

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, a California nonprofit corporation (“**KASB**”) and Clover Needlecraft, Inc. (“**Clover**”), with KASB and Clover each individually referred to as a “**Party**” and collectively as 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 Clover 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 Clover manufactures, imports, sells, and distributes for sale in California faux leather cases containing di(2ethylhexyl) phthalate (“**DEHP**”) including, but not limited to, the *Interchangeable Circular Knitting Needles Case (Pink)*, SKU: 3652, UPC: 051221736520, without providing the health hazard warning that KASB alleges is required by California Health & Safety Code § 25249.5 *et seq.* (“**Proposition 65**”). The foregoing faux leather cases that are the subject of this Agreement and are hereafter referred to 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 September 13, 2022, KASB served Clover, the California Attorney General, and the requisite public enforcement agencies with a 60-Day Notice of Violation (“**Notice**”), alleging Clover violated Proposition 65 by failing to warn its customers and consumers in California that its Products can expose users to DEHP. On October 25, 2022, KASB perfected service of the

Notice on Clover. To the best of the Parties' knowledge, no public enforcer has commenced and is diligently prosecuting an action to enforce the allegations in the Notice.

1.4 No Admission

Clover denies the factual and legal allegations contained in the Notice and maintains that the Products it has manufactured, imported, shipped, sold and/or distributed in California, directly or indirectly through third party retailers, downstream distributors, wholesalers, customers, retailers, franchisees, cooperative members, licensees, e-commerce marketplaces, or elsewhere have been, or 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 Clover of any allegation, fact, finding, conclusion of law, issue of law, or violation of law. This section shall not, however, diminish or otherwise affect Clover's obligations, responsibilities, and duties under this Agreement.

1.5 Effective Date

For purposes of this Agreement, "**Effective Date**" shall mean January 26, 2024.

2. INJUNCTIVE RELIEF: REFORMULATION

2.1 Reformulation Commitment

Commencing on the Effective Date and continuing thereafter, for all new Products Clover manufactures, imports, sells, ships, or distributes for sale in or into California, on or after the Effective Date, directly or to one or more third party retailers or e-commerce marketplaces, such Products shall meet the Reformulation Standard for Reformulated Products, as defined by Section 2.2.

2.2 Reformulation Standard

For purposes of this Agreement, "Reformulated Products" are defined as Products which, if they contain di(2-ethylhexyl) phthalate ("DEHP"), di-n-butyl phthalate ("DBP"), diisononyl phthalate ("DINP"), butyl benzyl phthalate ("BBP"), di-isodecyl phthalate ("DIDP") or di-n-hexyl phthalate ("DnHP"), contain any or all such chemicals each in a maximum concentration of less than 0.1 percent (1,000 parts per million) when analyzed by a laboratory certified or accredited by the State of California, the United States Food and Drug

Administration/Environmental Protection Agency, the National Environmental Laboratory Accreditation Program, or a member accreditation body of the International Laboratory Accreditation Cooperation (“**ILAC**”). 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.

3. MONETARY SETTLEMENT TERMS

3.1 Civil Penalty

Pursuant to Health and Safety Code § 25249.7(b), Clover agrees to pay a civil penalty of \$2,000 within five (5) business days of the Effective Date. Clover’s civil penalty payment will be allocated according to Health and Safety Code §§ 25249.12(c)(1) and (d), 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. Clover shall issue its payment in two checks made payable to: (a) “**OEHHA**” in the amount of \$1,500; and (b) “**Seven Hills in Trust for KASB**” in the amount of \$500. 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, Clover agrees to issue a check in the amount of \$20,000 payable to “**Seven Hills LLP**” for all attorneys’

fees and costs incurred investigating, bringing this matter to Clover's 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: Kimberly Gates Johnson
4 Embarcadero Center, Suite 1400
San Francisco, CA 94111

Upon full execution of this Settlement Agreement by the Parties, counsel for KASB shall provide to Counsel for Clover Federal Form W9s for all payee entities: OEHHA, KASB and Seven Hills. In exchange, counsel for Clover shall immediately provide a tracking number for payments due.

4. CLAIMS COVERED AND RELEASED

4.1 KASB's Release of Clover

This Agreement is a full, final and binding resolution between KASB, by and for the purposes stated in this Agreement, as an individual and *not* on behalf of the public, on the one hand, and Clover, on the other hand, 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 Clover, its parents, subsidiaries, affiliated entities under common ownership including: directors, officers, members, employees, attorneys, and each entity to whom Clover 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 alleged failure to warn, under Proposition 65, about the alleged exposures to DEHP contained in the Products that were manufactured, imported, shipped, distributed, sold and/or offered for sale by Clover, 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 Clover, before the Effective Date (collectively, "**Claims**"), against Clover and Releasees.

The Parties further understand and agree that this Section 4.1 release shall not extend upstream to any entities (*i.e.*, to others beyond Clover and Releasees) that manufactured the Products or any component parts thereof, or any distributors or suppliers who sold the Products or any component parts thereof to Clover.

Nothing in this Section affects KASB's right to commence or prosecute an action under Proposition 65 against a Releasee that does not involve the Products, as that term is specifically defined in Section 1.2.

4.2 Clover's Release of KASB

Clover, 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 to the extent permitted by law.

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 Clover 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 Clover 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 Clover:

Yasuhiro Okada, CEO
Clover Needlecraft, Inc.
1441 S. Carlos Avenue
Ontario, CA 91761

For KASB:

Kimberly Gates Johnson, Partner
Seven Hills LLP
4 Embarcadero Center, Suite 1400
San Francisco, CA 94111

With a copy to:

Patrick Rendon, Esq.
Lamb & Kawakami LLP
333 S. Grand Ave., Suite 4200
Los Angeles, CA 90071

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: January 31, 2024

By: 
Lance Nguyen, Chief Executive Officer
Keep America Safe and Beautiful

AGREED TO:

Date: January 31, 2024

By: 
Yasuhiro Okada, Chief Executive Officer
Clover Needlecraft, Inc.