

## SETTLEMENT AGREEMENT AND RELEASE

This Settlement Agreement and Release ("this Agreement") is made effective on the date last executed herein ("Effective Date") by and between Environmental Research Center ("ERC") and Sunsweet Growers Inc. ("Sunsweet"). ERC and Sunsweet are hereinafter referred to collectively as "the Parties". The Parties agree as follows:

1. This Agreement is limited to this Matter, which is defined as all claims and allegations related to the Notice of Violations of California Health & Safety Code §25249.5, *et seq.* (also known as "Proposition 65") that ERC served on Sunsweet on June 1, 2011 ("the Notice"), and the product identified in the Notice, namely Sunsweet Growers Co-op. Sunsweet Naturals Supra Fiber ("the Product").

2. Nothing in this Agreement shall be construed as an admission of Sunsweet of any fact, issue of law, or violation of law. The Parties agree that this paragraph shall not diminish or otherwise affect the obligations, responsibilities, and duties of the Parties under this Agreement.

3. In consideration of the following covenants of Sunsweet, and the other conditions contained in this Agreement, ERC releases Sunsweet as set forth in Paragraph 5 below:

a. Sunsweet agrees that all Covered Product produced and offered for sale in California (and for sale to a third party for retail sale in California) after January 15, 2012, shall comply with California law, including Proposition 65.

b. Sunsweet shall conduct lead testing of at least five (5) randomly selected samples of all production runs of the Covered Product (in the form intended for sale to the end-user) to ensure that the Product complies with California law, including Proposition 65, which at the time this Agreement is written means the daily exposure of lead is no more than 0.5 micrograms when taken as directed on the Covered Product's label. The first test shall commence no later than January 15, 2012.

c. The method of selecting samples for testing shall comply with the regulations of the Food and Drug Administration as set forth in Title 21, Part 111, Subpart E of the Code of Federal Regulations, including section 111.80(c). All testing is to be performed by a laboratory certified by the California Environmental Laboratory Accreditation Program for the analysis of heavy metals or a laboratory that is approved by, accredited by, or registered with the United States Food & Drug Administration for the analysis of heavy metals. Testing for lead shall be performed using Inductively Coupled Plasma-Mass Spectrometry (ICP-MS) and closed-vessel, microwave-assisted digestion employing high-purity reagents, or other testing methods recommended at the time of the testing by the California Attorney General's Office, or any other testing method agreed upon in writing by the Parties.

d. Sunsweet shall retain copies of its test data from the date testing commenced and shall provide all test data to ERC upon fifteen (15) days of receipt of said data after conducting the required testing as set forth above. The requirement to provide all test data to ERC shall cease after one year from date of the Effective Date.

e. Within 10 days of the Effective Date, Sunsweet shall pay ERC the total sum of fifty-five thousand dollars (\$55,000.00) by a check made payable to "Environmental Research Center and its Attorney Wraith Law." This total sum includes payment and reimbursement for ERC's costs, expenses and attorney fees related to this Matter, and \$5,000.00 in civil penalties pursuant to Health & Safety Code Section 25249.7, with any remainder considered paid to ERC as amounts in lieu of civil penalties. ERC will distribute 75% (\$3,750.00) of the civil penalties to the California Attorney General or to whatever state agency the California Attorney General directs, and ERC will retain the remaining 25% (\$1,250.00) of the civil penalties.

f. Sunsweet shall bear any and all of its own costs, expenses, and attorney fees related to this matter.

4. In consideration of the following covenant of ERC, and the other conditions contained in this Agreement, Sunsweet releases ERC as set forth in Paragraph 5 below:

a. Within 14 days after receipt of the total settlement sum from Sunsweet, ERC shall withdraw the Notice by sending a copy of a letter to that effect to the California Attorney General and to the county district attorneys and city attorneys that were sent copies of the Notice on June 1, 2011.

5. In exchange for the terms of this Agreement, the Parties, on behalf of themselves and their respective owners, principals, shareholders, officers, directors, employees, agents, affiliates, parents, subsidiaries, servants, heirs, executors, administrators, successors and assigns, hereby mutually forever and fully release each other and their respective owners, shareholders, officers, directors, employees, agents, servants, heirs, executors, administrators, assigns and legal representatives of and from all claims, demands, damages, actions and causes of action of every kind and nature, known or unknown, arising out of or in connection with this Matter through the Effective Date.

6. After execution of the Agreement, ERC will submit to the California Attorney General a Report of Settlement on Form JUS 1501, as it is completed in Exhibit "A" attached hereto. In addition, ERC will provide to the California Attorney General the fully signed copy of this Settlement Agreement. The Parties acknowledge and agree that the Parties shall provide as much information as is requested by the California Attorney General, or any other governmental agency, regarding the Matter, its settlement, and this Agreement.

7. This Agreement contains the entire agreement between the Parties with regard to settlement of this Matter, and supersedes and replaces any and all prior or contemporaneous agreements or understandings, written or oral, with regard to the matters set forth in this Agreement. This Agreement may be amended or modified in whole or in part at any time only by an agreement in writing executed by all parties to this Agreement.

8. This Agreement shall be binding upon and shall inure to the benefit of the Parties and their respective owners, principals, shareholders, officers, directors, employees, agents, servants,

heirs, executors, successors, and assigns.

9. No inference, assumption or presumption shall be drawn, and no provision of this Agreement shall be construed against any of the Parties, based upon the fact that one of the Parties and/or one of the Parties' attorneys prepared and/or drafted all or any portion this Agreement. It is conclusively presumed all of the Parties participated equally in the preparation and drafting of this Agreement.

10. If any provision, term or section of this Agreement is found to be invalid, illegal or unenforceable, all remaining provisions, terms or sections shall continue in full force and effect and remain binding on the Parties. If any provision, term or section of this Agreement is determined to be unenforceable, such provision, term or section may be modified so that the unenforceable provision, term or section is enforceable to the greatest extent possible.

11. This Agreement shall be deemed to have been entered into in the State of California, and governed and interpreted by the laws of the State of California, regardless of the physical locations of the individuals executing this Agreement at the time of execution.

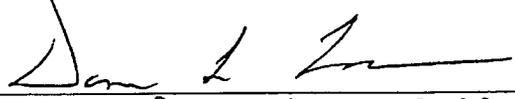
12. Any legal action to enforce this Agreement shall be brought in any county north of Tulare County, any of which is deemed to be the proper venue for such legal action. The prevailing party in any such legal action shall be entitled to recover for its attorney fees in addition to any other legally recoverable costs, but the party seeking to enforce this Agreement shall only be entitled to recover its attorney fees if it first seeks to resolve the dispute through mediation before bringing a legal action.

13. This Agreement may be signed in counterparts, and each counterpart, as well as any facsimile, e-mail or other copies of this Agreement or any counterparts, shall be deemed to be an original.

14. Each of the individuals who execute this Agreement represents and warrants they have the authority to execute this document and bind the party for whom they execute to the terms and conditions of this Agreement.

DATED: 27-Oct-2011

SUNSWEEP GROWERS INC.

By: 

Print Name: Dane L. LANCE

Title: C.O.O.

DATED: \_\_\_\_\_

ENVIRONMENTAL RESEARCH CENTER

By: \_\_\_\_\_

Chris Heptinstall, Executive Director

heirs, executors, successors, and assigns.

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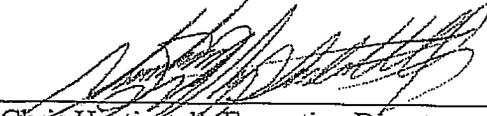
DATED: \_\_\_\_\_

SUNSWEET GROWERS INC.

By: \_\_\_\_\_  
Print Name: \_\_\_\_\_  
Title: \_\_\_\_\_

DATED: 10/26/11

ENVIRONMENTAL RESEARCH CENTER

By:   
Chris Heptinstall, Executive Director