

## SETTLEMENT AGREEMENT AND RELEASE

This Settlement Agreement and Release (“Agreement”) between Environmental Research Center, Inc. (“ERC”) and Nutra Holdings Inc. and Cira Nutrition, Inc. (collectively “Cira Nutrition”) is effective on the date on which it is fully executed (“Effective Date”). ERC and Cira Nutrition are referred to individually as a “Party” and collectively as the “Parties.” The Parties agree as follows:

1. This Agreement arises out of the Notices of Violation of California Health & Safety Code §25249.5, *et seq.* (also known as “Proposition 65”) that ERC served on Cira Nutrition on or about September 14, 2023 and September 28, 2023 (the “Notices”). The products covered by this Agreement are identified as follows below and are referred to as the “Covered Products”:

- Cira Bright Vegan Protein Chocolate Protein Powder Drink Mix
- Cira Bright Vegan Protein Vanilla Protein Powder Drink Mix
- Cira Pre-Game Pre-Workout Peach Bellini
- Cira Bright Whey Protein Cinnamon Swirl Protein Powder Drink Mix
- Cira Aminos Intra-Workout Pop & Rock
- Cira Glow-Getter Greens Superfood Powder Appletini
- Cira Pump Stim-Free Pre-Workout Peach Bellini
- Cira Pump Stim-Free Pre-Workout Pop & Rock
- Cira Aminos Intra-Workout Pink Candy

2. The Parties enter into this Agreement as a full, final, and binding resolution between the Parties to fully resolve all claims, demands, and allegations arising out of the Notices and for the purpose of avoiding prolonged litigation. Cira Nutrition denies the material, factual and legal allegations contained in the Notices and maintains that, to the best of its knowledge, all Covered Products that are or have been sold in California have been and are in compliance with all laws. Nothing in this Agreement shall be construed as an admission of the Parties of any fact, finding, 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, finding, 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 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 Cira Nutrition contends that it no longer sells or distributes the Covered Products to consumers in the State of California and that it does not intend to resume selling or distributing the Covered Products to consumers in the State of California in the foreseeable

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future. Accordingly, beginning on the Effective Date, Cira Nutrition shall be permanently enjoined from manufacturing for sale in the State of California, "Distributing into the State of California," or directly selling in the State of California, any Covered Product that does not include a warning as set out in Section 3.4 below (collectively referred to as "California Sales Practices").

**3.1.1** As used in this Agreement, the term "Distributing into the State of California" and "Distribute into the State of California" shall mean to directly ship a Covered Product that does not include a warning that complies with Section 3.2 of this Agreement into California for sale in California or to sell a Covered Product to a distributor that Cira Nutrition knows will sell the Covered Product in California.

### **3.2 Clear and Reasonable Warnings**

If Cira Nutrition Distributes into the State of California, or directly sells or offers for sale in the State of California, any Covered Products, Cira Nutrition is required to provide a warning on the Covered Products and one of the following warnings must be utilized ("Warning"):

OPTION 1:

**WARNING:** Consuming this product can expose you to chemicals including [lead and/or cadmium] which is [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](http://www.P65Warnings.ca.gov/food).

Or

OPTION 2:

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

Cira Nutrition shall use the phrase "cancer and" in the Warning only if the "Daily Lead Exposure Level" is greater than 15 micrograms of lead or if Cira Nutrition has reason to believe that another Proposition 65 chemical is present at a level requiring the cancer warning. 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." Where the sign, label or shelf tag for the product is not printed using the color yellow, the symbol may be printed in black and white. As identified in the brackets, the warning shall appropriately reflect whether there is lead, cadmium, or another chemical present in each of the Covered Products, but if there is a chemical present at a level that requires a cancer warning, the chemical requiring use of the phrase "cancer and" in the Warning shall always be identified.

The Warning shall be securely affixed to or printed upon the label of any Covered Product offered for sale in California, whether at brick-and-mortar locations or via the internet, and it must be set off from other surrounding information and enclosed in a box. In addition, for any

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Covered Product sold over the internet by Cira Nutrition, or sold over the internet by another company subject to Proposition 65 with Cira Nutrition's direct knowledge prior to sale, when a California address is indicated, the Warning shall be provided either by including the Warning on the Covered Product's primary display page or by otherwise prominently displaying the Warning to the purchaser during the checkout process prior to completing the purchase. If the Warning is provided to the purchaser on the checkout page, an asterisk or other identifying method must be utilized to identify which products on the checkout page are subject to the Warning. The Warning may be provided with a conspicuous hyperlink stating "WARNING" in all capital and bold letters so long as the hyperlink goes directly to a page prominently displaying the Warning without content that substantively detracts from the Warning. A Warning is not prominently displayed if the purchaser has to search for it in the general content of the website.

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 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.

Cira Nutrition must display the above Warning with such conspicuousness, as compared with other words, statements or designs on the label, or on its website, if 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. Where a sign or label used to provide the Warning for a Covered Product includes consumer information about the Covered Product in a language other than English, the Warning must also be provided in that language in addition to English.

For purposes of this Agreement, 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. Cira Nutrition shall make a total payment of \$22,500.00 ("Total Settlement Amount") by wire transfer to ERC's account within 5 days of the Effective Date ("Due Date"), for which ERC will give Cira Nutrition the necessary account information. The Total Settlement Amount shall be allocated as follows:

a. \$2,000.00 shall be considered a civil penalty pursuant to California Health and Safety Code §25249.7(b)(1). ERC shall remit 75% (\$1,500.00) 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% (\$500.00) of the civil penalty.

b. \$4,636.19 shall be considered a reimbursement to ERC for its costs incurred as a result of bringing this matter to Cira Nutrition's attention and negotiating a settlement.

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c. \$9,790.00 shall be distributed to Michael Freund & Associates as reimbursement of ERC's attorney fees, while \$6,073.81 shall be distributed to ERC for its in-house legal fees.

d. In the event that Cira Nutrition fails to remit the Total Settlement Amount owed under Section 4 of this Agreement on or before the Due Date, Cira Nutrition shall be deemed to be in material breach of its obligations under this Agreement. ERC shall provide written notice of the delinquency to Cira Nutrition via electronic mail. If Cira Nutrition 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, Cira Nutrition 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 Notices.

## 6. Binding Effect; Claims Covered and Released

6.1. This Agreement is a full, final, and binding resolution between ERC, on behalf of itself, its respective owners, principals, shareholders, officers, directors, employees, past and present agents, parents, subsidiaries, successors, assigns, and legal representatives (collectively "ERC Releasers") and Cira Nutrition and its respective officers, directors, shareholders, employees, agents, parent companies, subsidiaries, divisions, suppliers, franchisees, licensees, customers (not including private label customers of Cira Nutrition), 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, "Cira Releasees").

6.2 ERC Releasers, on behalf of itself only, releases the Cira Releasees 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 Notices. ERC Releasers hereby fully releases and discharges the Cira Releasees 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 Cira Nutrition 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 Notices 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.

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6.4 It is possible that other claims not known to the Parties, arising out of the facts alleged in the Notices, and relating to the Covered Products, will develop or be discovered. ERC, on behalf of itself only, and Cira Nutrition, 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 Cira Nutrition 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 Cira Nutrition, 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 compliance with Proposition 65 by any of the Cira Releasees regarding alleged exposures to lead and/or cadmium in the Covered Products as set forth in the Notices.

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 Cira Nutrition's products other than the Covered Products.

7. Nothing herein shall be construed as diminishing Cira Nutrition's continuing obligations to comply with Proposition 65.

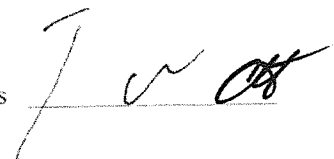
8. All notices required to be given to either Party to this Agreement by the other shall be in writing and sent to the following agents listed below via first-class mail, or via electronic mail where required. Courtesy copies of notices sent via first-class mail may also be sent via email.

**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](mailto:chris.heptinstall@erc501c3.org)

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With a copy to:  
Michael Freund  
Michael Freund & Associates  
1919 Addison Street, Suite 104  
Berkeley, CA 94704  
Telephone: (510) 499-1992  
Email: freund1@aol.com

**FOR NUTRA HOLDINGS INC. and CIRA NUTRITION, INC.:**

John Williams  
Suite 1100, Cabot Place  
100 New Gower St.  
St. John's N.L.  
A1C 6K3

With a copy to:  
Carol R. Brophy  
Steptoe LLP  
One Market Plaza  
Steuart Tower, Suite 1070  
San Francisco, CA 94105  
Email: cbrophy@steptoe.com

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 is reasonably requested by the California Attorney General, or any other governmental agency, regarding the Notices, the settlement, and this Agreement.

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

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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 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 Notices and the terms and conditions of this Agreement or have made the decision not to consult with an attorney regarding the Notices 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 necessary and required to enforce the Agreement pursuant to California Code of Civil Procedure section 1021.5.

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.

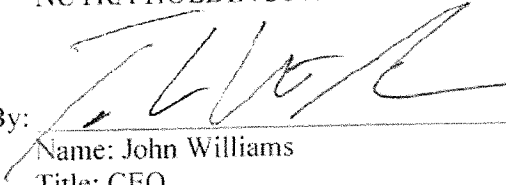
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18. Each of the individuals who execute this Agreement represents and warrants they have the authority to execute this document and bind the respective Parties to the terms and conditions of this Agreement, and have read, understand, and agree to all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

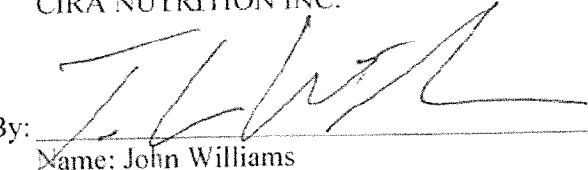
DATED: April 12, 2024

NUTRA HOLDINGS INC.

By:   
Name: John Williams  
Title: CEO

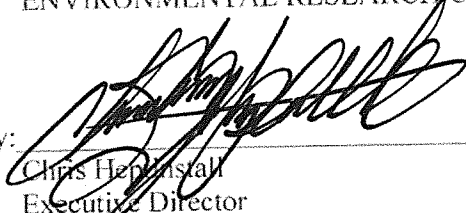
DATED: April 12, 2024

CIRA NUTRITION INC.

By:   
Name: John Williams

DATED: 4/12/24

ENVIRONMENTAL RESEARCH CENTER, INC.

By:   
Chris Hepinstall  
Executive Director

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