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18 ELLA + MILA, INC.

19 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
20 COUNTY OF SAN FRANCISCO  
21 UNLIMITED CIVIL JURISDICTION

22 KEEP AMERICA SAFE AND BEAUTIFUL,

23 Plaintiff,

24 v.

25 ELLA + MILA, INC.; and DOES 1-30,  
26 inclusive,

27 Defendants.

Case No. CGC-24-613185

**[PROPOSED] CONSENT JUDGMENT**

(Health & Safety Code § 25249.6 et seq. and  
Code of Civil Procedure § 664.6)

1 **1. INTRODUCTION**

2 This Consent Judgment is entered into by and between plaintiff Keep America Safe and Beautiful  
3 (“KASB”) and defendant Ella + Mila, Inc. (“Ella + Mila”), with KASB and Ella + Mila each  
4 individually referred to as a “Party” and collectively, as the “Parties,” to resolve the allegations in the  
5 November 21, 2023 60-Day Notice of Violation in compliance with the Safe Drinking Water and Toxic  
6 Enforcement Act of 1986, Health & Safety Code § 25249.6 *et seq.* (“Proposition 65”).

7 **1.1 The Parties**

8 KASB is a California-based non-profit organization proceeding in the public interest pursuant  
9 to California Health & Safety Code § 25249.7(d) to ensure that chemicals known to the State of  
10 California to cause cancer, birth defects, or other reproductive harm are disclosed or eliminated from  
11 consumer products sold in California. Ella + Mila is a person in the course of doing business for  
12 purposes of California Health & Safety Code § 25249.11(b).

13 **1.2 Consumer Product Description**

14 KASB alleges that Ella + Mila manufactures, imports, sells, or distributes for sale in California  
15 vinyl/PVC bags containing di(2ethylhexyl) phthalate (“DEHP”) including, but not limited to, *Carry*  
16 *Me! (pink frosted)*, SKU: BAG104A, without providing the health hazard warning KASB alleges is  
17 required by California Health & Safety Code § 25249.5 *et seq.* (“Proposition 65”). All such  
18 vinyl/PVC bags are referred to hereinafter as the “Products.” DEHP is listed pursuant to Proposition  
19 65 as a chemical known to the State of California to cause cancer and birth defects or other  
20 reproductive harm.

21 **1.3 Notice of Violation**

22 On November 21, 2023, KASB served Ella + Mila, the California Attorney General, and the  
23 requisite public enforcement agencies with a 60-Day Notice of Violation (“Notice”), alleging Ella +  
24 Mila violated Proposition 65 by failing to warn its customers and consumers in California that the  
25 Products can expose users to DEHP. No public enforcer has commenced and is diligently prosecuting  
26 an action to enforce the allegations set forth in the Notice.

1           **1.4     Complaint**

2           On March 18, 2024, KASB commenced the instant action (“**Complaint**”), naming Ella + Mila  
3 as a defendant for the alleged violations of Proposition 65 that are the subject of the Notice.

4           **1.5     No Admission**

5           Ella + Mila denies the material, factual and legal allegations contained in the Notice and  
6 Complaint and maintains that all products it sold or distributed for sale in California, including the  
7 Products, have been, and are, in compliance with all laws. Nothing in this Consent Judgment shall be  
8 construed as, nor shall compliance with this Consent Judgment constitute or be construed as, an  
9 admission by Ella + Mila of any fact, finding, conclusion of law, issue of law, or violation of law.  
10 This section shall not, however, diminish or otherwise affect Ella + Mila’s obligations, responsibilities,  
11 and duties under this Consent Judgment. Ella + Mila maintains that it has not knowingly manufactured  
12 or caused to be manufactured the Products for sale in California in violation of Proposition 65.

13           **1.6     Jurisdiction**

14           For purposes of this Consent Judgment only, the Parties stipulate: this Court has jurisdiction  
15 over Ella + Mila as to the allegations contained in the Complaint; venue is proper in San Francisco  
16 County; and the Court has jurisdiction to enter and enforce the provisions of this Consent Judgment,  
17 pursuant to Proposition 65 and Code of Civil Procedure § 664.6.

18           **1.7     Effective Date**

19           The term “Effective Date” means the date on which the Court approves this Consent Judgment  
20 and enters Judgment pursuant to its terms.

21 **2.     INJUNCTIVE RELIEF: REFORMULATION**

22           **2.1     Reformulation Commitment**

23           Commencing on the Effective Date and continuing thereafter, all Products Ella + Mila  
24 manufactures, imports, sells, ships, or distributes for sale, in or into California, directly or through  
25 one or more third party retailers or e-commerce marketplaces, shall meet the Reformulation Standard  
26 for Reformulated Products, as defined by Section 2.2.

1           **2.2    Reformulation Standard Defined**

2           For purposes of this Consent Judgment, “**Reformulated Products**” are defined as Products  
3 which, if they contain di(2-ethylhexyl) phthalate (“DEHP”), di-n-butyl phthalate (“DBP”),  
4 diisononyl phthalate (“DINP”), butyl benzyl phthalate (“BBP”), di-isodecyl phthalate (“DIDP”) and  
5 di-n-hexyl phthalate (“DnHP”), contain any or all such chemicals each in a maximum concentration  
6 of less than 0.1 percent (1,000 parts per million) when analyzed by a laboratory certified or  
7 accredited by the State of California, the United States Food and Drug  
8 Administration/Environmental Protection Agency, the National Environmental Laboratory  
9 Accreditation Program, or a member accreditation body of the International Laboratory  
10 Accreditation Cooperation (“ILAC”).

11           For purposes of compliance with this reformulation standard, testing samples shall be  
12 prepared and extracted using Consumer Product Safety Commission (“CPSC”) methodology CPSC  
13 CH-C1001.09.4 and analyzed using U.S. Environmental Protection Agency methodology 8270D, or  
14 other methodologies utilized by federal or state government agencies to determine phthalate content  
15 in a solid substance. (“**Reformulation Standard**”)

16           **2.3    Customer Notification**

17           No later than the Effective Date, Ella + Mila shall send a letter, electronic or otherwise  
18 (“**Notification Letter**”) to: (1) each customer in California to which it supplied Products between  
19 November 21, 2022 and November 21, 2023; and (2) any other customer that is a retailer or  
20 distributor that has any inventory of Products, which Ella + Mila supplied between November 21,  
21 2020 and November 21, 2023, for sale to consumers in California. The Notification Letter shall  
22 advise the recipient that the Products contain DEHP, a chemical known to the State of California to  
23 cause cancer and birth defects or other reproductive harm. The Notification letter shall inform the  
24 recipient that all Products must either (1) be returned to Ella + Mila for a full refund or (2) have a  
25 label, attached to the packaging of each Product before it is sold in the California market or to a  
26 customer in California, expressly referring to the Product with the following warning statement:

27                   **⚠WARNING:** This product can expose you to di(2-ethylhexyl) phthalate (DEHP),  
28                   which is known to the State of California to cause cancer and birth

1 defects or other reproductive harm. For more information go to  
2 www.P65Warnings.ca.gov.

3 The foregoing warning must print the word “**WARNING:**” in all capital letters and in bold  
4 font. The warning symbol to the left of the word “**WARNING:**” must be a black exclamation point  
5 in a yellow equilateral triangle with a black outline. The entire warning shall appear in at least 6-  
6 point type and no smaller than the largest type size used for other consumer information on the  
7 Products. The Notification Letter shall enclose a shipping label with the return address and postage  
8 paid by Ella + Mila. If the customer is a retailer or distributor of the Products, the Notification Letter  
9 shall include a sheet of white background, adhesive stickers with the forgoing warning statements.

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

#### 11 **3.1 Civil Penalty**

12 Pursuant to Health and Safety Code § 25249.7(b), Ella + Mila agrees to pay a civil penalty of  
13 \$2,500 within ten (10) business days of the Effective Date. Ella + Mila’s civil penalty payment will be  
14 allocated according to Health and Safety Code § 25249.12(c)(1) and (d), with seventy-five percent  
15 (75%) of the penalty paid to the California Office of Environmental Health Hazard Assessment  
16 (“**OEHHA**”), and the remaining twenty-five percent (25%) retained by KASB. Ella + Mila shall issue  
17 its payment in two checks made payable to: (a) “**OEHHA**” in the amount of \$1,875; and (b) “Seven  
18 Hills LLP in Trust for KASB” in the amount of \$625. KASB’s counsel shall deliver to OEHHA and  
19 KASB their respective portions of the penalty payment. Ella + Mila shall deliver its civil penalty  
20 payments to the address listed in Section 3.3, below.

#### 21 **3.2 Reimbursement of Attorneys’ Fees and Costs**

22 KASB and its counsel offered to resolve the allegations in the Notice without reaching terms  
23 on the amount of reimbursement of attorneys’ fees and costs. Shortly after the Parties finalized the  
24 other material settlement terms, they negotiated and reached an accord on the amount of  
25 reimbursement to be paid to KASB’s counsel, under general contract principles and the private  
26 attorney general doctrine, codified at California Code of Civil Procedure § 1021.5, for all work  
27 performed through the mutual execution and reporting of this Agreement to the Office of the  
28 California Attorney General.

1 Ella+Mila shall pay a total sum of \$21,500 for all fees and other costs incurred investigating,  
2 bringing this matter to Ella+Mila's attention, negotiating a settlement in the public interest, and  
3 reporting its terms to Office of the California Attorney General pursuant to Section 9. The  
4 attorneys' fees and costs payments shall be made as detailed in subsection (a) and shall be deposited  
5 according to the schedule detailed there and subject to its terms.

6 **(a) Attorneys' Fees & Costs: Installment Agreement Terms & Timing**

7 Ella+Mila agrees to provide all attorneys' fees and costs payments due under this Agreement  
8 within ten (10) business days of the Effective Date. The Parties agree the payment of attorneys'  
9 fees and costs, totaling \$21,500, shall be broken into five equal installment payments of \$4,300.  
10 All payments under this Section shall be made in the form of individual checks payable to "Seven  
11 Hills LLP" and delivered to the address below, in Section 3.3. Upon receipt, Seven Hills LLP shall  
12 immediately deposit the initial payment of \$4,300. Seven Hills LLP agrees to hold the remaining  
13 four installment payments and deposit them each roughly thirty days apart over the next four  
14 months.

15 Ella+Mila agrees and understands, should any installment payment due under this Section or  
16 this Agreement fail due to insufficient funds, KASB shall advise Ella+Mila in the manner set forth  
17 in Section 8, and will provide Ella+Mila ten (10) business days, calculated from the date notice is  
18 provided, to cure any non-compliance under this Agreement, pursuant to this Section, before any  
19 remaining payments become due and payable. In the event Seven Hills LLP incurs fees for any  
20 returned checks, Ella+Mila agrees to reimburse KASB's counsel for such fees.

21 **3.3 Payments**

22 All payments payable and due under this Consent Judgment shall be delivered to KASB's  
23 counsel at the following address:

24 Seven Hills LLP  
25 Attn: Laralei Paras  
26 4 Embarcadero Center, Suite 1400  
27 San Francisco, CA 94111  
28

1 **4. CLAIMS COVERED AND RELEASED**

2 **4.1 KASB's Release of Proposition 65 Claims**

3 This Consent Judgment is a full, final, and binding resolution of the claims that were or could  
4 have been asserted by KASB arising out of the allegations in the Notice and in the Complaint. KASB,  
5 acting on its own behalf, in the public interest, and on behalf of its past and current agents,  
6 representatives, attorneys, successors and assignees ("**Releasors**") releases Ella + Mila, its past and  
7 present parents, subsidiaries, affiliated entities under common ownership, directors, officers,  
8 employees, attorneys, and each entity to whom Ella + Mila directly or indirectly distributes or sells  
9 the Products including, but not limited to its downstream distributors, wholesalers, marketplace hosts,  
10 customers, retailers, franchisee, cooperative members and licensees ("**Releasees**") based on the failure  
11 to provide a clear and reasonable warning under Proposition 65 about alleged exposures to DEHP  
12 contained in the Products that were manufactured, processed, distributed, sold and/or offered for sale  
13 in California before the Effective Date, as set forth in the Notice and Complaint. The Parties further  
14 agree that compliance with Section 2 of this Consent Judgment shall be deemed compliance with  
15 Proposition 65 with respect to alleged exposures to DEHP in the Products.

16 The Parties further understand and agree that this Section 4.1 release shall neither extend (a)  
17 to upstream entities that manufactured the Products or any component parts thereof, or any  
18 distributors or suppliers who sold the Products or any component parts thereof to Ella + Mila nor (b)  
19 to Releasees who have been instructed by Ella + Mila pursuant to Section 2.3, to provide a warning  
20 on Products that are not Reformulated Products and have failed to do so. Nothing in this Section  
21 affects KASB's right to commence or prosecute an action under Proposition 65 against a Releasee  
22 that does not involve Ella + Mila's Products.

23 **4.2 KASB's Individual Release of Claims**

24 In further consideration of the promises and agreements herein contained, KASB, as an  
25 individual and *not* on behalf of the public, on behalf of itself, its past and current agents,  
26 representatives, attorneys, successors, and/or assignees, hereby waives all of KASB's rights to  
27 institute or participate in, directly or indirectly, any form of legal action and releases all claims that  
28 KASB may have, including, without limitation, all actions, and causes of action, in law or in equity,

1 suits, liabilities, demands, obligations, damages, costs, fines, penalties, losses or expenses, including,  
2 but not exclusively, investigation fees, expert fees, and attorneys' fees arising under Proposition 65  
3 with respect to DEHP in the Products manufactured, distributed, sold and/or offered for sale by Ella +  
4 Mila and sold in or into California before the Effective Date, against Ella + Mila and Releasees. The  
5 Parties understand and agree that this Section 4.2 release shall not extend upstream to any entities that  
6 sold, supplied, or manufactured the Products or any component parts thereof to Ella + Mila.

#### 7 **4.3 Ella + Mila's Release of KASB**

8 Ella + Mila, on behalf of itself, its past and current officers, agents, shareholders, employees,  
9 predecessors, representatives, attorneys, successors, and assignees, hereby waives any and all claims  
10 against KASB and its attorneys and other representatives for any and all actions taken or statements  
11 made (or those that could have been taken or made) by KASB, its attorneys and other representatives,  
12 whether in the course of investigating claims or otherwise seeking to enforce Proposition 65 against it  
13 in this matter with respect to the Products.

#### 14 **5. COURT APPROVAL**

15 Pursuant to California Health and Safety Code § 25249.7(f)(4), KASB shall file a noticed  
16 motion for judicial approval of this Consent Judgment. The Parties agree to mutually employ their best  
17 efforts, and those of their counsel, to support the entry of a judgment pursuant to the terms of this  
18 Consent Judgment and to judicial approval of their settlement in a timely manner. For purposes of this  
19 section, "best efforts" shall include, at a minimum, supporting the motion for approval, responding to  
20 any third-party objection, and appearing at the hearing before the Court, if so requested.

#### 21 **6. SEVERABILITY**

22 If, subsequent to the Court's approval and entry of this Consent Judgment as a judgment, any  
23 provision of this Consent Judgment is deemed by a court to be unenforceable, the validity of the  
24 remaining provisions shall not be adversely affected.

#### 25 **7. GOVERNING LAW**

26 The terms of this Consent Judgment shall be governed by the laws of the State of California  
27 and apply within California. In the event Proposition 65 is repealed, preempted, or is otherwise  
28 rendered inapplicable, by reason of law, generally, as to the Products or as to DEHP, then Ella + Mila



1 may provide KASB with written notice of any asserted change in the law and shall have no further  
2 injunctive obligations pursuant to this Consent Judgment, with respect to, and to the extent that, the  
3 Products are so affected. Nothing in this Consent Judgment shall be interpreted to relieve Ella + Mila  
4 from its obligation to comply with any pertinent state or federal law or regulation.

5 **8. NOTICE**

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

9 For Ella + Mila:

10 Alex Megeredchian,  
11 Megeredchian Law  
12 350 N. Glenoaks Blvd., Fl. 3  
Burbank, CA 91502

For KASB:

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

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

15 **9. COUNTERPARTS AND PDF SIGNATURES**

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

19 **10. COMPLIANCE WITH REPORTING REQUIREMENTS**

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

22 **11. ENTIRE AGREEMENT**

23 This Consent Judgment contains the sole and entire agreement and understanding of the Parties  
24 with respect to the entire subject matter hereof, and any and all prior discussions, negotiations,  
25 commitments, or understandings related thereto, if any, are hereby merged herein and therein. There  
26 are no warranties, representations, or other agreements between the Parties except as expressly set  
27 forth herein. No representations, oral or otherwise, express or implied, other than those specifically  
28 referred to in this Consent Judgment have been made by any Party hereto. No other agreements not

1 specifically contained or referenced herein, oral or otherwise, shall be deemed to exist or to bind any  
2 of the Parties hereto.

3 **12. MODIFICATION**

4 This Consent Judgment may be modified only by: (i) a written agreement of the Parties and  
5 the entry of a modified Consent Judgment by the Court thereon; or (ii) upon a successful motion of  
6 any party and the entry of a modified Consent Judgment by the Court thereon.

7 **13. AUTHORIZATION**

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


10 **AGREED TO:**

11 Date: 07/15/2024

12 By:   
13 Lance Nguyen, CEO  
14 Keep America Safe and Beautiful

**AGREED TO:**

Date: July 7, 2024

By:   
Narineh Bedrossian, CEO  
Ella + Mila, Inc.