of the released matters.

18 **5.1.3** This section 5.1 release shall not extend upstream to any entities, other than
19 Compass, that manufactured the Covered Products or any component parts thereof, or any
20 distributors or suppliers who sold the covered products or any component parts thereof to
21 Compass.

22 **5.2 Compass's Release of Davia**

23 The Release by Davia is mutual. Compass, each on behalf of itself, its past and current
24 agents, representatives, attorneys, successors, and/or assignees, hereby waives any and all claims
25 against Davia and her attorneys and other representatives, for any and all actions taken or
26 statements made (or those that could have been taken or made) by Davia and her attorneys and
27 other representatives, whether in the course of investigating claims, otherwise seeking to enforce
28 Proposition 65 against it in this matter, or with respect to the Covered Products. Compass
acknowledges that it is familiar with Section 1542 of the California Civil Code, which provides as
follows:

1
2 A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT
3 THE CREDITOR OR RELEASING PARTY DOES NOT KNOW OR
4 SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF
5 EXECUTING THE RELEASE AND THAT, IF KNOWN BY HIM OR
6 HER, WOULD HAVE MATERIALLY AFFECTED HIS OR HER
7 SETTLEMENT WITH THE DEBTOR OR RELEASING PARTY.

8
9 Compass expressly waives and relinquishes any and all rights and benefits which it may
10 have under, or which may be conferred on it by the provisions of Section 1542 of the California
11 Civil Code as well as under any other state or federal statute or common law principle of similar
12 effect, to the fullest extent that he may lawfully waive such rights or benefits pertaining to the
13 released matters. In furtherance of such intention, the release hereby given shall be and remain in
14 effect as a full and complete release notwithstanding the discovery or existence of any such
15 additional or different claims or facts arising out of the released matters.

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17 **6. COURT APPROVAL**

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

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28 **7. SEVERABILITY**

If any of the provisions of this Agreement are found by a court to be unenforceable, the
validity of the enforceable provisions remaining, after express agreement of the Parties, shall not be
adversely affected, unless the Court finds that any unenforceable provision is not severable from
the remainder of the Agreement.

1 **8. GOVERNING LAW**

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

3 **9. NOTICES**

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

6 For Compass:

7 Stuart J. Straus, President & CEO
8 Compass Health Brands
9 6753 Engle Road
Middleburg Heights, OH 44130

10 With a copy to its counsel:

11 Chris M. Amantea, Esq.
12 Law Offices of Chris M. Amantea
13 7590 Fay Ave., Suite 520
La Jolla, CA 92037
camantea@ca-envirolaw.com

14 For Davia to:

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

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

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

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

24 **11. MODIFICATION**

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

26 **12. ENTIRE AGREEMENT**

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

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

8 **13. ATTORNEY'S FEES**

9 **13.1** Should either Party prevail on any motion, application for order to show cause or
10 other proceeding to enforce a violation of this Agreement, that Party shall be entitled to its
11 reasonable attorney fees and costs incurred as a result of such motion, order or application,
12 consistent with C.C.P. §§ 1021 and 1021.5.

13 **13.2** Except as otherwise specifically provided herein, each Party shall bear its own
14 costs and attorney's fees in connection with the Notice.

15 **13.3** Nothing in this Section shall preclude a Party from seeking an award of sanctions
16 pursuant to law.

17 **14. NEUTRAL CONSTRUCTION**

18 Both Parties and their counsel have participated in the preparation of this Agreement and
19 this Agreement is the result of the joint efforts of the Parties. This Agreement was subject to
20 revision and modification by the Parties and has been accepted and approved as to its final form by
21 all Parties and their counsel. Accordingly, any uncertainty or ambiguity existing in this Agreement
22 shall not be interpreted against any Party as a result of the manner of the preparation of this
23 Agreement. Each Party to this Agreement agrees that any statute or rule of construction providing
24 that ambiguities are to be resolved against the drafting Party should not be employed in the
25 interpretation of this Agreement and, in this regard, the Parties hereby waive California Civil Code
26 Section 1654.

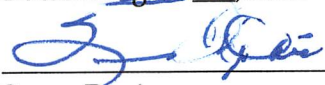
1 **15. COUNTERPARTS, FACSIMILE SIGNATURES**

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

5 **16. AUTHORIZATION**

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

8 **IT IS SO AGREED**

<p>9</p> <p>10 Dated: August __, 2022</p> <p>11 _____</p> <p>12 Stuart J. Straus, President & CEO 13 Compass Health Brands</p>	<p>10 Dated: ^{SEPT 8} August __, 2022</p> <p>11 </p> <p>12 Susan Davia</p>
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1 **15. COUNTERPARTS, FACSIMILE SIGNATURES**

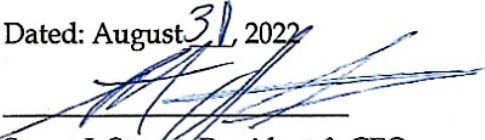
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3 format (PDF), each of which shall be deemed an original, and all of which, when taken together,
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7 Parties and have read, understood, and agree to all of the terms and conditions of this Agreement.

8 **IT IS SO AGREED**

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Dated: August 31, 2022  _____ Stuart J. Straus, President & CEO Compass Health Brands	Dated: August __, 2022 _____ Susan Davia
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