

## SETTLEMENT AGREEMENT AND RELEASE

This Settlement Agreement and Release (this "Agreement") is made effective on the date on which it is fully executed (the "Effective Date") between Environmental Research Center, Inc. ("ERC") and Natura, Inc. dba Natura Health Products, Inc. ("Natura"). ERC and Natura are referred to individually as a "Party" and 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 Violation of California Health & Safety Code §25249.5, *et seq.* (also known as "Proposition 65") that ERC served on Natura on April 4, 2014 (the "Notice"), and the products identified below (the "Covered Products").

- a) **Natura Health Products Inc. Aller-Res-Q Raspberry-Lemon Flavored**
- b) **Natura Health Products Inc. Botanabol**
- c) **Natura Health Products Inc. Botanical Treasures**
- d) **Natura Health Products Inc. Nutri-One**
- e) **Natura Health Products Inc. IG Sensitizer**
- f) **Natura Health Products Inc. Cardio Tonic-BP**
- g) **Natura Health Products Inc. Immucare I**
- h) **Natura Health Products Inc. Meno-Breeze**
- i) **Natura Health Products Inc. Immucare II**

2.1 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.

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

2.3 On April 4, 2014, 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 Natura. A true and correct copy of the Notice of Violations is attached hereto as **Exhibit "A."**

2.4 The Notice of Violations alleges that Natura 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. Natura 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.

2.5 The Parties enter into this Agreement in order to achieve a settlement of the claims as stated in Section 1 for the purpose of avoiding prolonged litigation. Nothing in this Agreement shall be construed as an admission of ERC or Natura of any fact, issue of law, or violation of law, nor shall compliance with this Agreement constitute or be construed as an admission by Natura of any fact, issue of law or violation of law. Nothing in this Agreement or any document referred to herein, shall be construed as giving rise to any presumption or inference of admission or concession by Natura as to any fault, wrongdoing or liability whatsoever. The Parties agree that this Section 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 Natura, and the other conditions contained in this Agreement, ERC releases Natura as set forth in Section 7 below:

a. Natura agrees that all Covered Products produced and offered for sale in California (and offered for sale to a third party for retail sale in California) on and after the Effective Date, shall comply with California law, including Proposition 65.

b. Beginning on the Effective Date, Natura shall not manufacture for sale in the State of California, distribute into the State of California<sup>1</sup>, or directly sell in the State of California, any Covered Products which expose a person to a daily dose of lead more than 0.5 micrograms of lead per day when the maximum suggested dose is taken as directed on the Covered Product's label, unless each such unit of the Covered Products bears the following warning statement, or on its individual unit label packaging or by sticker securely affixed on the container or bottle cap:

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

c. If Proposition 65 or its implementing regulations are modified in the future, Natura may utilize the modified alternative warning language.

d. The term "cancer" shall be included in the warning only if the maximum recommended daily dose causes an exposure to more than 15 micrograms of lead when taken as directed on the Covered Product's label. The phrase "a chemical" shall be utilized for Covered Products that Natura has knowledge contain one Proposition 65 chemical while the term "chemicals" may be used in warnings of Covered Products that Natura has knowledge contain more than one Proposition 65 chemical.

e. The warning statement set forth in Section 3b. shall be prominent and displayed securely on either the cap, the unit packaging, or by a sticker securely affixed to the Covered Products with such conspicuousness, as compared with other words, statements, or

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<sup>1</sup> As used in this Settlement Agreement and Release, the term "distribute into the State of California" shall mean to directly ship a Covered Product into California for sale in California or to sell a Covered Product to a distributor that Natura knows will sell the Covered Product in California.

designs so as to render it likely to be read and understood by an ordinary individual purchasing or using the Covered Products. The warning appearing on the label or container shall be at substantially the same size as the largest of any other health or safety warnings correspondingly appearing on the label or container, as applicable, or such product, and the word "WARNING" shall be in capital letters. No other statements may accompany the warning.

f. Natura shall arrange, for at least three (3) consecutive years and at least once per year, for the lead testing of five (5) randomly-selected samples of each new lot manufactured each calendar year for each Covered Product to confirm whether the maximum recommended daily dose is more or less than 0.5 micrograms of lead when taken pursuant to the directions on the Covered Product's label.

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 of product 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 a recommended dosage appearing on the product label), which equals micrograms of lead exposure per day. Natura shall provide ERC with any related documentation pursuant to Section 3.g.2, and shall include the lot identification numbers of the lots tested. The first test shall commence no later than six months from the Effective Date. Natura shall test samples in the form intended for the end-user to be distributed or sold to California consumers.

The testing requirement does *not* apply to any of the Covered Products for which Natura has provided the Warning specified in Section 3b.

g. If Natura is successful with reformulation for any of the Covered Products, and reduces the lead content to 0.5 micrograms or below when taken pursuant to the maximum suggested dose as directed on the Covered Product's label, the Parties agree that the Covered Products may be offered for sale in California without the warning stated in Section 3b. If Natura is successful with reformulation on any of the Covered Products, Natura shall notify ERC and provide any test results for the Covered Products that document this change in formulation, no longer than 15 days after Natura's receipt of the test results.

(1) Pursuant to Sections 3f. and 3g., any such testing shall be performed by an independent third-party laboratory certified by the California Environmental Laboratory Accreditation Program for the analysis of heavy metals or an independent third-party laboratory that is registered with the United States Food & Drug Administration. The method of selecting samples for testing must comply with the regulations of the Food & Drug Administration as set forth in Title 21, Part 111, Subpart E of the Code of Federal Regulations, including Section 111.80(c). Testing for lead shall be performed using Inductively Coupled Plasma-Mass Spectrometry (ICP-MS) achieving a limit of quantification of less than or equal to 0.010 mg/kg or any other testing method agreed upon in writing by the Parties. Nothing in this Agreement shall limit Natura's ability to conduct or require that others conduct additional testing of the Covered Products, including raw materials used in their manufacture. In the alternative, Natura may accept the Certificates of Analysis provided by its manufacturers on the finished

product, provided their testing laboratory is registered with the FDA, and the method of selecting samples complies with FDA regulations.

(2) Pursuant to Sections 3f. and 3g., Natura shall retain copies of its test data from the date testing commenced and shall provide all test data to ERC within 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 three (3) years from the Effective Date.

h. The requirements of Section 3 will only apply to any time in which Natura is a "person in the course of doing business," as that term is defined in Health and Safety Code Section 25249.11(b). Natura represents that during periods when the Covered Products were placed in the stream of commerce it was a person in the course of doing business because it employed 10 or more employees.

4. In the event that ERC tests the Covered Products at a later date and the test results indicate that the Covered Products contain greater than the 0.5 µg/day of lead for which ERC alleges that no warning has been provided, then ERC shall inform Natura in a reasonably prompt manner of its test results, including information sufficient to permit Natura to identify the Covered Products at issue. Natura shall, within thirty days following such notice, provide ERC with testing and/or other information demonstrating Natura's compliance with the Agreement. The Parties shall first attempt to resolve this matter amicably prior to ERC taking any further legal action.

5. In full satisfaction of all potential civil penalties, payment in lieu of civil penalties, attorney's fees, and costs, Natura shall make a total payment of \$45,000.00 (Total Settlement Amount") to ERC. The Total Settlement Amount shall be made in nine (9) payments with the first payment of \$10,000.00 due and owing five (5) days from the Effective Date followed by eight equal payments of \$4,375.00 due and owing on the twentieth day of each successive month. Natura shall make this payment by wire transfer to ERC's escrow account, for which ERC will give Natura the necessary account information. Sections 5.a-5.e below describes the agreed partition of the Total Settlement Amount.

a. As a portion of the Total Settlement Amount, \$10,560.00 shall be considered a civil penalty pursuant to California Health and Safety Code §25249.7(b)(1). ERC shall remit 75% (\$7,920.00) of the civil penalty 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% (\$2,640.00) of the civil penalty.

b. As a portion of the Total Settlement Amount, \$1,470.09 shall be considered a reimbursement to ERC's costs incurred as a result of bringing this matter to Natura's attention and negotiating a settlement.

c. \$15,849.50 shall be considered payment in lieu of civil penalties, for day-to-day business activities such as (1) continued enforcement of Proposition 65, which includes

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

d. As a portion of the Total Settlement Amount, \$517.50 shall be considered reimbursement of attorney fees for Ryan Hoffman and \$5,715.00 shall be considered reimbursement of attorney fees for Michael Freund while \$10,887.91 shall be considered reimbursement for ERC's in-house legal fees.

e. In the event that Natura fails to remit the payment owed under Section 5 of this Settlement Agreement on or before the due date, Natura shall be deemed to be in material breach of its obligations under this Agreement.

6. Except as expressly set forth in Section 5, Natura and ERC shall bear their own costs, expenses, and attorneys' fees related to this Matter.

7. ERC, on behalf of itself and its respective owners, principals, shareholders, officers, directors, employees, agents, affiliates, parents, subsidiaries, servants, heirs, executors, administrators, successors, assigns, and legal representatives, releases Natura from all claims for violations of Proposition 65 based on exposure to lead from the Covered Products as set forth in the Notice up to and including the Effective Date.

8. The Parties hereby agree that this Agreement applies to Natura, and fully releases Natura, its parents, subsidiaries, affiliates (including those companies that are under common ownership and/or common control), shareholders, directors, members, managers, officers, employees, and attorneys, and each entity to whom each of them directly or indirectly distributed or sold the Covered Products, including but not limited to manufacturers, distributors, wholesalers, customers, retailers, franchisees, and any other person or entity in the course of doing business who distributed, marketed, or sold the products, [and excluding private label customers,] from all claims asserted in the Notice.

9. ERC, on its own behalf, on one hand, and Natura, on the other hand, release and waive any claims they may have against each other, and their shareholders, officers, directors, members, managers, 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 Release is intended to apply to any occupational or environmental exposures arising under Proposition 65, except as otherwise provided in this agreement, nor shall it apply to any of Natura's products other than the Covered Products.

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

12. After execution of this Agreement, ERC will submit to the California Attorney General a Report of Settlement. In addition, ERC will provide to the California Attorney General a 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 this 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 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 the Parties.
14. This Agreement shall be binding upon and shall inure to the benefit of the Parties and their respective owners, principals, shareholders, members, managers, affiliates, 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 of this Agreement. It is conclusively presumed that 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, then 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, then 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. The Parties acknowledge that they have a right to consult an attorney and they have consulted their attorneys with respect to the terms and conditions of this Agreement or by signing this Agreement hereby acknowledge they have made the decision not to consult with an attorney in this Matter. The Parties further acknowledge that they fully understand this Agreement and the effect of signing and executing this Agreement.
19. The Parties are aware and acknowledge that this Agreement is an out-of-court settlement and that they will not receive the protections afforded by a court-approved consent judgment. The Parties are entering into this Agreement in good faith and in an effort to settle all claims and allegations related to the Notice, and this Agreement applies only to the claims made by ERC and to the products identified in the Notice.
20. 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 its attorneys' fees in addition to any other legally recoverable costs.

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

22. Each of the individuals who execute this Agreement represents and warrants they have the authority to execute this document and bind the respective Parties to the terms and conditions of this Agreement, and have read, understand, and agree to all the terms and conditions in this Agreement.

23. 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.

24. 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:**

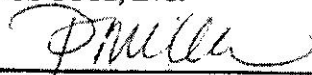
Chris Heptinstall, Executive Director  
Environmental Research Center  
3111 Camino Del Rio North, Suite 400  
San Diego, CA 92108

**For Natura:**

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

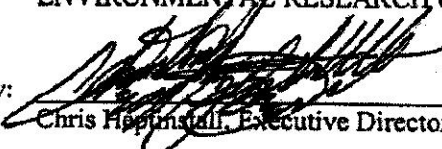
DATED: 1/21/15

NATURA, INC. dba NATURA HEALTH  
PRODUCTS, INC.

By:   
Paulcen Miller  
Title: Chief Operations Officer

DATED: 1/19/2015

ENVIRONMENTAL RESEARCH CENTER, INC.

By:   
Chris Heptinstall, Executive Director