

SETTLEMENT AND RELEASE AGREEMENT

1. INTRODUCTION

1.1. Blue Sky Forever and Watkins Incorporated:

This Settlement Agreement is entered into by and between Blue Sky Forever (“BSF”), represented by its attorneys KJT Law Group, LLP on the one hand, and Watkins Incorporated, (“Watkins”), on the other hand, with BSF and Watkins collectively referred to as the “Parties.”

1.2. General Allegations

BSF alleges that Watkins manufactured, distributed, and offered for sale in the State of California products 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.

1.3. Product Description

The product covered by this Settlement Agreement is defined as the Onion – Gourmet Soup and Gravy Base – UPC #: 8 13724 02630 6 manufactured, sold, or distributed by Watkins. All such items shall be referred to herein as the “Covered Product.”

1.4. Notice of Violation

On October 17, 2023, BSF served Watkins and the requisite public enforcement agencies eligible to initiate Proposition 65 actions on behalf of the People of the State of California with documents entitled “60-Day Notice of Violation” (“Notice”) that provided Watkins and such public enforcers with notice that Watkins 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.

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 Watkins' compliance with Proposition 65. Specifically, Watkins denies the allegations contained in BSF'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 and every applicable statutory, regulatory, common law and equitable requirement. Watkins maintains its products, including the Covered Product, are safe for consumption. Nothing in this Settlement Agreement shall be construed as an admission by Watkins of any fact, finding, issue of law, or violation of law; nor shall compliance with this Settlement Agreement constitute or be construed as an admission by Watkins of any fact, finding, conclusion, issue of law, or violation of law, such being specifically denied by Watkins. Nothing in this section shall diminish or otherwise affect the obligations, responsibilities, and duties of Watkins 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.

2. **INJUNCTIVE RELIEF:**

2.1 Beginning on the Effective Date, Watkins 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 expose a person to a "Daily Lead Exposure Level" of more than 0.5 micrograms, unless it meets the warning requirements

under Section 2.2. These requirements are not applicable to any Covered Product that has already been manufactured as of the Effective Date, including but not limited to the Covered Product that has left Watkins' possession or are otherwise in the stream of commerce or as of the Effective Date, which may be sold in compliance with this Settlement Agreement and shall be deemed subject to the releases Section 6.1.

As used in this Settlement Agreement, the term "Distributing 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 that Watkins knows or has reason to know will sell the Covered Product in California.

For purposes of this Settlement Agreement, the "Daily Lead Exposure Level" shall be measured in micrograms, and shall be calculated using the following formula: micrograms of lead per gram of product, multiplied by grams of product per serving, multiplied by servings of the product per day.

2.2 Clear and Reasonable Warnings

If Watkins is required to provide a warning pursuant to Section 2.1, one of the following warnings must be utilized ("Warning").

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.

Option 2:

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

Watkins shall use the phrase "cancer and" in the Warning if the exposure level is greater than 15 micrograms of lead per day.

The Warning shall be securely affixed to or printed upon the label of each Covered Product and it must be set off from other surrounding information, to the extent reasonably practicable in light of the label size. 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 a Covered Product or its immediate container or wrapper. Watkins has no obligation to increase or otherwise modify the size of the label on the Covered Product under this Settlement Agreement. The warning must be set off from other surrounding information, enclosed in a box. If consumer information on the package is in a foreign language, the warning must also be provided in the foreign language. In addition, for any Covered Product sold over the internet, the Warning shall appear on the checkout page in full text or through a clearly marked hyperlink using the word "WARNING" in all capital and bold letters when a California delivery address is indicated for any purchase of any 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 detracts from the Warning. An asterisk or other identifying method must be utilized to identify which products on the checkout page are subject to the Warning. The Warning shall comply with the Safe Harbor Provisions, applicable to the Covered Product and chemical at issue, as those regulations may be amended from time to time.

Alternatively, in full compliance with this Settlement Agreement, Watkins may use any warning content and methodology permitted under Proposition 65 or its implementing

regulations in effect as of the date of Watkins' manufacture, sale, or distribution of 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, Watkins shall pay \$15,000.00 as settlement and for fees and costs, incurred as a result of investigating and bringing this matter to Watkins' attention.

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

In settlement of all the claims referred to in this Settlement Agreement, \$1,500.00 shall be considered a "civil penalty." The civil penalty payment will be allocated in accordance with California Health & Safety Code section 25249.12(c)(1) & (d), with 75% of the funds (\$1,125.00) remitted to the California Office of Environmental Health Hazard Assessment ("OEHHA") and the remaining 25% of the penalty (\$375.00) shall be remitted to BSF. Watkins shall make these payments on or before November 29, 2024, at which time such payments shall be made as follows:

All payments owed to BSF shall be delivered by the way of wire transfer to the following payment address:

Beneficiary: Blue Sky Forever
U.S. Bank Routing Number: 122235821
U.S. Bank Account Number: 157534179856
Beneficiary Address: 1142 W. Orangethorpe Avenue, Fullerton, CA 92833-4743

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

For United States Postal Delivery:

Mike Gyurics
Fiscal Operations Branch Chief
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, MS #19B
Sacramento, CA 95814.

5. REIMBURSEMENT OF FEES AND COSTS

In settlement of all the claims referred to in this Settlement Agreement, \$13,500.00 shall be considered reimbursement of BSF'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 BSF and its counsel under the private attorney general doctrine and principles of contract law. Watkins shall make these payments on or before November 29, 2024, at which time such payments shall be made as follows:

All payments owed to BSF's counsel shall be delivered to:

KJT LAW GROUP LLP
230 Maryland Avenue, Suite 306
Glendale, CA 91206.

6. RELEASE OF ALL CLAIMS

6.1. Release of Watkins, 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, BSF, on behalf of itself and its past and current agents, representatives, attorneys, successors, and/or assigns, 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 Watkins, its equity owners, parent companies, corporate affiliates, subsidiaries, predecessors, successors and assigns (collectively "Releasees") and each of its distributors, wholesalers, licensors, licensees, auctioneers, retailers, including but not limited to Amazon.com Services, LLC – for any alleged violations of Proposition 65, or any other alleged violations of statutory or common law, related to the Covered Product and the chemical at issue, up through the Effective Date.

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. BSF, in its 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 § 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.

BSF acknowledges and understands the significance and consequences of this specific waiver of California Civil Code section 1542.

6.2. **DEEMED COMPLIANCE WITH PROPOSITION 65 AND PUBLIC BENEFIT**

The Parties agree that compliance by Watkins with this Settlement Agreement constitutes compliance by Watkins with Proposition 65 with respect to exposure to lead from use of the Covered Product. It is Watkins' understanding that the commitments it has agreed to herein, and actions to be taken by Watkins under this Settlement Agreement, would confer a significant benefit to the general public, as set forth in Code of Civil Procedure § 1021.5 and Cal. Admin. Code tit. 11, § 3201. As such, it is the intent of Watkins that to the extent any other private party initiates an action alleging a violation of Proposition 65 with respect to Watkins' failure to provide a warning concerning exposure to lead prior to use of the Covered Product it has manufactured, distributed, sold, or offered for sale in California, or will manufacture, distribute, sell, or offer for sale in California, such private party action would not confer a significant benefit on the general public as to those Products addressed in this Settlement Agreement, provided that Watkins is in material compliance with this Settlement Agreement.

7. **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 or its implementing regulations are repealed or are otherwise rendered inapplicable by reason of law generally, or as to the Covered Product, then Watkins may modify this Settlement Agreement to reflect such changes to the law, as set forth in Section 11..

8. 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 Watkins: Bao M. Vu, Esq.
 Stoel Rives LLP
 1 Montgomery Street, Suite 3230
 San Francisco, CA 94104

For BSF: 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.

9. 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.

10. 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.

11. MODIFICATION

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

12. DRAFTING

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. 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.

[SIGNATURE PAGE FOLLOWS]

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

Executed on 11/19/2024.

Blue Sky Forever



By: Anthony Nguyen

Executed on 11-19-2024.

Watkins Incorporated



By: Beth Peta

Its: Director of Product Development