

SETTLEMENT AND RELEASE AGREEMENT

1. INTRODUCTION

1.1. Clean Product Advocates, LLC and BetterBody Foods & Nutrition LLC

This Settlement Agreement is entered into by and between Clean Products Advocates, LLC (“CPA”), on the one hand, and BetterBody Foods & Nutrition LLC (“BBFN”), on the other hand, with CPA and BBFN collectively referred to as the “Parties.”

1.2. General Allegations

CPA alleges that BBFN manufactured and distributed and offered for sale in the State of California “BetterBody Foods Organic Energy Blend Green Coffee and Maca” (“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.* and its implementing regulations (“Proposition 65”). California has identified and listed Lead under Proposition 65 as a chemical known to the State of California to cause cancer and birth defects or other reproductive harm. BBFN denies the allegations any and all allegations that its Products violate Proposition 65.

1.3. Product Description

The products that are covered by this Settlement Agreement are defined as BBFN’s Foods Organic Energy Blend Green Coffee and Maca that BBFN has manufactured, imported, sold, offered for sale or distributed in California. All such items shall be referred to herein as the “Products.”

1.4. Notice of Violation

On 05/10/2024, CPA served Amazon.com Services, LLC; BBFN 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 entitled “60-Day Notice of Violation” (“Notice”) that provided BBFN and such public enforcers with notice that BBFN was allegedly in violation of California Health & Safety Code section 25249.6 for failing to warn consumers and customers that the Products 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 BBFN’s compliance with Proposition 65. BBFN enters this settlement solely to avoid the costs of litigation and denies the material factual and legal

allegations contained in CPA's Notice and maintains that all products that it has manufactured for sale and distribution in California, including the Products, 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 BBFN 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 BBFN of any fact, binding, conclusion, issue of law, or violation of law, such being specifically denied by BBFN on its behalf. However, nothing in this section shall diminish or otherwise affect the obligations, responsibilities, and duties of BBFN 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: REFORMULATION AND WARNINGS

As of the Effective Date, BBFN, at its sole discretion, agrees to either (a) cease selling, offering for sale or distributing the Products in California, (b) manufacture, import, or otherwise source for authorized sale in California only Reformulated Products, as defined pursuant to Section 2.1 below, or (c) provide a clear and reasonable Proposition 65 warning on the Products pursuant to Section 2.2 below.

2.1. Reformulation Standards

The Products shall be deemed to comply with Proposition 65 with regard to Lead and be exempt from any Proposition 65 warning requirements for Lead in the Products if the exposure does not exceed 0.5 micrograms of Lead per day as calculated below ("Reformulated Products").

For the Purpose of this Agreement, the amount of Lead a person is exposed to from the Covered Product shall be calculated using the following formula: micrograms of Lead per gram of product, multiplied by grams of product per serving of the product (using the largest serving size appearing on the product label), multiplied by servings of the product per day (using the largest number of servings in recommended dosage appearing on the product label), which equals micrograms of Lead exposure per day.

Products that were supplied or contracted to be supplied to third parties by BBFN prior to 6 months after the Effective Date shall be deemed exempted from the requirements of this Section 2 and shall be permitted to be sold through as previously manufactured, packaged and labeled.

2.2. Warning Option

Products that do not meet the warning exemption standard set forth in Section 2.1 above shall be accompanied by a warning as described in Section 2.3 below. This warning requirement shall only be required as to Products that are manufactured, distributed, marketed, imported, sold,

shipped for sale or offered for sale to consumers by BBFN in the State of California. No Proposition 65 warning shall be required for any Products that are supplied or contracted to be supplied to third parties by BBFN prior to 6 months after the Effective Date, and all such Products are hereby deemed to be exempt from Proposition 65 enforcement. The injunctive relief in this Agreement does not apply to any Products that have left the possession and are no longer under the control of BBFN prior to the Effective Date and all claims as to such Products are released in this Settlement Agreement.

2.3. Warning Language

2.3.1. A clear and reasonable exposure Warning must be provided for Covered Product(s) with Violative Daily Exposure Level that BBFN Distributes into the State of California after the Compliance Date. The Warning shall consist of either the Standard Warning (under 2.3.1. (a)) or the Short-Form Warning (under 2.3.1. (b)).

a. Standard Warning. The Standard Warning shall consist of the statement:

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.

b. Short-Form Warning. The Short-Form Warning shall consist of the statement:

 **WARNING:** [Cancer and] Reproductive Harm. - www.P65Warnings.ca.gov.

BBFN shall use the phrase “Cancer and” in the Warning if the exposure level is greater than 15 micrograms of lead per day.

The font size of the Short-Form warning must be a minimum of 6 points, and it cannot be smaller than the largest size font used for Consumer Information.

2.3.2. Print Warning. Standard Warning or Short-Form Warning provided pursuant to Section 2.3 in print form must:

- a. contain the word “WARNING:” in all capital letters, in bold font, followed by a colon;
- b. display the Warning Symbol to the left of the word “WARNING:”;
- c. display the Warning Symbol in a size no smaller than the height of the word “WARNING:”;
- d. be affixed to or printed on the Products’ label, or on a placard, shelf tag, sign or electronic device;
- e. be displayed with such conspicuousness, as compared with other words, statements, or designs as to render it likely to be read and understood by an ordinary individual under customary conditions of purchase or use;

- f. be set off from other surrounding information;
- g. be enclosed in a box with a black, bold border.

2.3.3. Online/Internet Warning. If BBFN sell(s) Covered Product via internet websites to customers located in California, the warning requirements of this section shall be satisfied by (1) on-label warning and (2) the Warning also must be displayed online prior to the purchase, either on one or on all of the below:

- (a) on the same web page on which the Products are displayed and/or described;
- (b) on the same page as where the price for the Products are displayed; or
- (c) on one or more web pages displayed to a purchaser prior to completion of purchase during the checkout process.

2.3.4. Online Warning must comply with all requirements of Section 2.3.2 of this Agreement, except 2.3.2.(d).

2.3.5. Online Warning must be prominently displayed to the purchaser prior to completing the purchase.

2.3.6. The Online Warning may also be provided by a clearly marked hyperlink using the word “WARNING” on the product display page that links to the text of the Standard Warning.

2.4. For any Covered Product sold by BBFN to a Distributor, BBFN shall provide the written Notice to Distributors and Retailers attached hereto as Exhibit A. Confirmation of receipt of the Notice to Distributors and Retailers must be received electronically or in writing from a Distributor.

2.5 FOREIGN LANGUAGE - If the Product has consumer information in a foreign language, then the package must also contain the WARNING in the foreign language.

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

In full satisfaction of all potential civil penalties and attorney’s fees, costs and any other expenses incurred by CPA or its counsel. BBFN shall pay the total Settlement amount of Twelve Thousand Dollars (\$12,000) (The “Settlement Amount”) as set forth below.

3.1 Civil Penalties to Health & Safety Code 25249.7 (B):

Five Hundred Dollars of the Settlement Amount shall be considered a “civil penalty” pursuant to California Health and Safety Code. BBFN shall issue two separate checks within ten (10) business days of the Effective Date for a total amount of Five Hundred Dollars (\$500) as follows, and all payments shall be delivered to the addresses listed below.

3.1 (a) One Check made payable to the State of California's Office of Environmental Health Hazard Assessment ("OEHHA") in the amount of Three Hundred Seventy Five Dollars (\$375), representing 75% of the total civil penalty; and

3.1 (b) One check payable to "Clean Product Advocates, LLC" in the amount of One Hundred Twenty Five Dollars (\$125), representing 25% of the total civil penalty.

3.2 Attorney's Fees and Costs:

Eleven Thousand Dollars (\$11,500) of the total Settlement Amount shall be paid to Cliffwood Law Firm, PC within ten (10) business days of the Effective Date, as CPA's attorneys, for reasonable investigation fees, and costs, attorney's fees, and any other cost incurred as a result of investigating and bringing this matter to BBFN's attention.

4. PAYMENT PROCEDURES

4.1 All Payments owed to OEHHA, pursuant to section 3.1(a) shall be delivered directly to OEHHA (Memo line "Prop 65 Penalties NOV #2024-01832") at the following address:

Attn: Mike Gyurics
Fiscal Operations Branch Chief
Office of Environmental Health Hazard Assessment
P.O. Box 4010
Sacramento, CA 95812-4010

4.2 All Payments owed to CPA, pursuant to Section 3.1(b) shall be delivered to:

c/o CPA
Attn: Elham Shabatian
Cliffwood Law Firm, PC
12100 Wilshire Blvd, Suite 800
Los Angeles, CA 90025

4.3 All Payments owed to Cliffwood Law Firm, PC pursuant to Section 4.3, shall be delivered to:

Cliffwood Law firm, PC
Attn: Elham Shabatian
12100 Wilshire Blvd, Suite 800
Los Angeles, CA 90025

4.4 PROOF OF PAYMENT

A copy of each check payable to OEHHA, shall be mailed to Cliffwood Law firm, PC, simultaneous with payment to Cliffwood Law Firm, PC at the address set forth above, as proof

of payment to OEHHA, or may otherwise be provided to counsel via email as set forth in this Agreement.

5. RELEASE OF ALL CLAIMS

5.1. Release of BetterBody Foods & Nutrition, 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 and 4 above, CPA, on behalf of itself and its respective owners, principals, shareholders, officers, directors, employees, parents, subsidiaries its past and current agents, representatives, attorneys, successors and/or assignees (collectively, "Releasers"), hereby waives all rights to institute or participate in, directly or indirectly, any form of legal action and fully releases all claims relating to the Products, 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) of any nature whatsoever, whether known or unknown, fixed or contingent (collectively "Claims"), against (a) BBFN (b) each BBFN's downstream distributors in the stream of commerce (including but not limited to ADDITIONAL VIOLATORS and any other upstream or downstream entities in the distribution chain for the Products, including, but not limited to, manufacturers, wholesalers, vendors, licensors, licensees, auctioneers, retailers, franchisees, dealers, shareholders, cooperative members, customers, owners, purchasers, third-party re-sellers, and users, (c) BBFN's parent companies, corporate affiliates, subsidiaries, affiliates, doing business as entities ("DBAs"), successor companies, and their respective officers, directors, attorneys, representatives, shareholders, agents, and employees, and sister and parent entities, and (d) the employees, shareholders, officers, directors, members, managers, equity owners, insurers, attorneys, predecessors, successors and assigns of any of the entities identified in subsection (a) and (c), above (collectively "Releasees"). CPA also, on behalf of itself, its past and current agents, representatives, attorneys, successors, and/or assignees and *not* in its representative capacity, provides a general release herein which shall be effective as a full and final accord and satisfaction, as a bar to all actions, causes of action, obligations, costs, expenses, attorneys' fees, damages, losses, claims, liabilities and demands of any nature, character or kind, known or unknown, suspected or unsuspected, against BBFN and the Releasees.

5.2 BetterBody Foods & Nutrition's Release of CPA

BBFN, on behalf of itself, its past and current agents, representatives, attorneys, successors and/or assignees, hereby waives any and all claims against CPA, her attorneys and other representatives, for any and all actions taken or statements made (or those that could have been taken or made) by CPA and/or her attorneys and other representatives, whether in the course of investigating claims or otherwise seeking to enforce Proposition 65 against it in this matter or with respect to the Products.

5.3 California Civil Code § 1542.

It is possible that other claims not known to the Parties arising out of the facts alleged in the Notice and relating to the Products will develop or be discovered. CPA on behalf of itself only, on one hand, and BBFN, on the other hand, acknowledge that this Agreement is expressly intended to cover and include all such claims up through the Effective Date, including all rights of action thereof. The Parties acknowledge that the claims released in §§ 5.1 and 5.2, above, may include unknown claims, and nevertheless waive California Civil Code § 1542 as to any such unknown claims. 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.

CPA and BBFN each acknowledge and understand the significance and consequences of this specific waiver of California Civil Code § 1542.

6. 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 Products, then BBFN shall have no further obligations pursuant to this Settlement Agreement.

7. 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) electronic mail; or (ii) overnight courier on any party by the other party at the following addresses:

For BetterBody Foods & Nutrition LLC:

Owen M. Praskievicz, Esq.
Solomon Ward Seidenwurm & Smith LLP
401 B Street Suite 1200
San Diego, CA 92101

For Clean Product Advocates, LLC:

Elham Shabatian, Esq.
Cliffwood Law Firm, PC
12100 Wilshire Blvd, Suite 800
Los Angeles, CA 90025

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

8. 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.

9. 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.

10. MODIFICATION

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

11. 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: December 6th, 2024

Signature:  _____

Name: Stephen Richards

Title: President & CEO

Date: December , 2024
12/9/2024

Signature:  _____

Name: DEKI YANGZOM, DIRECTOR

Title: