

PROPOSITION 65 SETTLEMENT AGREEMENT
(Notice of Violation No. 2022-02368)

1. INTRODUCTION

This Settlement Agreement (“**Agreement**”) is entered into by and between Keep America Safe and Beautiful (“KASB”) and Round Two Designs, LLC and Round Two LLC (collectively “Round Two”), with KASB and Round Two each individually referred to as a “Party” and, collectively, the “Parties” to resolve the allegations in the October 6, 2022 60-Day Notice of Violation in compliance with the Safe Drinking Water and Toxic Enforcement Act of 1986, Health & Safety Code § 25249.6 *et seq.* (“Proposition 65”).

1.1 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. Round Two, and each of them, 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 Round Two manufactures, imports, sells, and distributes for sale in California vinyl/PVC bags containing di(2ethylhexyl) phthalate (“**DEHP**”) including, but not limited to, *R2 Bag Within a Bag PVC Tote 30-H20007, PO: 10455*, without providing the health hazard warning that KASB alleges is required by California Health & Safety Code § 25249.5 *et seq.* (“**Proposition 65**”). Vinyl/PVC bags 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 or other reproductive harm.

1.3 Notice of Violation

On October 6, 2022, KASB served Round Two, the California Attorney General, and the requisite public enforcement agencies with a 60-Day Notice of Violation (“**Notice**”), alleging Round Two 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

Round Two 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 Round Two of any fact, finding, conclusion of law, issue of law, or violation of law. This section shall not, however, diminish or otherwise affect Round Two's obligations, responsibilities, and duties under this Agreement.

1.5 Effective Date

For purposes of this Agreement, "Effective Date" shall mean December 28, 2023.

2. INJUNCTIVE RELIEF: REFORMULATION OR WARNINGS

2.1 Reformulation Commitment

Commencing on the Effective Date and continuing thereafter, all Products Round Two 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 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.

2.3 Certification of Compliance with Reformulation Standard

On or before the thirtieth (30th) day after the Effective Date, an officer of Round Two shall provide Seven Hills LLP with a written attested declaration (as prepared by Seven Hills LLP and delivered to Round Two) stating, as of the Effective Date, and continuing thereafter, any and all Products manufactured or imported by Round Two for sale to consumers in California directly including through its own website, affiliated websites or a third party website, to consumers located in California are Reformulated Products as defined by Section 2.2. Provided Seven Hills LLP timely delivers the form of declaration described above, failure to comply with this section shall render this agreement null and void.

2.4 Customer Notification

Within thirty (30) days of the Effective Date, Round Two shall send a letter, electronic or otherwise (“**Notification Letter**”) to: (1) each customer in California to which it shipped Products between October 6, 2022, and the Effective Date; and (2) any retail location that has any inventory of Products, which Round Two supplied between October 6, 2019, and the Effective Date, for sale to consumers in California. The Notification Letter shall advise the recipient that the Products contain DEHP, a chemical known to the State of California to cause birth defects or other reproductive harm and may be returned to Round Two for a full refund. The Notification Letter shall enclose a shipping label with the return address and postage paid by Round Two. The Notification letter to retail locations shall inform the recipient that all Products must have a label, attached to the label of each Product before it is sold in the California market or to a customer in California, expressly referring to the Product with the following warning statement:

⚠️WARNING: This product can expose you to di(2-ethylhexyl) phthalate (DEHP), which is known to the State of California to cause birth defects or other reproductive harm. For more information go to www.P65Warnings.ca.gov.

The foregoing warning 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. The entire warning shall appear in at least 6-point type and no smaller than the largest type size used for other consumer information on the Products. The Notification Letter to retail locations shall include a sheet of white background, adhesive stickers with the foregoing warning statements.

3. MONETARY SETTLEMENT TERMS

3.1 Civil Penalty

Pursuant to Health and Safety Code § 25249.7(b), Round Two agrees to pay a civil penalty of \$1,000 within ten (10) business days of the Effective Date. Round Two’s 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. Round Two shall issue its payment in two checks made payable to: (a) “**OEHHA**” in the amount of \$750; and (b) “**Seven Hills LLP in trust for Keep America Safe and Beautiful**” in the amount of \$250. 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 ten (10) business days of the Effective Date, Round Two agrees to issue a check in the amount of \$21,500 payable to “**Seven Hills LLP**” for all fees and costs incurred investigating, bringing this matter to Round Two’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: Laralei Paras
4 Embarcadero Center, Suite 1400
San Francisco, CA 94111

4. CLAIMS COVERED AND RELEASED

4.1 KASB's Release of Round Two

This Agreement is a full, final and binding resolution between KASB, as an individual and *not* on behalf of the public, and Round Two, 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 (a) Round Two, its owners, shareholders, representatives directors, officers, employees, attorneys, and (b) each entity to whom Round Two directly or indirectly distributes or sells Products, including, but not limited to, downstream customers, retailers, franchisees, cooperative members, licensors, licensees, dealers, vendors, and purchasers (collectively, "**Releasees**") from all claims for violations of Proposition 65, based on alleged exposure to DEHP contained in the Products sold in California before the Effective Date, as alleged in the Notice, except for Releasees who have been instructed by Round Two pursuant to Section 2.4 to provide a warning on Products and have failed to do so.

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 brought, 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 sold to consumers in California before the Effective Date (collectively, "**Claims**"), against Round Two and Releasees, except for Releasees who have been instructed by Round Two pursuant to Section 2.4 to provide a warning on Products and have failed to do so.

4.2 Round Two's Release of KASB

Round Two, 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 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, after the execution of this Agreement, any provision of this Agreement is deemed by a court as 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 Round Two 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 Round Two 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, in addition to being sent to the email addresses sent forth below, where

applicable 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 Round Two:

Sean Wotherspoon, Member
Round Two Designs, LLC
2030 E. Vista Bella Way
Compton, CA 90220

For KASB:

Laralei Paras, Partner
Seven Hills LLP
4 Embarcadero Center, Suite 1400
San Francisco, CA 94111
laralei@sevenhillslp.com

With a copy to:

Dennis J. Hawk
Business Law Group
3100 Donald Douglas Loop N., Suite 205
Santa Monica, California 90405
dennis@dhwk.com

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 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.

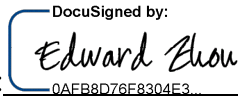
AGREED TO:

Date: December 28, 2023

By: 
My Nguyen, CFO
Keep America Safe and Beautiful

AGREED TO:

Date: December 27, 2023

By: 
Edward Zhou, Manager
Round Two Designs, LLC