

SETTLEMENT AGREEMENT AND RELEASE

This Settlement Agreement and Release (this "Agreement") is made effective on the date last executed herein ("Effective Date") between Environmental Research Center, Inc. ("ERC") and Highland Laboratories, an Oregon Corporation. ERC and Highland Laboratories are hereinafter referred to collectively as "the Parties" and individually as a "Party." The Parties agree as follows:

1. INTRODUCTION

1.1 This "Matter" arises out of the alleged violations of California's Safe Drinking Water and Toxic Enforcement Act of 1986, California Health and Safety Code Section 25249.5 *et seq.* (also known as and hereinafter referred to as "Proposition 65") regarding the following products (hereinafter collectively the "Covered Products" or "Covered Product" to refer to a single product):

1. Highland Laboratories Mt. Angel Vitamin Company Para Response Travelers Intestinal Support
2. Highland Laboratories Mt. Angel Vitamin Company Feel Good Stress Support Formula
3. Highland Laboratories Mt. Angel Vitamin Company Joint Solution + With Hyaluronic Acid & MSM Improves Fluidity & Supports Joint Comfort
4. Highland Laboratories Mt. Angel Vitamin Company D-TOX Supports Healthy Liver Function
5. Highland Laboratories Mt. Angel Vitamin Company Good Energy & Endurance Support
6. Highland Laboratories Mt. Angel Vitamin Company Good & Clean Supports Intestinal Health
7. Highland Laboratories Mt. Angel Vitamin Company Maximum Male Vital Energy Support For Men
8. Highland Laboratories Mt. Angel Vitamin Company Adrenal Boost Supports Adrenal Energy

1.2 ERC is a California non-profit corporation acting as a private enforcer of Proposition 65 that is dedicated to, among other causes, helping safeguard California consumers from health hazards by reducing the use and misuse of hazardous and toxic chemicals, facilitating a safe environment for consumers and employees, and encouraging corporate responsibility. ERC brings this Matter pursuant to California Health and Safety Code Section 25249.7.

1.3 Highland Laboratories is a "Person" within the meaning of Health and Safety Code Section 25249.11(a). Highland Laboratories manufactures, distributes and sells the Covered Products.

1.4 On September 13, 2013, pursuant to California Health and Safety Code Section 25249.7(d)(1), ERC served a Notice of Violations of Proposition 65 (“Notice of Violations”) on the California Attorney General, other public enforcers, and Highland Laboratories. A true and correct copy of the Notice of Violations is attached hereto as Exhibit “A.”

1.5 The Notice of Violations alleges that Highland Laboratories manufactured, distributed, and/or sold in California the Covered Products containing lead, a chemical listed under Proposition 65 as a carcinogen and reproductive toxin, and exposed consumers at a level requiring a Proposition 65 warning. Further, the Notice of Violations alleges that use of the Covered Products exposes persons in California to lead without first providing clear and reasonable warnings, in violation of California Health and Safety Code Section 25249.6. Highland Laboratories denies all material allegations of the Notice of Violation, asserts numerous affirmative defenses, and specifically denies that the Covered Products require a Proposition 65 warning or otherwise cause harm to any person.

1.6 The Parties enter into this Agreement in order to settle, compromise and resolve disputed claims and avoid prolonged and costly litigation. Nothing in this Agreement, nor compliance with its terms, shall constitute or be construed as an admission by any of the Parties, or by any of their respective officers, directors, shareholders, employees, agents, parent companies, subsidiaries, divisions, affiliates, suppliers, franchisees, licensees, distributors, wholesalers, or retailers, of any fact, conclusion of law, issue of law, violation of law, fault, wrongdoing, or liability, including without limitation, any admission concerning any alleged violation of Proposition 65. Except as expressly set forth herein, nothing in this Agreement shall prejudice, waive, or impair any right, remedy, argument, or defense the Parties may have in any other or future legal proceeding unrelated to these proceedings. However, nothing in this Section shall affect the enforceability of this Agreement.

2. INJUNCTIVE RELIEF, REFORMULATION, TESTING, AND WARNINGS

2.1 Beginning on the Effective Date, Highland Laboratories shall be permanently enjoined from manufacturing for sale in California, directly selling to a consumer in California or “Distributing into California” any of the Covered Products for which the maximum daily dose recommended on the label contains more than 0.5 micrograms (μg) of lead, unless such Covered Product complies with the warning requirements in Section 2.3 or qualifies as a “Reformulated Covered Product” pursuant to Section 2.4. “Distributing into California” means to ship any of the Covered Products into California for sale, or to sell any of the Covered Products to a distributor that Highland Laboratories knows or has reason to know will sell the Covered Product in California.

2.2 Calculation of Lead Levels

As used in this Agreement, lead levels are calculated pursuant to the testing protocol described in Section 2.5. For purposes of measuring the lead, the highest lead detection result of the three (3) randomly selected samples of the Covered Product will be controlling. A “randomly selected sample” is defined as a sample selected randomly from a production run consisting of not less than 20 tablets or capsules.

2.3 Clear and Reasonable Warnings

For those Covered Products that are subject to the warning requirement of Section 2.1, Highland Laboratories shall provide the following warning ("Warning") as specified below:

[California Proposition 65] WARNING: This product contains [lead,] a chemical known to the State of California to cause [cancer and] birth defects or other reproductive harm.

The text in brackets in the warnings above is optional, except that the term "cancer" must be included only if the maximum daily dose recommended on the label contains more than 15 micrograms of lead.

The Warning shall be permanently affixed to or printed on (at the point of manufacture, prior to shipment to California, or prior to distribution within California) the outside packaging or container of each unit of the Covered Product. The Warning shall be displayed with such conspicuousness, as compared with other words, statements designs or devices on the packaging or labeling, as to render it likely to be read and understood by an ordinary individual prior to purchase. If the Warning is displayed on the Covered Product's container or labeling, the Warning shall be at least the same size as the largest of any other health or safety warnings on the product container or labeling, and the word "WARNING" shall be in all capital letters. If printed on the labeling itself, the Warning shall be contained in the same section of the labeling that states other safety warnings concerning the use of the Covered Product. No other statements regarding Proposition 65 or lead will accompany the Warning.

2.4 Reformulated Covered Products

A Reformulated Covered Product is one for which the maximum recommended daily serving on the label contains no more than 0.5 micrograms of lead per day.

2.5 Testing and Quality Control Methodology

(a) Beginning within one year of the Effective Date, Highland Laboratories shall test three (3) randomly selected samples of each Covered Product (in the form intended for sale to the end-user) for lead content. The testing requirement does *not* apply to any of the Covered Products for which Highland Laboratories has provided the Warning specified in Section 2.3.

(b) 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 any other testing method subsequently agreed to in writing by the Parties.

(c) All testing pursuant to this Agreement shall be performed by an independent third-party laboratory certified by the California Environmental Laboratory Accreditation Program or a laboratory that is registered with the United States Food & Drug Administration.

(d) Highland Laboratories shall retain all test results and documentation for a period of four (4) years from the date of the test.

(e) Highland Laboratories shall test each of the Covered Products at least twice a year, or test once a year only for those Covered Products for which only one lot is manufactured in that year, for a minimum of four (4) consecutive years by testing three (3) randomly selected samples of each Covered Product which Highland Laboratories intends to sell or is manufacturing for sale in California, directly selling to a consumer in California, or Distributing into California. If tests conducted pursuant to this Section demonstrate that no warning is required for a Covered Product during each of four (4) consecutive years, then the testing requirements of this Section will no longer be required as to that Covered Product.

(f) 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, multiplied by grams per serving of the product (using the largest serving size appearing on the product label), multiplied by servings of the product per day (using the largest number of servings in the recommended dosage appearing on the product label), which equals micrograms of lead exposure per day.

3. SETTLEMENT PAYMENT

3.1 In full satisfaction of all potential civil penalties, payment in lieu of civil penalties, attorney's fees and costs, Highland Laboratories shall make a total settlement payment of \$40,500.00 ("Total Settlement Amount") to ERC according to the following schedule:

- a. \$10,125.00 within ten (10) days of the Effective Date.
- b. \$10,125.00 within forty (40) days of the Effective Date.
- c. \$10,125.00 within seventy (70) days of the Effective Date
- d. \$10,125.00 within one hundred (100) days of the Effective date

Highland Laboratories shall make these payments by wire transfer to ERC's escrow account, for which ERC will give Highland Laboratories the necessary account information. The Total Settlement Amount shall be distributed by ERC as follows:

3.2 \$7,000.00 as civil penalties pursuant to California Health and Safety Code Section 25249.7(b)(1). Of this amount, \$5,250.00 shall be distributed to the Office of Environmental Health Hazard Assessment ("OEHHA"), and \$1,750.00 shall be distributed to ERC. (Cal. Health & Safety Code § 25249.12(c)(1) & (d)). ERC's counsel will forward the civil penalty to OEHHA.

3.3 \$1,406.91 shall be distributed to ERC as reimbursement to ERC for reasonable costs incurred in bringing this Matter.

3.4 \$10,379.00 shall be distributed to ERC in lieu of further civil penalties, for the day-to-day business activities such as (1) continued enforcement of Proposition 65, which

includes work, analysis and testing of consumer products that may contain Proposition 65 chemicals, focusing on the same or similar type of ingestible products that are the subject matter of this Matter; and (2) the continued monitoring of past consent judgments and settlements to ensure companies are complying with Proposition 65.

3.5 \$7,490.00 shall be disbursed to William F. Wraith as reimbursement of ERC's attorney's fees while \$14,224.09 shall be distributed to ERC for reimbursement of its in-house legal fees.

3.6 Highland Laboratories' failure to remit payment before its due date shall be deemed a material breach of this Agreement.

4. APPLICATION OF AGREEMENT

This Agreement shall apply to, be binding upon, and benefit the Parties and their respective officers, directors, shareholders, employees, agents, parent companies, subsidiaries, divisions, affiliates, franchisees, licensees, customers (excluding private labelers), distributors, wholesalers, retailers, predecessors, successors, and assigns.

5. BINDING EFFECT, CLAIMS COVERED AND RELEASED

5.1 ERC acting on its own behalf releases Highland Laboratories 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 of Violations.

5.2 Compliance with the terms of this Agreement shall be deemed to constitute compliance by any Released Party with Proposition 65 regarding alleged consumer exposures to lead in the Covered Products as set forth in the Notice of Violations.

5.3 ERC, on one hand, and Highland Laboratories, on the other hand, each release and waive all claims they may have against each other for any statements or actions made or undertaken by them in connection with the Notice of Violations. However, this shall not affect or limit any Party's right to seek to enforce the terms of this Agreement.

5.4 Unknown Claims

It is possible that other claims not known to the Parties arising out of the facts alleged in the Notice of Violations and relating to lead in the Covered Products that were manufactured before the Effective Date will develop or be discovered. ERC, on behalf of itself only, acknowledges that this Agreement acknowledges the claims released herein may include unknown claims, and nevertheless waives 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 WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN

BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR.”

ERC, on behalf of itself only, acknowledges and understands the significance and consequences of this specific waiver of California Civil Code section 1542.

6. CONSTRUCTION AND SEVERABILITY

6.1 The terms and conditions of this Agreement have been reviewed by the respective counsel for the Parties prior to its signing, and each Party has had an opportunity to fully discuss the terms and conditions with its counsel. In any subsequent interpretation or construction of this Agreement, the terms and conditions shall not be construed against any Party.

6.2 In the event that any of the provisions of this Agreement is held by a court to be unenforceable, the validity of the remaining enforceable provisions shall not be adversely affected.

6.3 The terms and conditions of this Agreement shall be governed by and construed in accordance with the laws of the State of California.

7. PROVISION OF NOTICE

All notices required to be given to either Party to this Agreement by the other shall be in writing and sent to the following agents listed below by: (a) first-class, registered, (b) certified mail, (b) overnight courier, or (c) personal delivery to the following:

For Environmental Research Center:
Chris Heptinstall, Executive Director
Environmental Research Center
3111 Camino Del Rio North, Suite 400
San Diego, CA 92108

With a copy to:

William F. Wraith, Esq.
Wraith Law
16485 Laguna Canyon Road, Suite 250
Irvine, CA 92618

For Highland Laboratories:
Candy Scott, CEO
Highland Laboratories, Inc.
110 S. Garfield Street
P.O. Box 199
Mount Angel, OR 97362

With a copy to:

Stanley W. Landfair, Esq.
Rebecca L. Woodson, Esq.
McKenna Long & Aldridge LLP
One Market Plaza, Spear Tower, 24th Floor
San Francisco, CA 94105

9. EXECUTION AND COUNTERPARTS

This Agreement may be executed in counterparts, which taken together shall be deemed one document. A facsimile or pdf signature shall be construed as valid and as the original signature.

10. MISCELLANEOUS

10.1. This Agreement contains the sole and entire agreement and understanding of the Parties with respect to the entire subject matter herein, and any and all prior discussions, negotiations, commitments and understandings related hereto. No representations, oral or otherwise, express or implied, other than those contained herein have been made by any Party. No other agreements, oral or otherwise, unless specifically referred to herein, shall be deemed to exist or to bind any Party.

10.2. Each signatory to this Agreement certifies that he or she is fully authorized by the Party he or she represents to stipulate to this Agreement.

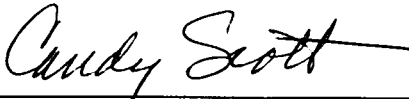
10.3. Except as explicitly provided herein, each Party shall bear its own fees and costs.

10.4. The headings herein are for ease of reading and are not meant to provide any independent interpretation and should not be considered as part any term of the Agreement.

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

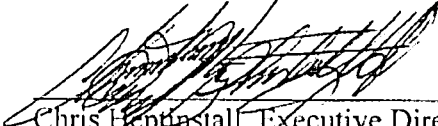
DATED: 11/7/2014

HIGHLAND LABORATORIES

By: 
Candy Scott, CEO

DATED: 11/7/2014

ENVIRONMENTAL RESEARCH CENTER, INC.

By: 
Chris Hepinstall, Executive Director