

# SETTLEMENT AGREEMENT

## **1. INTRODUCTION**

### **1.1 Parties**

This settlement agreement ("Settlement Agreement") is entered into by and between Consumer Rights Advocates, LLC ("CRA" or Claimant ), on the one hand, and Snapdragon Foods, LLC ("Snapdragon"), on the other hand, with CRA, and Snapdragon, each individually referred to as a "Party" and collectively as the "Parties."

### **1.2 Notice of Violation**

On August 15, 2022, CRA served Notice on Defendant, the California Attorney General, and the other requisite public enforcers with 60-Day Notices of Violation (collectively, the "Notice"), alleging that Defendant violated Proposition 65 when they failed to warn consumers in California with a warning as required by Health and Safety Code §§ 25249.5 *et seq.* ("Proposition 65") of the alleged exposure to lead from the sale in California of Snapdragon Laksa Curry Coconut Flavor Broth with Rice Noodles; UPC: 8-1505501000-9.

To the best of the Parties' knowledge, no public enforcer has commenced and is diligently prosecuting an action to enforce the violations alleged in the Notice.

### **1.3 Product Description**

The products covered by this Settlement Agreement are noodle products that have been imported, distributed, offered for sale, and/or sold in California by Snapdragon, including UPC#8-1505501000-9 (the "Products").

### **1.4 No Admission**

Defendant denies the material, factual and legal allegations in the Notice and maintains that all of the products they sold and/or distributed for sale in California, including the Products, have been, and are, in compliance with all laws. Nothing in this Settlement Agreement shall be construed as an admission by Defendant or any of their officers, directors, shareholders, employees, agents, parent companies, subsidiaries, divisions, affiliates, franchisees, licensees, customers, suppliers, distributors, wholesalers, or retailers 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 Defendant or any of their officers, directors, shareholders, employees, agents, parent companies, subsidiaries, divisions, affiliates, franchisees, licensees, customers, suppliers, distributors, wholesalers, or retailers of any fact, finding, conclusion, issue of law or violation of law, such being specifically denied by Defendant. This Section shall not, however, diminish or otherwise affect Defendant's obligations, responsibilities, and duties under this Settlement Agreement.

### **1.5 Effective Date**

For purposes of this Settlement Agreement, the term "Effective Date" shall mean one-hundred-and-(120) days following the execution of this Settlement Agreement by the Parties.

## **2. INJUNCTIVE RELIEF**

### **2.1 Clear and Reasonable Warnings**

Consistent with the above, Snapdragon agrees, as of the Effective Date, to only manufacture for

sale, purchase for sale, import for sale, or distribute for sale in or into California (in person or online) Products that (1) have less than the maximum lead level allowable under Proposition 65; or (2) contain a warning that is fully compliant with the label and warning requirements under Proposition 65.

## 2.2 General Warning Requirements

Consistent with Section 2.1 above, nothing in this Section requires Snapdragon to place any labels or warnings on the Products that are otherwise in compliance with the requirements of Proposition 65. Nor does this Section broaden the obligations to Snapdragon under Proposition 65.

To the extent that any Product provided for sale in California does not comply with Proposition 65's maximum allowable lead level through formulation or reformulation, Snapdragon agrees to provide a clear and reasonable warning in accordance with this Section pursuant to Title 27 of California Code of Regulations section 25600, et seq.

Each warning shall be prominently placed with such conspicuousness as compared with other words, statements, designs, or devices, as to render it likely to be read and understood by an ordinary individual under customary conditions before purchase or use and shall be provided in a manner such that it is clearly associated with the specific Product to which the warning applies.

In so labeling any such Product, Snapdragon may elect — but is not required — to use the following Proposition 65 complaint warning affixed to the packaging label, tag, or directly to each such Product:

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

2) **WARNING:** Cancer and Reproductive Harm - [www.P65Warnings.ca.gov/food](http://www.P65Warnings.ca.gov/food).

The warning, to the extent actually required by Proposition 65, shall be offset in a box with a black outline. The same warning shall be posted on any websites where the Products are sold in California.

The same warning shall be posted on any website under the exclusive control of Defendant where the Product is sold to consumers located in California. The warning requirements of this section shall be satisfied if the forgoing warning appears either: (a) on the same web page on which the Product is displayed and/or described by providing a clearly marked hyperlink using the word "WARNING,"; (b) on the same page as the price for the Product, or (c) on one or more web pages displayed to a purchaser prior to purchase during the checkout process. Alternatively, a symbol consisting of a black exclamation point in a yellow or white equilateral triangle may appear adjacent to or immediately following the display, description, price, or check-out listing of the Product, if the warning statement appears elsewhere on the same web page in a matter that clearly associates it with the product to which the warning applies. Snapdragon also agrees to inform third parties of the need to provide a website warning as a condition of the sale of the product if the product is sold on a third-party website.

## 2.3 Compliance with Warning Regulations

The parties agree that Snapdragon shall be deemed in full compliance with this Settlement Agreement by adhering to the warning requirement adopted by the State of California's Office of Environmental Health Hazard Assessment ("OEHHA"), using a label compliant with Section 2.2 above, or by reformulation that results in compliance with Proposition 65 thresholds after the Effective Date.

## **2.4 Changes in Warning Regulations or Statutes**

In the event that the Office of Environmental Health Hazard Assessment or another authorized agency promulgates one or more regulations requiring or permitting warning text and/or methods of transmission different than those set forth above, or legislation is enacted by the California legislature, United States Congress or voters with such requirements or permission, Snapdragon shall be entitled to use, at its discretion, such other warning text and/or method of transmission without being deemed in breach of this Agreement. If regulations, legislation, or judicial rulings are enacted or issued, providing that a Proposition 65 warning for the Product is no longer required, a lack of warning will not thereafter be a breach of this Agreement.

## **2.5 Grace Period for Existing Inventory of Products**

The injunctive requirements of Section 2 shall not apply to Products that have been manufactured and placed into the stream of commerce as of the Effective Date, which Products are expressly subject to the releases provided in Section 4.1.

## **2.6 Alternative Injunctive Relief**

In the event that Defendant desires to do so, in lieu of providing warning labels as set forth in this Section, it may reformulate the product so that the lead levels that comply with prop 65.

# **3. MONETARY SETTLEMENT TERMS**

## **3.1 Total Settlement Amount**

In full satisfaction of all consideration, potential civil penalties, attorneys' fees, and costs in connection with the Notice and Products, and in exchange for CRA's release of all liability in connection with the Products (including as set forth in the Notice) as set forth in Sections 4.1 and 4.3 below, Snapdragon shall make a total settlement payment of twenty-three thousand seven hundred fifty dollars (\$23,750) ("Total Settlement Amount"). The Total Settlement Amount shall be apportioned into a Civil Penalty, Attorney's Fees and Costs, an Additional Settlement Payment, and a Cost Reimbursement as required by CRA and set forth in Sections 3.2, 3.3, 3.4, and 3.5 below. No other payments are required by Snapdragon under this Agreement.

## **3.2 Civil Penalty Payment**

Pursuant to Health and Safety Code § 25249.7(b)(2), and in settlement of all claims alleged in the Notices or referred to in this Settlement Agreement and in consideration of the releases provided in Section 4, Snapdragon agrees to pay one thousand two hundred fifty dollars (\$1,250.00) in civil penalties. The penalty payment will be allocated in accordance with California Health and Safety Code §§ 25249.12(c)(1) & (d), with 75% of the penalty amount paid to the California Office of Environmental Health Hazard Assessment ("OEHHA") and the remaining 25% of the penalty amount retained by CRA. Within fifteen (15) days of the date of this Settlement Agreement is executed by the Parties, Snapdragon shall issue two separate checks for the initial civil penalty payment to (a) "OEHHA" in the amount of nine hundred thirty-seven dollars and fifty cents (\$937.50) and (b) CRA in the amount of three-hundred and twelve dollars and fifty cents (\$312.50).

All payments owed to OEHHA (EIN: 68-0284486) pursuant to this Section shall be delivered directly to OEHHA (Memo Line "Prop 65 Penalties NOV 2022-01854") at the following addresses:

For United States Postal Delivery Service:

Mike Gyurics  
Fiscal Operations Branch Chief

Office of Environmental Health Hazard Assessment  
P.O. Box 4010, MS 19B  
Sacramento, CA 95812-4010

For Non-United States Postal Delivery Service:

Mike Gyurics  
Fiscal Operations Branch Chief  
Office of Environmental Health Hazard Assessment  
1001 I Street MS #19B  
Sacramento, CA 95814

All penalty payments owed to CRA shall be sent to:

Cornerstone Law Firm, PC  
357 S. Robertson Blvd. 2<sup>nd</sup> FL  
Beverly Hills, CA 90211

### **3.3 Attorney Fees and Costs**

In consideration of the releases provided by Section 4, and as part of the release to Snapdragon of any Proposition 65 liability (including penalties, costs, and attorney's fees) in relation to the Notice or the Products, the Parties reached an accord on the compensation due to CRA and its counsel under the private attorney general doctrine and principles of contract law. Under these legal principles, within fifteen (15) days of the date that this Settlement Agreement is executed by the Parties, Defendant agrees to pay twenty-two thousand five hundred dollars (\$22,500) to Cornerstone Law Firm, PC for all fees and costs incurred in investigating, bringing this matter to the attention of Defendant, and negotiating a settlement for all Product.

### **3.4 Payment Address**

All payments required under this section to Cornerstone Law Firm, PC shall be delivered to:

Cornerstone Law Firm, PC  
357 S. Robertson Blvd. 2<sup>nd</sup> FL  
Beverly Hills, CA 90211

### **3.5 Tax Documentation**

Snapdragon agrees to provide a completed IRS 1099 form for its payments to, and CRA and Cornerstone Law Firm, PC agrees to provide IRS W-9 forms to Snapdragon. The Parties acknowledge that Snapdragon cannot issue any settlement payments pursuant to Section 3 above until after Snapdragon receives the requisite W-9 forms from CRA's counsel.

## **4. CLAIMS COVERED AND RELEASED**

### **4.1 CRA's Release of Defendant**

This Agreement is a full, final, and binding resolution with respect to the Product (including as set forth in the Notice) between CRA, including its past and current agents, representatives, successors, and/or assignees, parents, subsidiaries, affiliated entities, attorneys, directors, officers, and employees (the "CRA Releasing Parties"), acting on CRA's own behalf and not on behalf of the public, and

Defendant of any violation of Proposition 65 that were or could have been asserted as of the Effective Date by CRA and the CRA Releasing Parties in connection with the Products (including as set forth in the Notice), including Defendant's past and current agents, representatives, attorneys, successors, and/or assignees, against Defendant, their parents, subsidiaries, affiliated entities, directors, officers, employees, attorneys, and each entity to whom Defendant directly or indirectly distributes or sells the Products (the "Defendant Released Parties").

CRA, acting on its own behalf and not on behalf of the public interest, and the CRA Releasing Parties fully release and discharge Defendant and their past and present parent companies, subsidiaries, divisions, affiliates, franchisees, licensees, partnerships, joint ventures, commonly- controlled entities, successors, heirs, predecessors in interest, and assigns, and each of their respective past and present employees, representatives, officers, directors, shareholders, principals, attorneys, accountants, insurers, receivers, advisors, consultants, partners, owners, members, agents, independent contractors, landlords, tenants, successors, heirs, customers, suppliers, and distributors, and any other entity or individual acting or purporting to act on any Defendant from all claims for violations of Proposition 65 and related liability or obligation of any nature (including injunctive relief, damages or other monetary relief, costs, fines, penalties, losses, or expenses, including investigation fees, expert fees, and attorney's fees) up through the Effective Date relating to the Products or the Notice.

The release does not apply to any third-party website that does not comply with the instruction to provide the warning.

#### **4.2 Defendant's Release of CRA**

Defendant, on behalf of their past and current agents, representatives, attorneys, successors, and assignees, hereby waives any and all claims against CRA and its attorneys and other representatives for any and all actions taken or statements made by CRA and its attorneys and other representatives, whether in the course of investigating claims, otherwise seeking to enforce Proposition 65 against it in this matter, or with respect to the Covered Products.

#### **4.3 California Civil Code Section 1542**

It is possible that other claims not known to the Parties, arising out of the Notice or relating to the Products, will develop or be discovered. CRA, including its past and current agents, representatives, successors, and/or assignees, parents, subsidiaries, affiliated entities, attorneys, directors, officers, and employees, on behalf of itself only and not acting in the public interest, and Defendant on behalf of themselves 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. CRA and the CRA Releasing Parties, on the one hand, and Defendant, on the other, acknowledge that the claims released in Sections 4.1 and 4.2 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:

**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 I WOWN BY HIM OR HER, WOULD HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY.**

#### **5. SEVERABILITY**

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

**6. GOVERNING LAW**

The terms of this Settlement Agreement shall be governed by the laws of the State of California without regard to its conflicts of law principles.

**7. NOTICE**

When any Party is entitled to receive any notice under this Settlement Agreement, the notice shall be sent by first class mail or electronic mail to the address set forth in this paragraph. Any party may modify the person and address to whom the notice is to be sent by sending the other Party notice by certified mail, return receipt requested. Said change shall take effect on the date the return receipt is signed by the Party receiving the change.

Notices shall be sent to:

For CRA

Attn: David Danialpour  
357 S. Robertson Blvd. 2<sup>ND</sup> FL  
Beverly Hills, CA 90211

For Snapdragon:

Kassra Nassiri  
Nassiri & Jung LLP  
1700 Montgomery Street, Suite 207  
San Francisco, CA 9411  
kass@njfirm.com

For Cornerstone Law Firm:

Attn: David Danialpour  
357 S. Robertson Blvd. 2<sup>ND</sup> FL  
Beverly Hills, CA 90211  
david@davarlaw.com

**8. PREVAILING PARTY PROVISION**

In the event a dispute arises under this Agreement or regarding its interpretation, the prevailing party in any such dispute or action shall be entitled to receive its reasonable attorney's fees and expenses.

**9. COUNTERPARTS: FACSIMILE SIGNATURES**

This Settlement Agreement may be executed in counterparts and by facsimile or portable document format (PDF) signature or electronically, each of which shall be deemed an original, and all of which, when taken together, shall constitute one and the same document. Signatures by scanned and emailed image, electronic, or facsimile transmission shall have the same force and effect as original signature and as an electronic record adopted and executed by a Party with the intent to sign the electronic record pursuant to Civil Code §§ 1633.1 *et seq.*

**10. COMPLIANCE WITH HEALTH AND SAFETY CODE §25249.7(f)**

CRA and its attorneys agree to comply with the reporting form requirements referenced in California Health and Safety Code §25249.7(I).

**11. MODIFICATION**

The Settlement Agreement may be modified only by written agreement of the Parties.

**12. ENTIRE AGREEMENT**

This Settlement Agreement contains the sole and entire agreement and understanding of the Parties, and any and all prior negotiations and understandings related hereto shall be deemed to have been merged within it. No representations or terms of agreement other than those contained herein exist or have been made by any Party with respect to the other Party or the subject matter hereof. No representations, oral or otherwise, express or implied, other than those specifically referred to in this Agreement have been made by or relied on by any Party.

**13. INTERPRETATION**

No inference, assumption, or presumption shall be drawn, and no provision of this Agreement shall be construed against any Party, based upon the fact that one of the Parties and/or their counsel prepared or drafted any portion of this Agreement. The Parties waive the provisions of Civil Code § 1654. It is conclusively presumed that the Parties participated equally in the drafting of this Agreement.

**14. 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.

**AGREED TO:**

Date: 10/17/22

By: Davar Danialpour



Signature  
Attorneys for Consumer Rights  
Advocates, LLC

**AGREED TO:**

Date: 9/13/22

By: Theresa Hendrickson



Signature  
Snapdragon Foods, LLC

**AGREED TO:**

Date: 09/13/22

By: Kassra P. Nassiri



Signature  
Attorneys for Snapdragon Foods, LLC