

SETTLEMENT AGREEMENT AND RELEASE

This Settlement Agreement and Release (“Agreement”) between Environmental Research Center, Inc. (“ERC”) and Parsley Health, Inc. (“Parsley Health”) is effective on the date on which it is fully executed (“Effective Date”). ERC and Parsley Health 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 ERC served on Parsley Health on May 3, 2022 (the “Notice”) with regard to the following products identified below (referred to as the “Covered Products”):

- **Parsley Health Rebuild Clean Protein Chocolate Flavor – Lead, Cadmium**
- **Parsley Health Rebuild Clean Protein Vanilla Flavor – Lead**

2. The Parties enter into this Agreement in order to fully resolve all claims, demands, and allegations regarding the Notice 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. 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/WARNINGS

3.1 Beginning on the Effective Date, Parsley Health shall either (1) cease all sales and distribution of the Covered Products into the State of California, whether directly or indirectly through a third party; or (2) sell the Covered Products into the State of California with one of the warnings set forth below or a warning that is consistent with any future amendments to 27 CCR sections 25600 *et seq.* that are specifically applicable to the Covered Products (“Warning”):

- (1) **WARNING:** Consuming this product can expose you to chemicals including cadmium, 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.
- (2) **WARNING:** Consuming this product can expose you to chemicals including lead and cadmium, which are 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.

3.2 The Warning shall comply with all applicable requirements set forth in Subarticles 1 and 2 of Article 6 of the Safe Drinking Water and Toxic Enforcement Act of 1986 (27 CCR sections 25600, *et seq.*) as it is in effect on the Effective Date of this Agreement and that are

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consistent with any future amendments to 27 CCR sections 25600 *et seq*, that are specifically applicable to the Covered Products, including, but not limited to, (1) that the Warning shall be securely affixed to or printed upon the label of any Covered Product, (2) that the Warning shall be set off from other surrounding information and enclosed in a box, and (3) that for any Covered Product sold over the internet, the Warning shall also be prominently displayed on the internet, either on the Covered Product's primary display page or on the checkout page when a California delivery address is indicated for any purchase of such Covered Product, or both. The internet Warning may be made through a clearly marked hyperlink using the word "WARNING" in all capital and bold letters on the checkout page so long as the hyperlink goes directly to a page prominently displaying the Warning without content that detracts from the Warning. For purposes of this Agreement, and as defined in the Regulation, the term "label" means a display of written, printed or graphic material that is printed on or affixed to a Covered Product or its immediate container or wrapper.

4. Parsley Health shall make a total payment of \$20,000 ("Total Settlement Amount") by wire transfer to ERC's account within 10 days of the Effective Date ("Due Date"), for which ERC will give Parsley Health the necessary account information. The Total Settlement Amount shall be allocated as follows:

a. \$1,500.00 shall be considered a civil penalty pursuant to California Health and Safety Code section 25249.7(b)(1). ERC shall remit 75% (\$1,125.00) 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% (\$375.00) of the civil penalty.

b. \$2,518.27 shall be considered a reimbursement to ERC for its costs incurred as a result of bringing this matter to Parsley Health's attention and negotiating a settlement.

c. \$6,500.00 shall be distributed to Michael Freund as reimbursement of ERC's attorney fees, while \$9,481.73 shall be distributed to ERC for its in-house legal fees.

d. In the event that Parsley Health fails to remit the Total Settlement Amount owed under Section 4 of this Agreement on or before the Due Date, Parsley Health shall be deemed to be in material breach of its obligations under this Agreement. ERC shall provide written notice of the delinquency to Parsley Health via electronic mail. If Parsley Health fails to deliver the Total Settlement Amount within five days from the written notice, the Total Settlement Amount shall become immediately due and payable and shall accrue interest at the statutory judgment interest rate provided in the Code of Civil Procedure section 685.010. Additionally, Parsley Health agrees to pay ERC's reasonable attorneys' 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 attorneys' fees related to the Notice.

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6. Binding Effect; Claims Covered and Released

6.1. This Agreement is a full, final, and binding resolution between ERC, on behalf of itself, and Parsley Health and its respective officers, directors, shareholders, employees, agents, parent companies, subsidiaries, divisions, suppliers, franchisees, licensees, customers (not including private label customers of Parsley Health), distributors, wholesalers, retailers, and all other upstream and downstream entities in the distribution chain of any Covered Product, and the predecessors, successors, and assigns of any of them (collectively, "Released Parties").

6.2 ERC, acting in the public interest, releases the Released Parties from any and all claims for violations of Proposition 65 up through the Effective Date based on exposure to lead and/or cadmium from the Covered Products as set forth in the Notice of Violation. ERC, on behalf of itself only, 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 Covered Products as to any alleged violation of Proposition 65 or its implementing regulations arising from the failure to provide Proposition 65 warnings on the Covered Products regarding lead and/or cadmium up to and including the Effective Date.

6.3 ERC, on its own behalf only, and Parsley Health 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 Agreement.

6.4 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 Products, will develop or be discovered. ERC, on behalf of itself only, and Parsley Health, on behalf of itself only, acknowledge that this Agreement is expressly intended to cover and include all such claims up through and including the Effective Date, including all rights of action therefore. ERC and Parsley Health acknowledge that the claims released in Sections 6.2 and 6.3 above may include unknown claims, and the Parties 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 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.

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

6.5 Compliance with the terms of this Agreement shall be deemed to constitute

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compliance with Proposition 65 by any of the Released Parties regarding alleged exposures to lead and/or cadmium in the Covered Products as set forth in the Notice.

6.6 Nothing in this Agreement is intended to apply to any occupational or environmental exposures arising under Proposition 65, nor shall it apply to any of Parsley Health's products other than the Covered Products.

7. Nothing herein shall be construed as diminishing Parsley Health' continuing obligations to comply with Proposition 65.

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, or via electronic mail where required. Courtesy copies of notices sent via first-class mail may also be sent via email.

FOR ENVIRONMENTAL RESEARCH CENTER, INC.:

Chris Heptinstall, Executive Director
Environmental Research Center
3111 Camino Del Rio North, Suite 400
San Diego, CA 92108
Tel: (619) 500-3090
Email: chris.heptinstall@erc501c3.org

With a copy to:

Michael Freund
Michael Freund & Associates
1919 Addison Street, Suite 105
Berkeley, CA 94704
Telephone: (510) 540-1992
Email: freund1@aol.com

FOR PARSLEY HEALTH, INC.

Robin Berzin, MD, CEO
Parsley Health, Inc.
126 5th Avenue, 2nd Floor
New York, NY 10011
Telephone: (833) 447-2775
Email: Robin@parsleyhealth.com

With a copy to:

Margaret K. Cerrato-Blue
Fox Rothschild LLP
1001 4th Ave, Ste 4400
Seattle, WA 98154
Telephone: (206) 624-3600; 206 650-3954
Email: mcerrato-blue@foxrothschild.com

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9. After executing 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 may be requested by the California Attorney General regarding the Notice, the 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 only as to injunctive terms 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 governed and interpreted by the laws of the State of California regardless of the physical locations of the Parties executing this Agreement at the time of execution.

15. The Parties acknowledge by signing this Agreement that they have a right to consult an attorney and that they have either consulted their attorney(s) with respect to the Notice and the terms and conditions of this Agreement or have made the decision not to consult with an attorney regarding the Notice and the terms and conditions of this 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 Alameda of the State of California. ERC shall be entitled to recover its reasonable attorneys' fees and costs that are deemed by the court as necessary to enforce the Agreement pursuant to California Code of Civil Procedure section 1021.5.


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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 executes 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.

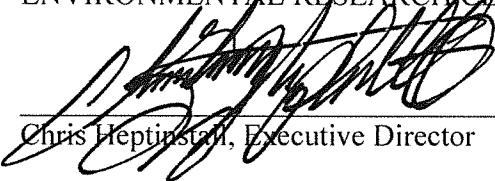
DATED: 10/12/2022

PARSLEY HEALTH, INC.

By: 
Robin Berzin, MD
Founder, CEO

DATED: 10/4/22

ENVIRONMENTAL RESEARCH CENTER, INC.

By: 
Chris Heptinstall, Executive Director

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