

**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 **Integris Global, LP (“IG”)**. ERC and IG 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 IG on August 5, 2011 (the “Notice”), and the following products identified in the Notice, namely:

- E7 Essential Seven Natural Berry Flavor Nutritional Beverage Mix**
- Paragon**
- Cleanzyme**
- Cardio-Health**

(collectively, the above products shall be referred to herein as the “Covered Products”).

2. For purposes of this Agreement, IG acknowledges that they are a “person in the course of doing business” within the meaning of Proposition 65.

3. Nothing in this Agreement shall be construed, nor constitute, as an admission of IG 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.

4. In consideration of the following covenants of IG, and the other conditions contained in this Agreement, ERC releases IG as set forth in Paragraph 8. below:

a. IG agrees that after the Effective Date, IG shall not distribute into the state of California, directly sell into the State of California, or supply its Independent Business Owners (“IBOs”), wherever located, for sale into the State of California any Covered Product for which the maximum dose recommended on the label contains more than 0.5 micrograms (mcg) of lead, unless each individual product (in the form intended for sale to the end user) bears one of the warning statements specified in 3.b. below on its individual unit label or unit packaging.

b. If the daily lead exposure level is greater than 0.5 micrograms (mcg) for any lot of the Covered Products, the following warning shall be provided on the product labels of any of the product from that lot distributed in California, sold in California, or supplied to IBOs, wherever located, for sale in California:

**WARNING: This product contains lead, a chemical known to the State of California to cause birth defects or other reproductive harm.**

c. If the daily lead exposure level is 15 micrograms (mcg) or greater for any lot of the Covered Products, the following warning shall be provided on the product labels of any of the product from that lot distributed in California, sold in California, or supplied to IBOs, wherever located, for sale in California:

**WARNING: This product contains lead, a chemical known to the State of California to cause cancer, or birth defects or other reproductive harm.**

d. In the event that a warning is used, the warning shall be prominently and securely affixed to or printed upon the product label so as to be clearly conspicuous in accordance with Section 25603.1 of the California Code of Regulations, as compared with other statements or designs on the label as to render it likely to be read and understood by an ordinary purchaser or user of the product. If the warning is displayed on the product label, the warning shall be at least the same size as the largest of any other health or safety warnings on the product and the word “warning” shall be in all capital letters and in bold print.

e. If any of the Covered Products requires a warning pursuant to Paragraph 4.b. or 4.c., and only in instances where the Covered Product is contained or made part of a multiple product package or kit, the appropriate Proposition 65 warning label may be placed on the outside container or wrapping enclosing the multiple products as long as the warning complies with Paragraph 4.d. and also clearly identifies the particular Covered Product to which the warning applies. This provision would not apply in instances where products were combined in one box for shipping purposes.

f. IG acknowledges that as of the Effective Date they have discontinued the distribution and sales of the product Cardio Health in California, and IG agrees they will not reintroduce that product into the California marketplace, meaning they will not market, distribute, sell, or supply to IBOs, wherever located, for sale in California that product as currently formulated unless labeled with a Proposition 65 “cancer” warning pursuant to paragraph 4.c.

g. If the formula of the Covered Products is altered by the inclusion of a new or different ingredient (“New Ingredient”) then, IG agrees to conduct Lead testing of such New Ingredient. Additionally, if any of the ingredients in the Covered Products is sourced from a supplier different from that used for the Covered Products as of the effective date of this Agreement (the “New Source”), then IG agrees to conduct Lead testing of the Covered Products supplied by the New Source.

h. In the event that IG is required to conduct testing pursuant to Paragraph 4.g., IG shall test at least three (3) randomly selected samples of the Covered Products (in the form intended for sale to the end-user) to determine if the Products comply with Proposition 65, which at the time this Agreement is written means the daily exposure of Lead is no more than 0.5 micrograms (mcg) when taken as directed on the Covered Products’ label, or the appropriate warning is on the product. All testing done pursuant to Paragraph 4.g. 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 under this section 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.

i. The method of selecting samples for testing under Paragraph 4.g. 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).

j. If testing is required pursuant to Paragraph 4.g. IG shall arrange for copies of all test results and related laboratory report documentation relating to the testing for lead content of each of the Covered Products to be automatically sent by the testing laboratories directly to ERC within ten (10) business days after IG's receipt of such testing results.

k. IG shall have no duty to continue the above described testing required under Paragraph 4.g. after a minimum of three (3) tests confirm the daily lead exposure level of the Covered Products is in compliance with Proposition 65.

l. For purposes of this Agreement, daily lead exposure levels shall be measured in micrograms, and shall be calculated using the following formula: micrograms of lead per gram of product (lead content found using the above described testing), multiplied by grams of product per serving of the product (using the serving size appearing on the product label), multiplied by servings of the product per day (using the largest number of servings in a recommended dosage appearing on the product label), equals micrograms of lead exposure per day.

m. Nothing in this Agreement shall limit IG's ability to conduct, or require that others conduct, additional testing of the Covered Products, including the raw materials used in their manufacture.

5. In full and final satisfaction of civil penalties, payment in lieu of further civil penalties, ERC's expenses and costs of investigation, and ERC's attorney fees, IG shall make a total payment of \$60,000.00 ("Total Settlement Amount"). Paragraphs 5.a-5.e below describe the agreed partition and timing of payments of the Total Settlement Amount.

a. As a portion of the Total Settlement Amount, \$8,281.00 shall be considered a civil penalty pursuant to California Health and Safety Code §25249.7(b)(1). ERC shall remit 75% (\$6,211.00) of the civil penalties to the Office of Environmental Health Hazard Assessment ("OEHHA") for deposit in the Safe Drinking Water and Toxic Enforcement Fund in accordance with California Health and Safety Code §25249.12(c). ERC will retain the remaining 25% (\$2,070.00) of the civil penalty.

b. As a portion of the Total Settlement Amount, \$24,844.00 shall be considered a payment to ERC in lieu of further civil penalties for activities such as (1) funding the investigating, researching and testing of consumer products that may contain Proposition 65 listed chemicals; (2) funding grants to California non-profit foundations/entities dedicated to public health; (3) funding the ERC Eco Scholarship Fund for high school students in California interested in pursuing an education in the field of environmental sciences; (4) funding ERC's Operation Education Program designed to provide funding to educators in the State of California public school system for creative and effective environment and environmental sciences teaching

projects; (5) funding ERC's Voluntary Compliance Program to work with companies not subject to Proposition 65 to reformulate their products to reduce potential consumer exposures to Proposition 65 listed chemicals; (6) funding ERC's RxY Program to assist various medical personnel to provide testing assistance to independent distributors of various products; (7) funding ERC's Got Lead? Program to assist consumers in testing products for lead content; (8) funding post-settlement monitoring of past consent judgments; (9) funding to maintain ERC's database of lead-free products, Proposition 65-compliant products and contaminated products; (10) funding to track and catalog Proposition 65-compliant, contamination-free sources of ingredients used in the products ERC tests; (11) funding ERC's Cancer Scholarship Fund; and (12) funding the continued enforcement of Proposition 65 matters which address contaminated ingestible products, similar to the subject matter of this Action.

c. As a portion of the Total Settlement Amount, \$13,875.00 shall be considered a reimbursement to ERC for its reasonable investigation costs associated with the enforcement of Proposition 65 and other expenses and costs incurred as a result of investigating, bringing this matter to IG's attention, and negotiating a settlement in the public interest.

d. As a portion of the Total Settlement Amount, \$13,000.00 shall be considered a reimbursement to ERC for its attorney fees.

e. Within 5 days of the Effective Date, IG shall pay ERC the sum of ten thousand dollars, (\$10,000.00); within 35 days of the Effective Date, IG shall pay ERC the sum of ten thousand dollars (\$10,000.00); and for the next 4 months, due on the 1<sup>st</sup> day of each month, IG shall pay ERC the sum of ten thousand dollars (\$10,000.00) by checks made payable to "Environmental Research Center" and sent by first-class registered or certified mail, or overnight delivery, to ERC's counsel Karen A. Evans at the Law Office of Karen A. Evans, 4218 Bionia Place, San Diego, California 92116. In the event that any payment owed under this Agreement is not remitted on or before its due date, IG shall be deemed to be in default of its obligations under this Agreement and all future payments shall become immediately due and payable with the California statutory interest rate applying to all interest accruing on unpaid balances due hereunder, beginning on the due date of the funds in default.

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

7. In consideration of the following covenant of ERC, and the other terms and conditions contained in this Agreement, IG releases the claims against ERC as set forth in Paragraph 9 below:

8. ERC acting on its own behalf releases IG from all claims for violations of Proposition 65 up through the Effective Date based on exposure to Lead from the Covered Products as set forth in the Notice.

9. ERC, on its own behalf only, on one hand, and IG, on the other hand, release and waive any claims they may have against each other, and their officers, directors, employees, agents, representatives, and attorneys ("the Releasees") for all actions or statements made or undertaken

by the Releasees in the course of seeking or opposing enforcement of Proposition 65 in connection with the Notice.

10. Nothing in this Agreement is intended to apply to any claims for occupational or environmental exposures, which result in injury to consumers arising under Proposition 65, nor shall it apply to any of IG's products other than the Covered Products.

11. Nothing herein shall be construed as diminishing IG's continuing obligations to comply with Proposition 65.

12. After execution of the Agreement, ERC will submit to the California Attorney General a Report of Settlement on Form JUS 1501, or as currently required by the California Attorney General, and shall submit a copy of the Report of Settlement to IG. In addition, ERC will provide to the California Attorney General the fully signed copy of this 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.

13. 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.

14. 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.

15. 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.

16. 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.

17. 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.

18. Any legal action to enforce this Agreement shall be brought in any county of the State of California, 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.

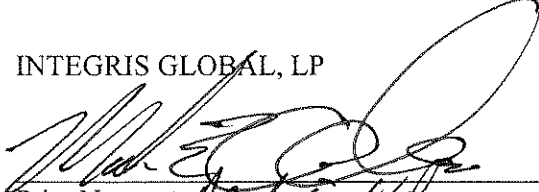
19. This Agreement may be signed in counterparts, and each counterpart, as well as any facsimile, e-mail or other copies of this Agreement or any counterparts, shall be deemed to be an original.

20. 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.

21. For purposes of this Agreement, the term "Persons" shall mean any individual, corporation, partnership, firm, joint venture, association, limited liability company, limited liability partnership, joint-stock company, trust, unincorporated organization, governmental entity or other entity.

DATED: 5/4/12

INTEGRIS GLOBAL, LP

By:   
Print Name: Mark E. Heptinstall  
Title: Chief Executive Officer

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

ENVIRONMENTAL RESEARCH CENTER

By: \_\_\_\_\_  
Chris Heptinstall, Executive Director