

Settlement Agreement and Release

This Settlement Agreement and Release (“the Agreement”) between Center for Advanced Public Awareness, Inc. (“CAPA”) and Humboldt Patient Resource Center, Inc. (“HPRC”) is effective of the date on which it is fully executed (“Effective Date”). CAPA and HPRC are referred to individually as a “Party” and collectively as the “Parties.” The Parties agree as follows:

1. This matter arises out of the Notice of Violation of California Health & Safety Code § 25249.5, *et seq.* (also known as “Proposition 65”) that CAPA served on HPRC on February 17, 2017 (the “Notice”) with regard to all medical marijuana “flowers” or “buds” sold to California residents by HPRC (referred to collectively as “Subject Products”).

2. The Parties enter into this Agreement in order to fully resolve all claims, demands, and allegations regarding the Notice and HPRC’s counterclaims against CAPA and for the purpose of avoiding prolonged litigation. Nothing in this Agreement shall be construed as an admission of the Parties of any fact, issue of law, or violation of law, nor shall compliance with this Agreement constitute or be construed as an admission by the Parties of any fact, issue of law or violation of law. HPRC expressly denies any failure to provide Proposition 65 Warnings and any liability under California law for failure to comply with Proposition 65. Nothing in this Agreement or any document referred to shall be construed as giving rise to any presumption or inference of admission or concession by the Parties as to any fault, wrongdoing or liability. This Section shall not diminish or otherwise affect the obligations, responsibilities, and duties of the Parties under this Agreement.

3. **INJUNCTIVE RELIEF AND WARNINGS**

In consideration of the following covenants and conditions contained in this Agreement, the Parties have provided the releases as set forth in Section 6 below:

3.1 If HPRC wishes to distribute or sell Subject Products in California, it must comply with Proposition 65 by providing a Warning prior to the Effective Date. HPRC agrees to continue to comply with Proposition 65 by providing Warnings as mandated by California law.

3.2 **Clear and Reasonable Warnings**

If HPRC is required to provide a Warning pursuant to Proposition 65, HPRC will comply with the Warnings set forth in 3.2.1 through 3.2.4.

The Warnings in Sections 3.2.1 through 3.2.4 shall be at least the same size as the largest of any other health or safety warning also appearing on HPRC’s website or on the label or container of HPRC’s product packaging and the word “**WARNING**” shall be in all capital letters and in bold print. No statements intended to or likely to have the effect of diminishing the impact of, or reducing the clarity of, the Warning on the average lay person shall accompany the Warning. Further, no statements may accompany the Warning that state or imply that the source of the listed chemical has an impact on or results in a less harmful effect of the listed chemical.

HPRC must display the Warnings in Sections 3.2.1 through 3.2.4 with such conspicuousness, as compared with other words, statements, design of the label, container, or on


its website, as applicable, to render the Warning likely to be read and understood by an ordinary individual under customary conditions of purchase or use of the product.

3.2.1 In-Store and Product Label Warnings.


HPRC must post either (1) in-store warning signs (“In-Store-Warnings”) or (2) a warning label on the packaging, labeling, or directly on each Subject Product (“Product Label Warning”) sold in retail store(s) or through a delivery service, if any, in California.

If a Product Label Warning is not used then an In-Store Warning shall be provided at two or more of the following locations: a) at or near each cash register in the store; b) at or near each display case in the store; or c) at or near the entrance to the store.

The warning must be substantially similar to the following and may also include a warning concerning birth defects or other reproductive harm (bracketed [] language below may be added at the sole discretion of Defendant):

 **WARNING: This product contains a chemical (Marijuana Smoke) known to the State of California to cause cancer [and other chemicals that may cause birth defects or other reproductive harm].**

or

 **WARNING: Smoking [or consuming] marijuana products can expose you to chemicals including marijuana smoke, which is known to the State of California to cause cancer[, and _____, which is known to the State of California to cause birth defects or other reproductive harm]. For more information go to www.P65Warnings.ca.gov.**

or

 **WARNING: Cancer [and Reproductive Harm]- www.P65Warnings.ca.gov.**

3.2.2 Internet Website Warnings

For all Subject Products that are advertised on a website as offered for sale at Defendant’s dispensary or available for delivery directly to Defendant’s dispensary members, a Warning that complies with the content requirements of Section 25603(a) and Section 3.2.1 above must also be provided by including either the Warning or a clearly marked hyperlink using the word “WARNING” on the Subject product display page, or by otherwise prominently displaying the Warning to the purchaser prior to completing the purchase.


3.2.3 Membership Warnings


Defendant shall provide a warning in its Membership Agreement consistent with the

warning language for Product Label and In-Store Warnings in Section 3.2.1.

3.2.4 Point-of-Sale Warnings.

In order that customers will view the Warnings before making the decision to purchase the Subject Products at the dispensary, HPRC shall post a Warning sign, in the form below, using two or more of the following point-of-sale warning options: (a) at or near each cash register in the store; (b) at or near each display case in the store; or (c) on a stanchion (crowd control post) message sign located at the front of each of the cash register entry lines, closest to the register. The Warning shall be at least 8 ½ inches by 11 inches, and posted at a height and location that will make it conspicuous and easy to read for the average person. The text of the Warning shall be printed in black ink, in a font that is easy to read, legible, but in no case less than a size 36 Font.

 **WARNING: This product contains a chemical (Marijuana Smoke) known to the State of California to cause cancer [and other chemicals that may cause birth defects or other reproductive harm].**

 **WARNING: This product can expose you to chemicals including Marijuana Smoke, which is known to the State of California to cause cancer. For further information, go to www.P65Warnings.ca.gov.**

4. In full satisfaction of all potential civil penalties, attorney’s fees, and costs, HPRC shall make a payment of \$50,000.00 (“Total Settlement Amount”). The Total Settlement Amount shall be paid in a single payment. The Total Settlement Amount of \$50,000.00 shall be due five (5) days after the Effective Date. The Total Settlement Amount shall be allocated as follows:

a. \$25,578.00 shall be considered a civil penalty pursuant to California Health and Safety Code §25249.7(b)(1). CAPA shall remit 75% (\$19,183.50) 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). CAPA will retain the remaining 25% (\$6,394.50) of the civil penalty.

b. \$1,856.00 shall be considered a reimbursement to CAPA for reasonable costs in bringing this action.

c. \$22,566.00 shall be considered a reimbursement of reasonable attorney’s fees for Aqua Terra Aeris Law Group.

d. In the event that HPRC fails to remit a payment pursuant to Section 4 within five (5) days after the Effective Date, HPRC shall be deemed to be in material breach of its obligations under this Agreement. CAPA shall provide written notice of the delinquency to HPRC via electronic mail. If HPRC fails to deliver the delinquent payment within five (5) days from the written notice, the Total Settlement Amount shall be immediately due and owing and shall accrue interest at the statutory judgment interest rate provided in the Code of Civil

Procedure §685.010. Additionally, HPRC agrees to pay CAPA's reasonable attorney's fees and costs for any efforts to collect the payment due under this Agreement.

5. Except as expressly set forth in Section 4, the Parties shall bear their own costs, expenses, and attorney's fees related to the Notice.

6. Binding Effect; Claims Covered and Released

6.1 This Settlement Agreement is a full, final, and binding resolution between CAPA, on behalf of itself and in the public interest, and HPRC and its respective officers, directors, shareholders, employees, agents, parent companies, subsidiaries, divisions, suppliers, franchisees, licensees, customers (not including private label customers of HPRC), distributors, wholesalers, retailers, and all other upstream and downstream entities in the distribution chain of any Subject Product, and the predecessors, successors, and assigns of any of them (collectively, "Released Parties"). CAPA, on behalf of itself and in the public interest, hereby fully releases and discharges the Released Parties from any and all claims, actions, causes of action, suits, demands, liabilities, damages, penalties, fees, costs, and expenses asserted, or that could have been asserted from the handling, use, or consumption of the Subject Products, as to any alleged violation of Proposition 65 or its implementing regulations arising from the failure to provide Proposition 65 warnings on the Subject Products regarding lead up to and including the Effective Date.

6.2 CAPA on its own behalf only, and HPRC on its own behalf only, further waive and release any and all claims they may have against each other for all actions or statements made or undertaken in the course of seeking or opposing enforcement of Proposition 65 in connection with the Notice up through and including the Effective Date, provided, however, that nothing in Section 6 shall affect or limit any Party's right to seek to enforce the terms of this Settlement Agreement.

6.3 It is possible that other claims not known to the Parties, arising out of the facts alleged in the Notice, and relating to the Subject Products, will develop or be discovered. CAPA on behalf of itself only, and HPRC on behalf of itself only, acknowledge that this Settlement Agreement is expressly intended to cover and include all such claims up through and including the Effective Date, including all rights of action therefore. CAPA and HPRC acknowledge that the claims released in Sections 6.1 and 6.2 above may include unknown claims, and nevertheless waive California Civil Code section 1542 as to any such unknown claims. California Civil Code section 1542 reads as follows:

(i) 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.

CAPA on behalf of itself only, and HPRC on behalf of itself only, acknowledge and understand the significance and consequences of this specific waiver of California Civil Code section 1542.

6.4 Compliance with the terms of this Settlement Agreement shall be deemed to constitute compliance with Proposition 65 by any release regarding alleged exposures to lead in the Subject Products as set forth in the Notice.

6.5 Nothing in this Settlement Agreement is intended to apply to any occupational or environmental exposures arising under Proposition 65, nor shall it apply to any HPRC's products other than Subject Products.

7. Nothing herein shall be construed as diminishing HPRC's continuing obligations to comply with Proposition 65. To the extent that failure to comply with this Agreement constitutes a violation of Proposition 65 or other laws, CAPA may seek whatever fines, costs, penalties, or remedies as are provided for law for failure to comply with Proposition 65 or other laws.

8. 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 via first-class mail. Courtesy copies via email may also be sent.

FOR CENTER FOR ADVANCED PUBLIC AWARENESS, INC.:

MATTHEW C. MACLEAR
ANTHONY M. BARNES
AQUA TERRA AERIS LAW GROUP
828 San Pablo Ave., Suite 115B
Albany, CA 94706
Ph: 415 – 568 – 5200
Email: mcm@atalawgroup.com

HUMBOLDT PATIENT RESOURCE CENTER, INC.:

PAUL V. GALLEGOS
GALLEGOS LAW FIRM
804 Third St., Suite C
Eureka, CA 95501
707 – 441 – 8477
Email: paul@gallegoslaws Humboldt.com

9. After executing this Agreement, CAPA will submit to the California Attorney General a Report of Settlement. In addition, CAPA 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 non-privileged information as is requested by the California Attorney General, or any other governmental agency, regarding this Notice, its settlement, and this Agreement.

10. This Agreement contains the entire agreement between the Parties with regard to settlement of the Notice, and supersedes all prior or contemporaneous agreements or

understandings, written or oral, with regard to the Notice as set forth in this Agreement. This Agreement may be amended or modified as to injunctive terms only in whole or in part at any time only by an agreement in writing executed by the Parties.

11. This Agreement shall be binding upon and shall inure to the benefit of the Parties and their respective owners, principals, shareholders, members, managers, officers, directors, employees, agents, successors, and assigns.

12. 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.

13. 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.

14. 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.

15. 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 regarding the Agreement. The Parties further acknowledge that they fully understand this Agreement and the effect of signing and executing this Agreement.

16. Any legal action to enforce this Agreement shall be brought in the county of Humboldt of the State of California. .

17. 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.

18. 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.

[SIGNATURES ON FOLLOWING PAGE]


DATED: _____

HUMBOLDT PATIENT RESOURCE CENTER, INC.

By: _____
Title: _____

DATED: 12/4/17

CENTER FOR ADVANCED PUBLIC AWARENESS, INC.

By: 
Title: Executive Director

APPROVED AS TO FORM


DATED: _____

GALLEGOS LAW FIRM

By: _____
Paul Gallegos
Attorneys for HUMBOLDT PATIENT RESOURCE CENTER, INC.

DATED: 12/4/17

AQUA TERRA AERIS LAW GROUP

By: 
Matthew C. Maclear
Attorneys for CENTER FOR ADVANCED PUBLIC AWARENESS, INC.

DATED: _____

HUMBOLDT PATIENT RESOURCE CENTER,
INC.

By: *Maureen Janssen*
Title: *Director*

DATED: _____

CENTER FOR ADVANCED PUBLIC
AWARENESS, INC.

By: _____
Title:

APPROVED AS TO FORM

DATED: *12/1/17*

GALLEGOS LAW FIRM

By: *Paul Gallegos*
Paul Gallegos
Attorneys for HUMBOLDT PATIENT
RESOURCE CENTER, INC.

DATED: _____

AQUA TERRA AERIS LAW GROUP

By: _____
Matthew C. Maclear
Attorneys for CENTER FOR ADVANCED
PUBLIC AWARENESS, INC.