

## **SETTLEMENT AGREEMENT**

### **1. INTRODUCTION**

#### **1.1 Parties**

This Settlement Agreement is entered into by and between Environmental Health Advocates, Inc. (“EHA”), on the one hand, and Crop Beauty Group Inc. (“Crop Beauty”), on the other hand, with EHA and Crop Beauty each individually referred to as a “Party” and collectively as the “Parties.” EHA is a corporation in the State of California serving in the interest of the general public by seeking to promote awareness of exposures to toxic chemicals and to improve human health by reducing or eliminating hazardous substances used in consumer products. EHA alleges that Crop Beauty is a person in the course of doing business for purposes of the Safe Drinking Water and Toxic Enforcement Act of 1986, California Health and Safety Code § 25249.6 *et seq.* (“Proposition 65”).

#### **1.2 General Allegations**

EHA alleges that Crop Beauty manufactures, sells, and/or distributes for sale in California, powdered makeup products that contain Titanium Dioxide (“TiO<sub>2</sub>”) and that it does so without first providing the health hazard warning required by Proposition 65. TiO<sub>2</sub> is listed pursuant to Proposition 65 as a chemical known to cause cancer.

#### **1.3 Notice of Violation**

On or around August 16, 2024, EHA served Crop Beauty, the California Attorney General, and certain other public enforcement agencies with a 60-Day Notice of Violation of Proposition 65 (“Notice”). The Notice alleged that TiO<sub>2</sub> had violated Proposition 65 by failing to sufficiently warn consumers in California of the health hazards associated with exposures to TiO<sub>2</sub> contained in powdered makeup products, including but not limited to Moroccan Sun Travel Tea Palette.

To the best of the parties’ knowledge, no public enforcer has commenced or is otherwise prosecuting an action to enforce the violations alleged in the Notice.

#### **1.4 No Admission**

Crop Beauty denies the material, factual, and legal allegations in the Notice and maintains that all of the products it sold and/or distributed for sale in California, including powdered makeup products that contain TiO<sub>2</sub>, have been, and are, in compliance with all laws. Nothing in this Settlement Agreement shall be construed as an admission by Crop Beauty of any fact, finding, conclusion, issue of law or violation of law, nor shall compliance with this Settlement Agreement constitute or be construed as an admission by Crop Beauty of any fact, finding, conclusion, issue of law or violation of law, such being specifically denied by Crop Beauty. This Section shall not, however, diminish or otherwise affect Crop Beauty's obligations, responsibilities, and duties under this Settlement Agreement.

### **1.5 Effective Date**

For purposes of this Settlement Agreement, the term “Effective Date” shall mean the date this Settlement Agreement is executed by the Parties.

### **1.6 Effect on Prior Agreement**

This Settlement Agreement supersedes and modifies the settlement agreement executed by the Parties on or about November 6, 2024.

## **2. INJUNCTIVE RELIEF**

### **2.1 Cessation of Sales**

Beginning on the Effective Date, and continuing thereafter, Crop Beauty shall not sell in California, or distribute for sale in California, the Moroccan Sun Travel Tea Palette, unless accompanied by warnings provided for in Section 2.2. As used in this Section 2.1, “distribute for sale in California” means to directly ship the Moroccan Sun Travel Tea Palette into California or to sell to a distributor Crop Beauty knows will sell the Moroccan Sun Travel Tea Palette in California.

### **2.2 Warning Requirements**

A warning provided under this Settlement Agreement shall be prominently placed with such conspicuousness, as compared with other words, statements, designs, or devices as to render it likely to be read and understood by an ordinary individual under customary conditions

before purchase or use. Each warning shall be provided in a manner such that the consumer or user understands to which *specific* products the warning applies, so as to minimize the risk of consumer confusion.

For purposes of this Settlement Agreement, a clear and reasonable warning shall consist of a warning affixed to the packaging, label, tag, directly to each Moroccan Sun Travel Tea Palette product sold in California by Crop Beauty, or on a placard, shelf tag, sign or electronic device or automatic process that contains one of the following statements:

- 1)  **WARNING:** This product can expose you to chemicals including Titanium Dioxide (“TiO<sub>2</sub>”), which is known to the State of California to cause cancer. For more information go to [www.P65Warnings.ca.gov](http://www.P65Warnings.ca.gov).

OR

- 2)  **WARNING:** Cancer– [www.P65Warnings.ca.gov](http://www.P65Warnings.ca.gov).

The triangle above shall be yellow on the warning statement. This warning statement shall be prominently displayed on the product, on the packing of the products, or on a placard, shelf tag, or sign provided that the statement is 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 prior to sale. If the warning statement is displayed on the product’s packaging, it must be in a type size no smaller than the largest type size used for other consumer information on the product. In no case shall a warning statement displayed on the product’s packaging appear in a type size smaller than 6-point type. If the product’s packaging contains consumer information in a foreign language, a warning statement in that language is required.

As set forth in Cal. Code Regs. Tit. 27, § 25602(b), to the extent a Moroccan Sun Travel Tea Palette product is sold online, a warning that complies with the content requirements of Cal. Code Regs Tit. 27, § 25603(a) must be provided 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. If an on-product warning is provided pursuant to Cal. Code Regs. Tit. 27, § 25603(a), the warning provided on the website may use the same content as the on-product warning. For purposes of this section, a warning is not prominently displayed if the purchaser must search for it in the general content of the website. These requirements extend to any websites under the exclusive control of Crop Beauty where Moroccan Sun Travel Tea Palette products are sold into California. In addition, Crop Beauty shall instruct any third-party website to which it directly sells its Moroccan Sun Travel Tea Palette products to include the same online warning, as set forth above, as a condition of selling the Moroccan Sun Travel Tea Palette product in California.

There shall be no obligation for Crop Beauty to provide a warning for Moroccan Sun Travel Tea Palette products that entered the stream of commerce prior to the Effective Date, and the Section 4 release applies to all such products.

(i) Changes in Warning Regulations or Statutes

In the event that the Office of Environmental Health Hazard Assessment promulgates one or more regulations requiring or permitting Proposition 65 warning text and/or methods of transmission applicable to the Moroccan Sun Travel Tea Palette and TiO<sub>2</sub>, which are different than those set forth above, Crop Beauty shall be entitled to use, at its discretion, such other warning text and/or method of transmission without being deemed in breach of this Agreement. If regulations or legislation are enacted providing that Proposition 65 warnings as to TiO<sub>2</sub> in this product are no longer required, a lack of warning by Crop Beauty will not thereafter be a breach of this Agreement.

**3. MONETARY SETTLEMENT TERMS**

**3.1 Civil Penalty Payment**

Pursuant to Health and Safety Code § 25249.7(b)(2), and in settlement of all claims alleged in the Notice or referred to in this Settlement Agreement, Crop Beauty agrees to pay two

thousand (\$2,000.00) in civil penalties. The penalty payment will be allocated in accordance with California Health and Safety Code §§ 25249.12(c)(1) & (d), with 75% of the penalty amount paid to the California Office of Environmental Health Hazard Assessment (“OEHHA”) and the remaining 25% of the penalty amount retained by EHA. Crop Beauty shall issue two separate checks for the initial civil penalty payment to (a) “OEHHA” and (b) Environmental Health Advocates, Inc. as follows:

- One payment of \$1,500.00 to OEHHA, due thirty (30) days after the Effective Date.
- One payment of \$500.00 to EHA, due thirty (30) days after the Effective Date.

All payments owed to OEHHA (EIN: 68-0284486), pursuant to this Section shall be delivered directly to OEHHA (Memo Line "Prop 65 Penalties") at the following addresses:

For United States Postal Service Delivery:

Mike Gyurics  
Fiscal Operations Branch Chief  
Office of Environmental Health Hazard Assessment  
P.O. Box 4010  
Sacramento, CA 95812-4010

For Non-United States Postal Service Delivery:

Mike Gyurics  
Fiscal Operations Branch Chief  
Office of Environmental Health Hazard Assessment  
1001 I Street  
Sacramento, CA 95814

All penalty payments owed to EHA shall be sent to:

Isaac Fayman  
Environmental Health Advocates  
225 Broadway, Suite 1900  
San Diego, CA 92101

### **3.2 Attorney Fees and Costs**

The Parties reached an accord on the compensation due to EHA and its counsel under the private attorney general doctrine and principles of contract law. Under these legal principles,

Crop Beauty agrees to pay eighteen thousand dollars (\$18,000.00) to EHA and its counsel for all fees and costs incurred in investigating, bringing this matter the attention of Crop Beauty, and negotiating a settlement. Due thirty (30) days after the Effective Date, one payment of eighteen thousand dollars (\$18,000.00) in Attorney's Fees and Costs shall be payable to Entorno Law, LLP.

All payments required under this Section shall be delivered to:

Noam Glick  
Entorno Law, LLP  
225 Broadway, Suite 1900  
San Diego, CA 92101

### **3.3 Tax Documentation**

Crop Beauty agrees to provide a completed IRS 1099 for its payments to, and EHA agrees to provide IRS W-9 forms for, each of the payees under this Settlement Agreement. The Parties acknowledge that Crop Beauty cannot issue any settlement payments pursuant to Section 3.1 and 3.2 above until after Crop Beauty receives the requisite W-9 forms from EHA's counsel.

## **4. CLAIMS COVERED AND RELEASED**

### **4.1 EHA's Release of Crop Beauty**

This Settlement Agreement is a full, final, and binding resolution of all claims between EHA, on its own behalf and not on behalf of the public, and Crop Beauty for all claims that can or could have been asserted by EHA, on its own behalf, on behalf of its past and current agents, representatives, attorneys, successors and assignees, against Crop Beauty and each of its respective parents, subsidiaries, affiliated entities under common ownership (including but not limited to The Beauty Crop Limited), directors, officers, members, employees, attorneys, and any entity, including, but not limited to each entity to whom Crop Beauty directly or indirectly distributes or sells the powdered makeup products that contain TiO<sub>2</sub>, including, but not limited to, its downstream distributors, wholesalers, customers, retailers, franchisees, cooperative members and licensees ("Releasees"), based on the failure to warn about exposures to TiO<sub>2</sub> required under Proposition 65 in powdered makeup products manufactured, sold or distributed

for sale in California by Crop Beauty before the Effective Date, as alleged in the Notice, or for any other reason.

In further consideration of the promises and agreements herein contained, EHA on its own behalf and not on behalf of the public, on behalf of its past and current agents, representatives, attorneys, successors and assignees hereby waives any and all rights it may have to institute or participate in, directly or indirectly, any form of legal action and releases all claims against Crop Beauty and Releasees including, without limitation, all actions and causes of action, suits, liabilities, demands, obligations, damages, costs, fines, penalties, losses or expenses including, but not exclusively, investigation fees, expert fees and attorney fees arising under Proposition 65 with respect to the alleged or actual failure to warn about exposures to TiO<sub>2</sub> required under Proposition 65 in the powdered makeup products that contain TiO<sub>2</sub> manufactured, distributed, sold or offered for sale by Crop Beauty, before the Effective Date.

#### **4.2 Crop Beauty's Release of EHA**

Crop Beauty, on its own behalf and on behalf of its past and current agents, representatives, attorneys, successors, and assignees, hereby waives any and all claims against EHA and its attorneys and other representatives, for any and all actions taken or statements made by EHA and its attorneys and other representatives, whether in the course of investigating claims, otherwise seeking to enforce Proposition 65 against it in this matter, or with respect to powdered makeup products that contain TiO<sub>2</sub>.

#### **4.3 California Civil Code Section 1542**

It is possible that other claims not known to the Parties arising out of the facts alleged in the Notice and relating to powdered makeup products that contain TiO<sub>2</sub> will develop or be discovered. EHA on behalf of itself only, on one hand, and Crop Beauty on behalf of itself only, on the other hand, acknowledge that this Settlement Agreement is expressly intended to cover and include all such claims up through the Effective Date. The Parties acknowledge that the claims released in Sections 4.1 and 4.2 may include unknown claims, and nevertheless

waive California Civil Code section 1542 as to any such unknown claims. California Civil Code section 1542 reads as follows:

**A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY.**

EHA and Crop Beauty each acknowledge and understand the significance and consequences of this specific waiver of California Civil Code § 1542.

**5. PUBLIC BENEFIT**

It is Crop Beauty's understanding that the commitments it has agreed to herein, and actions to be taken by Crop Beauty under this Settlement Agreement confer a significant benefit to the general public, as set forth in Code of Civil Procedure § 1021.5 and Cal. Admin. Code tit. 11, § 3201. As such, it is the intent of Crop Beauty that to the extent any other private party serves a notice and/or initiates an action alleging a violation of Proposition 65 with respect to Crop Beauty's alleged failure to provide a warning concerning actual or alleged exposure to TiO<sub>2</sub> prior to use of the powdered makeup products it has manufactured, distributed, sold, or offered for sale in California, or will manufacture, distribute, sell, or offer for sale in California, such private party action would not confer a significant benefit on the general public as to those powdered makeup products addressed in this Settlement Agreement, provided that Crop Beauty is in material compliance with this Settlement Agreement.

**6. SEVERABILITY**

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

**7. GOVERNING LAW**

The terms of this Settlement Agreement shall be governed by the laws of the State of California and apply within the State of California.

**8. ENFORCEMENT**

In any action to enforce the terms of this Settlement Agreement, the prevailing party shall be entitled to its reasonable attorneys' fees and costs.

**9. NOTICE**

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

For Crop Beauty:

Ning Cheah  
International House, 36-38 Cornhill,  
London EC3V 3NG  
United Kingdom  
ning@thebeautycrop.com

Jeffrey Margulies  
Norton Rose Fullbright US LLP  
555 South Flower Street, Forty-First Floor  
Los Angeles, California 90071  
jeff.margulies@nortonrosefulbright.com

For EHA:

Noam Glick  
Entorno Law, LLP  
225 Broadway, Suite 1900  
San Diego, CA 92101

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

**10. COUNTERPARTS; FACSIMILE SIGNATURES**

This Settlement Agreement may be executed in counterparts and by facsimile or 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.

**11. COMPLIANCE WITH HEALTH & SAFETY CODE § 25249.7(f)**

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

**12. MODIFICATION**

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

**13. AUTHORIZATION**

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

**AGREED TO:**

**AGREED TO:**

Date: 11/29/24

Date: \_\_\_\_\_

By:  \_\_\_\_\_  
ENVIRONMENTAL HEALTH  
ADVOCATES, INC.

By: \_\_\_\_\_  
CROP BEAUTY GROUP INC.

**10. COUNTERPARTS; FACSIMILE SIGNATURES**

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

**AGREED TO:**

**AGREED TO:**

Date: \_\_\_\_\_

Date: 2 December 2024

By: \_\_\_\_\_  
ENVIRONMENTAL HEALTH  
ADVOCATES, INC.

By:  \_\_\_\_\_  
CROP BEAUTY GROUP INC.