

## 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 Summit Tool Company (“**Summit**”), with KASB and Summit 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. Summit 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 Summit manufactures, imports, sells, and distributes for sale in California vinyl storage/packaging cases and hoses with vinyl grips containing di(2-ethylhexyl)phthalate (“**DEHP**”) including, but not limited to, *Ken Tool 50ft Extreme Ultraflex Reinforced Glad Hose, Item# 26050*, without providing the health hazard warning that KASB alleges is required by California Health & Safety Code § 25249.5 *et seq.* (“**Proposition 65**”). Vinyl storage/packaging cases and hoses with vinyl grips, including but not limited to, *Ken Tool 50ft Extreme Ultraflex Reinforced Glad Hose, Item# 26050*, are referred to hereinafter collectively as the “**Products**” covered by this Agreement. DEHP is listed pursuant to Proposition 65 as a chemical known to the State of California to cause cancer and birth defects or other reproductive harm.

#### 1.3 Notice of Violation

On April 18, 2024, KASB served Summit, the California Attorney General, and the requisite public enforcement agencies with a 60-Day Notice of Violation (“**Notice**”), alleging Summit 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**

Summit denies the factual and legal allegations contained in the Notice and maintains that all products it has manufactured, sold and/or offered for sale, or distributed for sale in California, including the Products, have been, and are, in compliance with all laws, including Proposition 65. By executing this Agreement, Summit and its affiliates and subsidiaries, parents, directors, officers, agents, employees, attorneys, representatives, shareholders, successors, and assigns, Summit's upstream distributors, and each entity to whom Summit directly or indirectly distributes or sells the Products, including, but not limited to, downstream distributors, wholesalers, customers, retailers, and licensees do not admit any facts or conclusions of law, including but not limited to, any facts or conclusions of law regarding any violation of Proposition 65. Nothing in this Agreement shall constitute or be construed as, nor shall compliance with this Agreement constitute or be construed as, an admission by Summit of any fact, finding, conclusion of law, issue of law, or violation of law. Notwithstanding the allegations in the Notice, Summit maintains that it has not knowingly manufactured, distributed, sold, offered for sale, nor has it caused to be manufactured, distributed, sold, offered for sale, any Products in California in violation of Proposition 65. This section shall not, however, diminish or otherwise affect Summit's obligations, responsibilities, and duties under this Agreement.

#### **1.5 Effective Date**

For purposes of this Agreement, "**Effective Date**" shall mean the date this Agreement is fully executed by all Parties.

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

### **2.1 Commitment to Reformulate or Warn**

Commencing no later than thirty (30) days after the Effective Date and continuing thereafter, all Products Summit 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 or be accompanied by a clear and reasonable warning pursuant to Section 2.3.

## **2.2 Reformulation Standard**

For purposes of this Agreement, “Reformulated Products” are defined as Products which, if they contain DEHP, contain such chemical 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. 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 Warnings**

Commencing no later than thirty (30) days after the Effective Date, Summit shall provide clear and reasonable warnings for all Products, that are not Reformulated Products, provided for sale to customers in or into the State of California in accordance with this Section pursuant to Title 27 California Code of Regulations § 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 Products to which the warning applies.

Summit shall provide one of the following warning statements, pursuant to Cal. Code Regs. tit. 27 § 25603, as it exists as of the date of execution of this Agreement, or as it may be amended in the future.

**(a) Warnings**

**Option 1:**

**⚠WARNING [or] CA WARNING [or] CALIFORNIA WARNING:** This product can expose you to chemicals including di(2-ethylhexyl)phthalate (DEHP), which is 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).

**Option 2:**

**⚠WARNING [or] CA WARNING [or] CALIFORNIA WARNING:** Risk of cancer and reproductive harm from exposure to di(2-ethylhexyl)phthalate (DEHP). See [www.P65Warnings.ca.gov](http://www.P65Warnings.ca.gov).

**Option 3:**

**⚠WARNING [or] CA WARNING [or] CALIFORNIA WARNING:** Can expose you to di(2-ethylhexyl)phthalate (DEHP), a carcinogen and reproductive toxicant. See [www.P65Warnings.ca.gov](http://www.P65Warnings.ca.gov).

**Option 4:** The following warning statement may be used on Products manufactured and labeled prior to January 1, 2028:

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

**(b) Foreign Language Requirement.**

Where a consumer product sign, label or shelf tag used to provide a warning includes consumer information in language(s) other than English, the warning must also be provided in the other language(s) in addition to English.

**(c) On-Product Warnings.**

Summit shall affix a warning to the Product label or otherwise directly on Products it knows are provided for sale to consumers located in California and to customers it knows have retail outlets in California, or e-commerce platforms it knows sell Products into California. For the purpose of this agreement, “Product label” means a display of written, printed, or graphic material printed on or affixed to each of the Products or its immediate container, packaging, or

wrapper. A warning provided pursuant to section 2.3(a) 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 if the labeling does not use the color yellow, the symbol may be in black and white. The entire warning shall be set off from other surrounding information and appear in at least 6-point type.

**(d) Internet Warnings.**

If, thirty (30) days after the Effective Date, Summit directly sells Products that are not Reformulated Products via the Internet through its own website to consumers located in the State of California or to customers with distribution and e-commerce websites Summit knows sell or distribute Products into California, Summit shall provide warnings for each Product both on the Product label in accordance with Section 2.3(c), and by prominently displaying to the consumer during or prior to the purchase of the Products without requiring customers to seek out the warning. The warning or a clearly marked hyperlink to the warning using the word “**WARNING**” given in conjunction with the sale of the Products via the internet shall appear either: (a) on the same display page on which the Products are displayed; (b) on the same web page as the virtual cart displaying the Products; (c) on the same web page as the price for the Products; or (d) on one or more web pages displayed to a purchaser prior to or during the checkout process. If the on-Product Warning is one of the warning statements set forth in Options 2-4 in Section 2.3, the Internet Warning may use the corresponding warning statement.

Where Summit sells, ships, or distributes Products to third-party retailers or e-commerce marketplaces that sell Products to CA consumers, Summit will notify them of the internet Warning requirements under this Agreement as a condition of sale of the Products.

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

#### **3.1 Civil Penalty**

Pursuant to Health and Safety Code § 25249.7(b), Summit agrees to pay a civil penalty of \$500 within twenty (20) business days of the Effective Date in settlement of all claims referenced in this Agreement and the Notice. Summit'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. Summit shall issue its payment in two checks made payable to: (a) "OEHHA" in the amount of \$375; and (b) "Seven Hills LLP in Trust for Keep America Safe and Beautiful" in the amount of \$125. 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 twenty (20) business days of the Effective Date, Summit agrees to issue a check in the amount of \$17,500 payable to "Seven Hills LLP" for all fees and costs incurred investigating, bringing this matter to Summit'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  
1 Embarcadero Center, Suite 1200  
San Francisco, CA 94111

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

### **4.1 KASB's Release of Summit**

This Agreement is a full, final and binding resolution between KASB, as an individual and *not* on behalf of the public, and Summit, 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) Summit; (b) each of Summit's downstream distributors, wholesalers, vendors, licensors, licensees, auctioneers, retailers, franchisees, dealers, shareholders, cooperative members, customers, owners, purchasers, and users; and (c) Summit's parent and subsidiary companies and their respective officers, directors, attorneys, representatives, shareholders, agents, and employees (collectively, "**Releasees**"), based on their failure to warn under Proposition 65 about alleged exposures to DEHP contained in the Products that were directly or indirectly manufactured, distributed, sold and/or offered for sale by Summit 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 Summit, before the Effective Date (collectively, “**Claims**”), against Summit and Releasees.

The Parties further understand and agree that this Section 4.1 release shall not extend to Releasees who have been instructed by Summit pursuant to Section 2.3(d) to provide a warning on 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 Summit’s Products.

**4.2 Summit’s Release of KASB**

Summit, 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.

**4.3 Mutual Waiver of California Civil Code §1542**

Each of the Parties acknowledges that it is familiar with Section 1542 of California Civil Code which provides 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.

Each of the Parties waives and relinquishes any right or benefit it has or may have under Section 1542 of California Civil Code or any similar provision under the statutory or non-statutory law of any other jurisdiction to the full extent that it may lawfully waive all such rights and benefits. The Parties acknowledge that each may subsequently discover facts in addition to, or different from, those that it believes to be true with respect to the claims released herein. The

Parties acknowledge that the claims released in §§ 4.1 and 4.2, above, may include unknown claims, and nevertheless waive California Civil Code § 1542 as to any such unknown claims.

**4.4. Deemed Compliance with Proposition 65**

The Parties agree that compliance by Summit with this Agreement constitutes compliance with Proposition 65 with respect to exposure to DEHP from use of the Products.

**4.5 Public Benefit**

It is Summit's understanding that the commitments agreed to herein, and actions to be taken by Summit under this 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 Summit's intent that to the extent any other party initiates an action alleging a violation of Proposition 65 with respect to Summit's failure to provide a warning concerning exposure to DEHP prior to use of the Products it has manufactured, distributed, sold, or offered for sale in California, or caused to be manufactured, distributed, sold, or offered for sale in California such private party action would not confer a significant benefit on the general public as to those products addressed in this Agreement, provided that Summit is in material compliance with this Agreement.

**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. Nothing in this Agreement shall be interpreted to relieve Summit 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 Summit:

Theodore Weiss, Esq.  
Baker & Hostetler LLP  
1900 Avenue of the Stars, Suite 2700  
Los Angeles, CA 90067

For KASB:

Kimberly Gates Johnson, Partner  
Seven Hills LLP  
1 Embarcadero Center, Suite 1200  
San Francisco, CA 94111

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: 3/19/2026

By:   
Lance Nguyen, CEO  
Keep America Safe and Beautiful

**AGREED TO:**

Date: 3/18/2026

By:   
Ben Graham, President  
Summit Tool Company