

## **SETTLEMENT AND RELEASE AGREEMENT**

### **1. INTRODUCTION**

#### **1.1. Parseghian and Garza Food Ventures, LLC:**

This Settlement Agreement is entered into by and between Berj Parseghian ("Parseghian"), represented by his attorneys KJT Law Group, LLP on the one hand, and Garza Food Ventures, LLC ("GFV"), on the other hand, with Parseghian and GFV collectively referred to as the "Parties".

#### **1.2. General Allegations**

Parseghian alleges that GFV manufactured, distributed and offered for sale in the State of California taco shells, containing lead and that such sales have not included warnings pursuant to the Safe Drinking Water and Toxic Enforcement Act of 1986, California Health & Safety Code sections 25249.6 *et seq.* ("Proposition 65"). California has identified and listed lead under Proposition 65 as a chemical known to the State of California to cause cancer, birth defects or other reproductive harm. GFV expressly denies the allegations asserted by Parseghian and expressly asserts that it is in compliance with all applicable laws, including Proposition 65.

#### **1.3. Product Description**

The product covered by this Settlement Agreement is defined to be: Taco Shells (UPC # 865336000069). GFV has sold, offered for sale, manufactured, or distributed in California this product that allegedly contains lead. This item shall be referred to herein as the "Covered Product".

#### **1.4. Notice of Violation**

On January 3, 2022, Parseghian served GFV, and the requisite public enforcement agencies eligible to initiate Proposition 65 actions on behalf of the People of the State of

California with a document titled "SIXTY-DAY NOTICE OF INTENT TO SUE FOR VIOLATION OF THE SAFE DRINKING WATER AND TOXIC ENFORCEMENT ACT OF 1986" ("Notice") that provided GFV and such public enforcers with notice that GFV was allegedly in violation of California Health & Safety Code section 25249.6 for failing to warn consumers and customers that the Covered Product exposed users in California to lead. To the best of the Parties' knowledge, no public enforcer has commenced or is diligently prosecuting the allegations set forth in the Notice. GFV's participation in this Settlement Agreement does not represent an admission that the Notice was properly served or that the contents of the Notice complied with the requirements of Proposition 65.

1.5. **No Admission**

The Parties enter into this Settlement Agreement to settle disputed claims between them as set forth herein and in the Notice concerning GFV's compliance with Proposition 65. GFV expressly denies the allegations contained in Parseghian's Notice and maintains that all products that it has placed for sale and distribution in California, including the Covered Product, have been and are in compliance with Proposition 65 or any other statutory, regulatory, common law or equitable doctrine. Nothing in this Settlement Agreement shall be construed as an admission by GFV of any fact, finding, conclusion, issue of law, or violation of law; nor shall compliance with this Settlement Agreement constitute or be construed as an admission by GFV of any fact, finding, conclusion, issue of law, or violation of law, such being specifically denied by GFV. However, nothing in this section shall diminish or otherwise affect the obligations, responsibilities, and duties of GFV and Parseghian under this Settlement Agreement.

1.6. **Effective Date**

For purposes of this Settlement Agreement, the term "Effective Date" shall mean the date this Settlement Agreement is fully executed. The term "Compliance Date" is one hundred fifty (150) calendar days after the Effective Date, and the period of time from the Effective Date through the Compliance Date is the "Compliance Period".

2. **INJUNCTIVE RELIEF: WARNINGS OR REFORMULATION**

2.1 Commencing on the Compliance Date, and continuing thereafter, GFV agrees to "Distribute into the State of California" or directly sell in the State of California Covered Product resulting in exposures of less than 0.5 micrograms of lead per day, or alternatively comply with the warning requirements under Section 2.2.

As used in this Settlement Agreement, 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, retailer, or other business entity that GFV knows or has reason to know will sell the Covered Product in California. The injunctive relief in Section 2 does not apply to any Covered Product that is already in the stream of commerce—including but not

limited to the possession and control of distributors and retailers—as of the Compliance Date, and all claims as to such Covered Product are released in this Settlement Agreement.

## 2.2 Clear and Reasonable Warnings

In the alternative to reformulation, GFV shall use, one of the following warnings ("Warning") for the Covered Product:

### **Option 1:**

**WARNING:** Consuming this product can expose you to chemicals including lead, which is known to the State of California to cause [cancer and], birth defects or other reproductive harm. For more information go to [www.P65Warnings.ca.gov/food](http://www.P65Warnings.ca.gov/food)

### **Option 2:**

**WARNING:** [Cancer and] Reproductive Harm – <http://www.p65warnings.ca.gov/food>

GFV shall use the phrase "cancer and" in the Warning if GFV has reason to believe that the daily lead exposure level is greater than 15 micrograms of lead or if GFV has reason to believe that another Proposition 65 chemical is present which may require a cancer warning.

The Warning shall be securely affixed to or printed upon the label of the Covered Product and it must be set off from other surrounding information. GFV shall provide the same Warning—in full text or through a hyperlink—on any website it controls that sells the Covered Product in California. In addition, GFV shall inform any third-party website to which it sells its Covered Product to include the same Warning—in full text or through a hyperlink—as a condition of selling the Covered Product. If a hyperlink is used, the hyperlink must go directly to a page prominently displaying either the Option 1 Warning or the Option 2 Warning without

content that significantly detracts from the Warning. An asterisk or other identifying method must be utilized to identify which product on the checkout page are subject to the Warning.

The Warning shall be at least the same size as the largest of any other health or safety warnings also appearing on the website or on the label 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 significantly diminishing the impact 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. For the Option 2 Warning, a symbol consisting of a black exclamation point in a yellow equilateral triangle with a bold black outline shall be placed to the left of the text of the Warning, in a size no smaller than the height of the word "WARNING."

For purposes of this Settlement Agreement, the term "label" means a display of written, printed or graphic material that is printed on or affixed to the Covered Product or its immediate container or wrapper.

For purposes of this Settlement Agreement, GFV may satisfy the warning requirement by providing the required information in compliance with 27 C.C.R. § 25600.2 (2020) to any business that is subject to Proposition 65 to which it is selling or transferring the Covered Product.

### **3. CONSIDERATION**

In settlement of all the claims referred to in this Settlement Agreement, the Parties reached an accord on the compensation due, under the private attorney general doctrine and principles of contract law. Under these legal principles, GFV shall pay within fifteen (15) business days following the Effective Date a total sum of twenty-two thousand five hundred

dollars (\$22,500, U.S. dollars) as settlement for penalties, fees, and costs (as detailed below in Sections 4 through 6), incurred as a result of investigating and bringing this matter to GFV's attention.

**4. PENALTIES PURSUANT TO HEALTH & SAFETY CODE SECTION 25249.7(b)**

In settlement of all the claims referred to in this Settlement Agreement, two thousand five hundred dollars (\$2,500, U.S. dollars) shall be considered a "civil penalty." The penalty payment will be allocated in accordance with California Health & Safety Code section 25249.12(c)(1) & (d), with 75% of the funds—one thousand eight hundred seventy-five dollars (\$1,875, U.S. dollars)—remitted to the California Office of Environmental Health Hazard Assessment ("OEHHA") and the remaining 25% of the penalty—six hundred twenty-five dollars (\$625, U.S. dollars)—remitted to Parseghian within fifteen (15) business days following the Effective Date.

**5. REIMBURSEMENT OF FEES AND COSTS**

In settlement of all the claims referred to in this Settlement Agreement, twenty thousand dollars (\$20,000, U.S. dollars) shall be considered reimbursement of Parseghian's attorneys' fees, expert and investigation fees, and related costs associated with this matter and the Notice. The Parties reached an accord on the compensation due to Parseghian and its counsel under the private attorney general doctrine and principles of contract law.

**6. PAYMENT INFORMATION**

GFV shall mail these payments within fifteen (15) business days following the Effective Date, at which time such payments shall be mailed to the following addresses respectively:

All payments owed to Parseghian and for attorneys' fees, shall be delivered to the following payment address:

**KJT LAW GROUP LLP**

**230 N. Maryland Avenue, Suite 306**

**Glendale, CA 91206**

All payments owed to OEHHA shall be delivered directly to OEHHA at the following addresses:

For United States Postal Delivery:

Mike Gyurics  
Senior Accounting Officer -- MS 19-B  
Office of Environmental Health Hazard Assessment  
P.O. Box 4010  
Sacramento, CA. 95812-0410

For Non-United States Postal Service Delivery:

Mike Gyurics  
Fiscal Operations Branch Chief  
Office of Environmental Health Hazard Assessment  
1001 I Street  
Sacramento, CA 95814

**7. RELEASE OF ALL CLAIMS**

**7.1. Release of GFV, Downstream Customers and Upstream Vendors**

In further consideration of the promises and agreements herein contained, and for the payments to be made pursuant to Sections 3 through 6 above, Parseghian, on behalf of himself, hereby waives all rights to institute or participate in, directly or indirectly, any form of legal action and releases all claims relating to the Covered Product, including, without limitation, all actions, and causes of action, in law or in equity, suits, liabilities, demands, obligations, damages, costs, fines, penalties, losses or expenses (including, but not limited to, investigation fees, expert fees and attorneys' fees) against GFV, and its respective equity owners, parents,

subsidiaries, affiliates, sister and related companies, directors, officers, members, employees, attorneys, each upstream entity from whom the Covered Product was purchased by GFV, and each entity to whom GFV directly or indirectly distributes or sells the Covered Product—including, but not limited to, its downstream distributors, wholesalers, customers, retailers, franchisees, cooperative members, and licensees—for any alleged violations of Proposition 65, or any other alleged violation of statutory or common law, arising from alleged exposures to lead in relation to the Covered Product. Without limiting the foregoing, this Settlement Agreement expressly releases Sprouts Farmers Market, Inc., and any of its distributors or suppliers.

It is possible that other claims not known to the Parties arising out of the facts alleged in the Notice and relating to the Covered Product will develop or be discovered. This Settlement Agreement is expressly intended to cover and include all such claims up through the Effective Date. Parseghian, in his capacity, expressly waives and relinquishes any and all rights and benefits which it may have under, or which may be conferred on it by the provisions of California Civil Code section 1542 as well as under any other state or federal statute or common law principle of similar effect, to the fullest extent that it may lawfully waive such rights or benefits pertaining to the released matters. California Civil Code section 1542 reads as follows:

A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release and that, if known by him or her, would have materially affected his or her settlement with the debtor or released party.

## **8. GOVERNING LAW**

The terms of this Settlement Agreement shall be governed by the laws of the State of California and apply within the State of California. In the event that Proposition 65 is repealed



or is otherwise rendered inapplicable by reason of law generally, or as to the Covered Product, then GFV shall have no further obligations pursuant to this Settlement Agreement.

**9. NOTICES**

Unless specified herein, all correspondence and notices required to be provided pursuant to this Settlement Agreement shall be in writing and personally delivered or sent by: (i) first-class, (registered or certified mail) return receipt requested; or (ii) overnight courier on any party by the other party at the following addresses:

For GFV:                   Jae Hong Lee  
Dechert LLP  
One Bush Street, Suite 1600  
San Francisco, CA 94104-4446

For Parseghian:       Tro Krikorian, Esq.  
KJT Law Group, LLP  
230 N. Maryland Ave., Suite 306  
Glendale, CA 91206

Any party, from time to time, may specify in writing to the other party a change of address to which all notices and other communications shall be sent.

**10. COUNTERPARTS; FACSIMILE/E-SIGNATURES**

This Settlement Agreement may be executed in counterparts and by facsimile or e-signatures, each of which shall be deemed an original, and all of which, when taken together, shall constitute one and the same document.

**11. ENTIRE AGREEMENT**

This Settlement Agreement contains the sole and entire agreement and understanding of the Parties with respect to the entire subject matter hereof, and all related prior discussions, negotiations, commitments, and understandings. No other agreements, oral or otherwise, exist to bind either of the Parties.

**12. MODIFICATION**

This Settlement Agreement may be modified only by a written agreement signed by the Parties.

**13. DRAFTING**

No inference, assumption or presumption shall be drawn, and no provision of this Settlement 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.

**14. COMPLIANCE WITH HEALTH & SAFETY CODE SECTION 25249.7(f)**

Parseghian and his attorneys agree to comply with the reporting form requirements referenced in California Health and Safety Code section 25249.7(f).

**15. SEVERABILITY**

If, subsequent to the execution of this Settlement Agreement, any provision of this Settlement Agreement is held by a court to be unenforceable, the validity of the remaining provisions shall not be adversely affected.

**16. AUTHORIZATION**

The undersigned are authorized to execute this Settlement Agreement on behalf of their respective Parties and have read, understood, and agree to all of the terms and conditions of this Settlement Agreement.

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**IN WITNESS WHEREOF, the Parties have agreed, accepted, and executed this Agreement on the date written.**

3/15/2022 Pasadena  
Executed this \_\_\_ day of \_\_\_\_\_, 2022, at \_\_\_\_\_, California.

DocuSigned by:  
**BERJ PARSEGHIAN**  
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Berj Parseghian

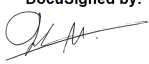
Executed this \_\_\_ day of \_\_\_\_\_, 2022, at \_\_\_\_\_, California.

Garza Food Ventures, LLC

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

**APPROVED AS TO FORM BY:**

3/16/2022 Glendale  
Executed this \_\_\_ day of \_\_\_\_\_, 2022, at \_\_\_\_\_, California.

DocuSigned by:  
  
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Tro Krikorian, Esq. Attorney for Berj Parseghian  
KJT Law Group, LLP

Executed this \_\_\_ day of \_\_\_\_\_, 2022, at \_\_\_\_\_, California.

\_\_\_\_\_  
Jae Hong Lee, Esq. Attorney for Garza Food Ventures, LLC  
Dechert LLP


IN WITNESS WHEREOF, the Parties have agreed, accepted, and executed this Agreement on the date written.

3/15/2022  
Executed this \_\_\_ day of \_\_\_, 2022, at Pasadena, California.

DocuSigned by:  
BERJ PARSEGHIAN  
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Berj Parseghian


Executed this 17<sup>th</sup> day of March, 2022, at Austin, Texas, California.

Garza Food Ventures, LLC

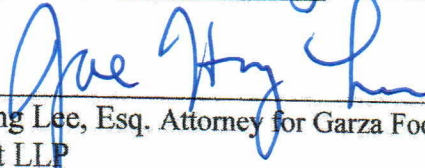
  
By: Robert Garza  
General Counsel

APPROVED AS TO FORM BY:

3/16/2022  
Executed this \_\_\_ day of \_\_\_, 2022, at Glendale, California.

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Tro Krikorian, Esq. Attorney for Berj Parseghian  
KJT Law Group, LLP

Executed this 22<sup>nd</sup> day of March, 2022, at San Diego, California.

  
Jae Hong Lee, Esq. Attorney for Garza Food Ventures, LLC  
Dechert LLP