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4 Attorneys for Plaintiff Keep America Safe and Beautiful
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8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 COUNTY OF SAN DIEGO

10 KEEP AMERICA SAFE AND BEAUTIFUL,
11 Plaintiff,

12 v.

13 READYWISE, INC; AMAZON.COM
14 AND
15 DOES 1-25
16 Defendants,
17

Case No. 37-2023-00003032-CU-NP-CTL

**STIPULATION FOR ENTRY OF
CONSENT JUDGMENT AS TO
DEFENDANT READYWISE, INC**

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1. INTRODUCTION

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1.1 **The Parties.** This Settlement Agreement and Consent Judgment is entered into by and between Plaintiff Keep America Safe and Beautiful (“KASAB”) acting on behalf of the public interest (hereinafter “KASAB”), and Defendant Readywise, Inc. (“Readywise”), with KASAB and READYWISE collectively referred to as the “Parties” and each of them as a “Party.” KASAB is a California Nonprofit Corporation seeking to promote awareness of exposures to toxic chemicals and improve human health by reducing or eliminating hazardous substances contained in consumer

1 products. For purposes of this Consent Judgment only, READYWISE is a person in the course of
2 doing business for purposes of Proposition 65, Cal. Health & Safety Code §§ 25249.6 *et seq.*

3 **1.2 Allegations and Representations.** KASAB alleges that READYWISE has offered
4 for sale in the State of California and has sold in California, the “High Plateau Veggie Chili Soup”
5 that contains Lead, and that such sales have not been accompanied by Proposition 65 warnings.
6 Lead is listed under Proposition 65 as chemicals known to the State of California to cause cancer.

7 **1.3 Notices of Violation/Complaint.** On or about February 2, 2022, KASAB served
8 READYWISE, Amazon.com, Inc. (“Amazon”), and various public enforcement agencies with a
9 document entitled "60-Day Notice of Violation" pursuant to Health & Safety Code §25249.7(d)
10 (the "Notice"), alleging that READYWISE, and Amazon, were in violation of Proposition 65 for
11 failing to warn consumers and customers that the “High Plateau Veggie Chili Soup” exposed users
12 in California to Lead. No public enforcer diligently prosecuted the claims threatened in the Notice
13 within sixty days plus service time relative to the provision of the Notice to them by KASAB.

14 **1.4** For purposes of this Consent Judgment only, the Parties stipulate that this Court has
15 jurisdiction over READYWISE as to the allegations contained in the complaint filed in this matter,
16 that venue is proper in the County of San Diego, and that this Court has jurisdiction to approve,
17 enter, and oversee the enforcement of this Consent Judgment as a full and final binding resolution
141 of all claims which were or could have been raised in the Complaint based on the facts alleged
4 therein and/or in the Notices.

19 **1.5** READYWISE denies the material allegations contained in KASAB’s Notice and
20 Complaint and maintains that it has not violated Proposition 65. Nothing in this Consent Judgment
21 shall be construed as an admission by READYWISE of any fact, finding, issue of law, or violation
22 of law; nor shall compliance with this Consent Judgment constitute or be construed as an admission
23 by READYWISE of any fact, finding, conclusion, issue of law, or violation of law, such being
24 specifically denied by READYWISE. However, this section shall not diminish or otherwise affect
25 the obligations, responsibilities, and duties of READYWISE under this Consent Judgment.
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2. DEFINITIONS

2.1 **Complaint.** The term “Complaint” shall have the meaning given in Section 1.3.

2.2 **Covered Product.** The term “Covered Product” means the “High Plateau Veggie Chili Soup” manufactured, sold, distributed, or otherwise made available by READYWISE.

2.3 **Effective Date.** The term “Effective Date” shall mean the date this Consent Judgment is entered as a Judgment of the Court.

2.4 **Listed Chemicals:** The term “Listed Chemicals” shall mean Lead.

2.5 **Notice.** The term “Notice” shall have the meaning given in Section 1.3.


2.6 **Releasees.** The terms “Defendant Releasees” and “Downstream Defendant Releasees” shall have the meanings given in Section 5.1.

2.7 **Execution Date.** The term “Execution Date” shall mean the date this Consent Judgment is signed by the Parties.

3. INJUNCTIVE RELIEF: WARNINGS

3.1 Covered Products that are not Reformulated Products shall be accompanied by a warning as described in Section 3.2 below, no later than 120 days after the Effective Date. The warning requirements set forth in this Consent Judgment shall apply only to Covered Products that are distributed, marketed, sold or shipped for sale by READYWISE in the State of California. The warning requirements shall not apply to products that are already in the stream of commerce as of the Effective Date or that READYWISE or any downstream distributor, reseller or marketplace places into the stream of commerce within 120 days of the Effective Date.

3.2 Commencing 120 days after the Effective Date, READYWISE shall not sell, offer for sale, or ship for sale in California any Covered Product, unless the Covered Product is accompanied by the following on-product warning:

 **WARNING:** Cancer - www.P65Warnings.ca.gov/food

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WARNING: This product can expose you to Lead, a chemical known to the State of California to cause cancer. For more information go to www.P65Warnings.ca.gov/food

3.3 The warning provided pursuant to Section 3.2.2 shall be affixed to or printed on the Covered Product’s packaging or labeling. The warning shall be prominently affixed to or printed on the packaging or labeling, and displayed with such conspicuousness, as compared with other words, statements, or designs as to render it likely to be read and understood by an ordinary individual under customary conditions of purchase or use. A warning may be contained in the same section of the packaging or labeling that states other safety warnings, if any, concerning the use of the product and shall be at least the same size as those other safety warnings, but no less than 6 point font.

3.4 **Internet Warning.** In addition, for all products that READYWISE offers for sale directly to consumers in California via websites under the exclusive control of READYWISE, READYWISE shall provide a warning for such Products by including the warning set forth above in §3.2 on one or more of the following: (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 web page as the price for any Covered Product; or (d) on one or more web pages displayed to a purchaser during the checkout process. The internet warning described above can also be delivered through a hyperlink using the words “[California Prop 65] WARNING.”

3.5 **Sell-Through Period.** Notwithstanding anything else in this Consent Judgment, Covered Products that are manufactured, packaged, or put into commerce within one hundred twenty (120) days of the Effective Date shall be subject to the release of liability pursuant to this Consent Judgment, without regard to when such Covered Products were, or are in the future, distributed or sold to customers, such that compliance with the warnings called for in the preceding paragraphs shall not be required for such products.

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4. MONETARY TERMS

4.1 **Civil Penalty.** READYWISE shall pay a civil penalty of \$500.00 pursuant to Health and Safety Code section 25249.7(b), to be apportioned in accordance with California Health & Safety Code § 25192, with 75% of these funds remitted to the State of California’s Office of Environmental Health Hazard Assessment and the remaining 25% of the penalty remitted to KASAB, as provided by California Health & Safety Code § 25249.12(d). Such payment shall be made within 15 days of the Effective Date. KASAB’s counsel shall be responsible for delivering OEHHA’s portion of any civil penalty payment made under this Settlement Agreement and Consent Judgment.

4.2 **Attorney’s Fees.** READYWISE agrees to pay reasonable attorney fees, inclusive of all expenses and costs incurred because of investigating, bringing this matter to READYWISE’s attention, litigating and negotiating and obtaining judicial approval of a settlement in the public interest, pursuant to Code of Civil Procedure section 1021.5, in an amount of \$14,500.00. READYWISE shall wire KASAB’s counsel the total sum of \$15,000.00 representing the civil penalty and attorney fees in Sections 4.1 and 4.2 within 15 days following the Effective Date, and wire instruction information from KASAB’s counsel.

4.3 KASAB shall provide IRS W-9 forms for any payments to be made by READYWISE.

5. RELEASE OF ALL CLAIMS

5.1 This consent judgment is a full, final, and binding resolution between KASAB acting in the public interest, and READYWISE, and Amazon, and each of their owners, investors employees, directors, officers, managers, attorneys, parents, shareholders, divisions, subdivisions, subsidiaries, partners, sister companies, and affiliates, and their successors and assigns (“Defendant Releasees”), and all entities from whom they obtain and to whom they directly or indirectly distribute or sell Covered Products, including but not limited to manufacturers, suppliers, distributors, wholesalers, customers, licensors, licensees, retailers, franchisees, marketplaces, and cooperative members, and their successors and assigns (“Downstream Defendant Releasees”).

1 Upon full execution of this Consent Judgment, and subject to payment by READYWISE of the full
2 settlement amount and compliance with the terms of this Consent Judgment, KASAB, on behalf of
3 itself, it's agents, successors, heirs, and assigns, to the fullest extent permitted by law, hereby fully
4 and irrevocably releases and discharges READYWISE, Amazon, the Defendant Releasees, and the
5 Downstream Defendant Releasees from all claims for violations of Proposition 65 that were, or
6 which could have been, asserted in the Complaint based on exposure to and/or failure to warn about
7 Listed Chemicals from Covered Products as set forth in the Notice, with respect to any Covered
8 Products manufactured, distributed, or sold by READYWISE, Amazon, the Defendant Releasees,
9 and/or the Downstream Defendant Releasees prior to the Effective Date. Compliance with the terms
10 of this Consent Judgment constitutes compliance with Proposition 65 with regard to the Covered
11 Products.

12 5.2 In addition to the foregoing, KASAB, on behalf of itself, its past and current agents,
13 representatives, attorneys, and successors and/or assignees, and *not* in its representative capacity,
14 to the fullest extent permitted by law, hereby waives all rights to institute or participate in, directly
15 or indirectly, any form of legal action and releases READYWISE, Amazon, Defendant Releasees,
16 and Downstream Defendant Releasees from any and all manner of actions, causes of action, claims,
17 demands, rights, suits, obligations, debts, contracts, agreements, promises, liabilities, damages,
141 charges, losses, costs, expenses, and attorneys' fees, of any nature whatsoever, known or unknown,
4 in law or equity, fixed or contingent, now or in the future, with respect to any alleged violations of
19 Proposition 65 related to or arising from Covered Products manufactured distributed or sold by
20 READYWISE or Defendant Releasees. With respect to the foregoing waivers and releases in this
21 paragraph, KASAB hereby specifically waives any and all rights and benefits which KASAB now
22 has, or in the future may have, conferred by virtue of the provisions of Section 1542 of the
23 California Civil Code, which provides as follows:

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25 A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE
26 CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS FAVOR
27 AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY
 HIM MUST HAVE MATERIALLY AFFECTED HIS SETTLEMENT WITH
 THE DEBTOR.

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5.3 READYWISE waives any and all claims against KASAB, its attorneys and other representatives, for any and all actions taken or statements made (or those that could have been taken or made) by KASAB and its attorneys and other representatives, whether in the course of investigating claims or otherwise seeking enforcement of Proposition 65 against it in this matter, and/or with respect to Covered Products.

5.4 **No Other Known Claims or Violations.** KASAB and its counsel in this action affirm that they are not presently aware of any actual or alleged violations of Proposition 65 by READYWISE or attributable to READYWISE other than those that are fully resolved by this Consent Judgment. This paragraph does not, however, provide a release for any unknown, actual or alleged violations involving other substances and/or product categories, if any, nor does it limit or expand the scope of the release provided in this Consent Judgment for Covered Products.

6. INTEGRATION

6.1 This Consent Judgment contains the sole and entire agreement of the Parties and any and all prior negotiations and understandings related hereto shall be deemed to have been merged within it. No representations or terms of agreement other than those contained herein exist or have been made by any Party with respect to the other Party or the subject matter hereof.

7. GOVERNING LAW

7.1 The terms of this Consent Judgment shall be governed by the laws of the State of California and apply within the State of California. In the event that Proposition 65 is repealed or is otherwise rendered inapplicable by reason of law generally, or as to Covered Products, then READYWISE shall provide written notice to KASAB of any asserted change in the law, and shall have no further obligations pursuant to this Consent Judgment with respect to, and to the extent that, Covered Products are so affected.

8. ENFORCEMENT

8.1 KASAB may, by motion or application for an order to show cause before the Superior Court of San Diego County, enforce the terms and conditions contained in this Consent Judgment. Prior to bringing any motion or application to enforce the requirements of this Consent

1 Judgment, KASAB shall provide READYWISE with a proposed Notice of Violation, and a copy
2 of any documentary evidence which purportedly supports KASAB's Notice of Violation. The
3 Parties shall then meet and confer in good faith for a period of at least sixty (60) days regarding the
4 basis for KASAB's anticipated motion or application in an attempt to resolve it informally. Should
5 such attempts at informal resolution fail, KASAB may file its enforcement motion or application.
6 This Consent Judgment may only be enforced by the Parties.

7 **9. NOTICES**

8 9.1 Unless specified herein, all correspondence and notices required to be provided
9 pursuant to this Consent Judgment shall be in writing and personally delivered or sent by: (i) first-
10 class, (registered or certified mail) return receipt requested; or (ii) overnight courier on any party
11 by the other party at the following addresses:

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13 For READYWISE:

14 Brian C. Johnson, Esq.
15 Strong & Hanni
16 102 South 200 East, Suite 800
17 Salt Lake City, UT 84111

18 And

141 For KASAB:

4 Stephanie Sy, Esq.
19 Law Office of Stephanie Sy
20 11622 El Camino Real, Suite 100
San Diego, CA 92130

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

23 **10. COUNTERPARTS; FACSIMILE SIGNATURES**

24 10.1 This Consent Judgment may be executed in counterparts and by facsimile, each of
25 which shall be deemed an original, and all of which, when taken together, shall constitute one and
26 the same document.

1 **11. COMPLIANCE WITH HEALTH & SAFETY CODE § 25249.7(f)/COURT**
2 **APPROVAL**

3 11.1 KASAB agrees to comply with the requirements set forth in California Health &
4 Safety Code §25249.7(f) and to promptly bring a Motion for Approval of this Consent Judgment
5 and READYWISE agrees it shall support approval of such Motion.

6 11.2 This Consent Judgment shall not be effective until it is approved and entered by the
7 Court and shall be null and void if, for any reason, it is not approved and entered by the Court
8 within eighteen months after it has been fully executed by the Parties. In such a scenario, the Parties
9 agree to meet and confer on how to proceed and if such agreement is not reached within 30-days,
10 any monies that have been paid pursuant to Section 4 shall be refunded and the case shall proceed
11 on its normal course.

12 11.3 If the Court approves this Consent Judgment and is reversed or vacated by an
13 appellate court, the Parties shall meet and confer as to whether to modify the terms of this Consent
14 Judgment. If the Parties do not jointly agree on a course of action to take, any monies that have
15 been paid pursuant to Section 4 shall be refunded within 15 days after remittitur to the trial court,
16 and the case shall proceed on its normal course on the trial court’s calendar.

17 **12. MODIFICATION**

141 12.1 This Consent Judgment may be modified only by express written agreement of the
4 Parties and the approval of the Court or upon the granting of a motion brought to the Court by either
19 Party.

20 12.2 Any Party seeking to modify this Consent Judgment shall attempt in good faith to
21 meet and confer with the other Party prior to filing a motion to modify the Consent Judgment.

22 **13. ATTORNEY’S FEES**

23 13.1 A party who unsuccessfully brings or contests an action arising out of this Consent
24 Judgment shall be required to pay the prevailing party’s reasonable attorney’s fees and costs unless
25 the unsuccessful party has acted with substantial justification. For purposes of this Consent
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Judgment, the term substantial justification shall carry the same meaning as used in the Civil Discovery Act of 1986, Code of Civil Procedure Section 2016, et seq.

13.2 Except as otherwise provided in this Consent Judgment, each Party shall bear its own attorneys' fees and costs.

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



14. RETENTION OF JURISDICTION

14.1 This Court shall retain jurisdiction of this matter to implement or modify the Consent Judgment.

15. AUTHORIZATION

15.1 The undersigned are authorized to execute this Consent Judgment on behalf of their respective Parties and have read, understood and agree to all of the terms and conditions of this document and certifies that he or she is fully authorized by the Party he or she represents to execute the Consent Judgment on behalf of the Party represented and legally bind that Party. Except as explicitly provided herein each Party is to bear its own fees and costs.

APPROVED AS TO FORM:

<p>AGREED TO:</p> <p>Date : <u>12/9</u>, 2024</p> <p>By: <u></u></p> <p>On Behalf of KASAB Stephanie Sy Law Offices of Stephanie Sy</p>	<p>AGREED TO:</p> <p>Date: <u>12/10/2024 1:18 PM PST</u>, 2024</p> <p>By: <u></u></p> <p>On Behalf of READYWISE, Inc. Brian C Johnson Strong & Hanni</p>
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AGREED TO:

AGREED TO:

Date: 12/08/2024

Date: 12/5/24

By: 

By: 

Keep America Safe And Beautiful

READYWISE, Inc.