

## PROPOSITION 65 SETTLEMENT AGREEMENT

### 1. INTRODUCTION

#### 1.1 The Parties

This Settlement Agreement (“**Agreement**”) is entered into by and between Keep America Safe and Beautiful (“**KASB**”) and Goplus, Corp. (“**Goplus**”), with KASB and Goplus each individually referred to as a “**Party**” and, collectively, the “**Parties.**” KASB is a California-based non-profit organization proceeding in the public interest pursuant to California Health & Safety Code § 25249.7(d) to ensure that chemicals known to the State of California to cause cancer, birth defects or other reproductive harm are disclosed in or eliminated from consumer products sold in California. KASB alleges Goplus is a person in the course of doing business for purposes of California Health & Safety Code § 25249.11(b).

#### 1.2 Consumer Product Description

KASB alleges that Goplus imports, sells, and distributes for sale in California clamps with vinyl grips containing di(2ethylhexyl) phthalate (“**DEHP**”) including, but not limited to, *Heavy Duty Trailer Lock Wheel Clamp, Model: TL25972, ASIN: B00NEAZDHI* and seats with vinyl upholstery containing DEHP including, but not limited to, *Sonart 61-Key Electronic Keyboard Piano Starter Set with Stand Bench Headphones, Model No. MU70008, UPC 6 51357 492125 0, TCIN: 84130324*, without providing the health hazard warning that KASB alleges is required by California Health & Safety Code § 25249.5 *et seq.* (“**Proposition 65**”). Clamps with vinyl grips and seats with vinyl upholstery are referred to hereinafter as the “**Products.**” DEHP is listed pursuant to Proposition 65 as a chemical known to the State of California to cause birth defects and other reproductive harm.

#### 1.3 Notice of Violation

On April 14, 2022, KASB served Goplus, the California Attorney General, and the requisite public enforcement agencies with a 60-Day Notice of Violation (“**Notice**”), alleging Goplus violated Proposition 65 by failing to warn its customers and consumers in California that its Products can expose users to DEHP. No public enforcer has commenced and is diligently prosecuting an action to enforce the allegations in the Notice.

#### **1.4 No Admission**

Goplus denies the factual and legal allegations contained in the Notice and maintains that all products it has sold or distributed for sale in California, including the Products, have been, and are, in compliance with all laws. Nothing in this Agreement shall constitute or be construed as, nor shall compliance with this Agreement constitute or be construed as, an admission by Goplus of any fact, finding, conclusion of law, issue of law, or violation of law. This section shall not, however, diminish or otherwise affect Goplus' obligations, responsibilities, and duties under this Agreement.

#### **1.5 Effective Date**

For purposes of this Agreement, "**Effective Date**" shall mean July 20, 2023.

## **2. INJUNCTIVE RELIEF: REFORMULATION**

### **2.1 Reformulation Commitment**

Commencing on the Effective Date and continuing thereafter, all Products Goplus manufactures, imports, sells, ships, or distributes for sale in or into California, directly or through one or more third party retailers or e-commerce marketplaces, shall either meet the Reformulation Standard for Reformulated Products, as defined by Section 2.2, or be labeled with a clear and reasonable exposure warning, as described in Section 2.3.

### **2.2 Reformulation Standard**

For purposes of this Agreement, "Reformulated Products" are defined as Products which, if they contain DEHP, contain DEHP in a maximum concentration of less than 0.1 percent (1,000 parts per million) when analyzed by a laboratory accredited by the State of California, a federal agency, or a nationally recognized accrediting organization. For purposes of compliance with this reformulation standard, testing samples shall be prepared and extracted using Consumer Product Safety Commission ("CPSC") methodology CPSC-CH-C1001.09.3 and analyzed using U.S. Environmental Protection Agency methodology 8270D, or other methodologies utilized by federal or state government agencies to determine phthalate content in a solid substance.



### 2.3 Clear and Reasonable Warning

In accordance with Section 2.1, Goplus shall provide clear and reasonable warnings for all Products that are not Reformulated Products provided for sale to consumers in California in accordance with this Section pursuant to Title 27, California Code of Regulations, section 25600, *et seq.* Each warning shall be prominently placed 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 before purchase or use and shall be provided in a manner such that it is clearly associated with the specific Product to which the warning applies. There shall be no obligation for Goplus to provide an exposure warning for Products that entered the stream of commerce prior to the Effective Date. The warning shall consist of either the Warning in Section 2.3(a) or the Alternative Warning in Section 2.3(b).

(a) **Warning:** The Warning for DEHP in excess of the Reformulation Standard for Reformulated Products set forth in Section 2.2 shall consist of one of the following statement:

**⚠ WARNING:** This product can expose you to chemicals including di(2-ethylhexyl) phthalate (DEHP), which are 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](http://www.P65Warnings.ca.gov).

(b) **Alternative Warning.** As an alternative to the warning set forth in subsection 2.3(a), Goplus may, but is not required to, use the applicable short-form warning, subject to the additional requirements in Sections 2.3(d) and 2.3(e), as follows:

**⚠ WARNING:** Cancer and Reproductive Harm - [www.P65Warnings.ca.gov](http://www.P65Warnings.ca.gov).

(c) **Foreign Language Requirement.** Where a consumer product sign, label or shelf tag used to provide a warning includes consumer information, as that term is defined in Title 27 California Code of Regulations § 25600.1(c) (“**Consumer Information**”), in languages other than English, the warning must also be provided in those languages in addition to English.

(d) **Product Warnings.** Goplus shall affix a warning to the Product label or otherwise directly on each Product provided for sale to consumers located in California and to customers with retail outlets in California or nationwide distribution. For the purpose of this Consent Judgment, “**Product label**” means a display of written, printed or graphic material that is printed on or affixed to each of a Product or its immediate container or wrapper. A warning provided pursuant to Section 2.3(a) or (b) must print the word “**WARNING:**” in all capital letters and in bold font. The warning symbol to the left of the word “**WARNING:**” must be a black exclamation point in a yellow equilateral triangle with a black outline, except that if the labeling does not use the color yellow, then the symbol may be in black and white. The entire warning shall appear in a type size of at least 6-point type and no smaller than the largest type size used for other Consumer Information on the Products.

(e) **Internet Warnings.** For Products sold via the internet directly, or indirectly through customers with nationwide distribution or e-commerce websites, to customers located in California, Goplus shall provide warnings for each Product both on the Product label in accordance with Section 2.3(d), and by including either the warning or a clearly marked hyperlink using the word “**WARNING**” on the product display page, or by otherwise prominently displaying the warning to the purchaser prior to completing the purchase and without requiring the purchaser to search for the warning in the general content of the website. If Goplus sells Products directly to customers with e-commerce websites, Goplus shall inform those customers in writing of their obligation to provide online warnings consistent with this Agreement. The internet warning may use the applicable Alternative Warning described in Section 2.3(b) if the warning provided on the Product label also uses the Alternative Warning.

### 3. **MONETARY SETTLEMENT TERMS**

#### 3.1 **Civil Penalty**

Pursuant to Health and Safety Code § 25249.7(b), Goplus agrees to pay a civil penalty of \$7,500 within five (5) business days of the Effective Date. Goplus’ civil penalty payment



will be allocated according to Health and Safety Code §§ 25249.12(c)(1) and (d), with seventy-five percent (75%) of the penalty paid to the California Office of Environmental Health Hazard Assessment (“OEHHA”), and the remaining twenty-five percent (25%) retained by KASB. Goplus shall issue its payment in two checks made payable to: (a) “OEHHA” in the amount of \$5,625; and (b) “Seven Hills LLP in trust for Keep America Safe and Beautiful” in the amount of \$1,875. KASB’s counsel shall deliver to OEHHA and KASB their respective portion of the penalty payment.

### **3.2 Reimbursement of Attorneys’ Fees and Costs**

KASB and its counsel offered to resolve the allegations in the Notice without reaching terms on the amount of reimbursement of attorneys’ fees and costs. Shortly after the Parties finalized the other material settlement terms, they negotiated and reached an accord on the amount of reimbursement to be paid to KASB’s counsel, under general contract principles and the private attorney general doctrine, codified at California Code of Civil Procedure § 1021.5, for all work performed through the mutual execution and reporting of this Agreement to the Office of the California Attorney General. Within five (5) days of the Effective Date, Goplus agrees to issue a check in the amount of \$24,000 payable to “Seven Hills LLP” for all fees and costs incurred investigating, bringing this matter to Goplus’ attention, negotiating a settlement in the public interest, and reporting its terms to Office of the California Attorney General pursuant to Section 9.

### **3.3 Payments**

All payments payable and due under this Agreement shall be delivered to KASB’s counsel at following address:

Seven Hills LLP  
Attn: Laralei Paras  
4 Embarcadero Center, Suite 1400  
San Francisco, CA 94111

#### 4. CLAIMS COVERED AND RELEASED

##### 4.1 KASB's Release of Goplus and Downstream Customers and Entities

This Agreement is a full, final and binding resolution between KASB, as an individual and *not* on behalf of the public, and Goplus, of any violation of Proposition 65 that was or could have been asserted by KASB on behalf of itself, its past and current agents, representatives, attorneys, successors, and/or assignees, against Goplus, its past and present parents, subsidiaries, affiliated entities under common ownership including: directors, officers, employees, attorneys, and each entity to whom Goplus directly or indirectly distributes or sells Products, including, but not limited to, downstream distributors, wholesalers, customers, retailers, franchisees, cooperative members, and licensees (collectively, "**Releasees**"), based on their failure to warn about alleged exposures to DEHP contained in the Products that were manufactured, distributed, sold and/or offered for sale by Goplus in California before the Effective Date, as alleged in the Notice.

In further consideration of the promises and agreements herein contained, KASB as an individual and *not* on behalf of the public, on behalf of itself, its past and current agents, representatives, attorneys, successors, and/or assignees, hereby waives all of KASB's rights to institute or participate in, directly or indirectly, any form of legal action and releases all claims that KASB 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 exclusively, investigation fees, expert fees, and attorneys' fees arising under Proposition 65 with respect to DEHP in the Products manufactured, distributed, sold and/or offered for sale by Goplus, before the Effective Date (collectively, "**Claims**"), against Goplus and Releasees.

The Parties further understand and agree that this Section 4.1 release shall neither extend to any entities that manufactured the Products or any component parts thereof, or any distributors or suppliers who sold the Products or any component parts thereof to Goplus nor to Releasees who have been instructed by Goplus, pursuant to Section 2.3(e) to provide a warning with the



sale of Products that are not Reformulated Products and have failed to do so. Nothing in this Section affects KASB's right to commence or prosecute an action under Proposition 65 against a Releasee that does not involve Goplus's Products.

#### **4.2 Goplus's Release of KASB**

Goplus, on behalf of itself, its past and current agents, representatives, attorneys, successors, and assignees, hereby waives any and all claims against KASB and its attorneys and other representatives, for any and all actions taken or statements made (or those that could have been taken or made) by KASB and its attorneys and other representatives, whether in the course of investigating claims or otherwise seeking to enforce Proposition 65 against it in this matter with respect to the Products.

#### **5. SEVERABILITY**

If, subsequent to the execution of this Agreement, any provision of this Agreement is deemed by a court to be unenforceable, the validity of the remaining provisions shall not be adversely affected.

#### **6. GOVERNING LAW**

The terms of this Agreement shall be governed by the laws of the State of California and apply within California. In the event that Proposition 65 is repealed, preempted, or is otherwise rendered inapplicable by reason of law generally, or as to the Products, then Goplus may provide KASB with written notice of any asserted change in the law, and shall have no further injunctive obligations pursuant to this Agreement, with respect to, and to the extent that, the Products are so affected. Nothing in this Agreement shall be interpreted to relieve Goplus from its obligation to comply with any pertinent state or federal law or regulation.

#### **7. NOTICE**

Unless specified herein, all correspondence and notice required by this Agreement shall be in writing and sent by: (i) first-class registered or certified mail, return receipt requested; or (ii) a recognized overnight courier to any Party by the other at the following addresses:

For Goplus:

For KASB:

Wei Wu, CEO  
Goplus, Corp.  
11250 Poplar Ave.  
Fontana, CA 92337

Laralei Paras, Partner  
Seven Hills LLP  
4 Embarcadero Center, Suite 1400  
San Francisco, CA 94111

With a copy to:

Belinda Y. Tommarello, Attorney  
Everett Dorey LLP  
18300 Von Karman Avenue, Suite 900  
Irvine CA 92612

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

**8. COUNTERPARTS, FACSIMILE AND PDF SIGNATURES**

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

**9. COMPLIANCE WITH REPORTING REQUIREMENTS**

KASB and its counsel agree to comply with the reporting form requirements referenced in California Health and Safety Code § 25249.7(f).

**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, or understandings related thereto, if any, are hereby merged herein and therein. There are no warranties, representations, or other agreements between the Parties except as expressly set forth herein. No representations, oral or otherwise, express or implied, other than those specifically referred to in this Agreement have been made by any Party hereto. No other agreements not specifically contained or referenced herein, oral or otherwise, shall be deemed to exist or to bind any of the Parties hereto.

**11. MODIFICATION**

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




**12. AUTHORIZATION**

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

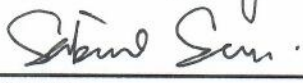
**AGREED TO:**

Date: 07/31/2023

By:   
Keep America Safe and Beautiful

**AGREED TO:**

Date: ~~S~~ July 27, 2023

By:   
Goplus, Inc.