

## **SETTLEMENT AND RELEASE AGREEMENT**

### **1. INTRODUCTION**

#### **1.1. Initiative for Safer Cosmetics and The TJX Companies, Inc. dba TJ Maxx**

This Settlement Agreement is entered into by and between Initiative for Safer Cosmetics ("IFSC"), on the one hand, and ES Cosmetic International, LLC ("ES Cosmetic"), on the other hand, with IFSC and ES Cosmetic collectively referred to as the "Parties."

#### **1.2. General Allegations**

IFSC alleges that ES Cosmetic manufactured and distributed and offered for sale in the State of California "Every Strand Simply Curls Professional Curling Creme" containing Diethanolamine (DEA), 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 Diethanolamine under Proposition 65 as a chemical known to the State of California to cause cancer.

#### **1.3. Product Description**

The products that are covered by this Settlement Agreement are defined as Every Strand Simply Curls Professional Curling Creme that ES Cosmetic has manufactured, imported, sold, offered for sale or distributed (personally or through any downstream manufacturer, retailer, distributor or other party) in California. All such items shall be referred to herein as the "Products."

#### **1.4. Notice of Violation**

On 06/30/2024 IFSC served Beauty Exchange LLC, The TJX Companies, Inc. dba TJ Maxx 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 The TJX Companies, Inc. and such public enforcers with notice that The TJX Companies, Inc. 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 Diethanolamine. On or about June 10, 2025, IFSC amended the Notice to add ES Cosmetic International, LLC as an alleged violator and to remove Beauty Exchange, LLC as an alleged violator. This amended notice was served on ES Cosmetic, The TJX Companies, Inc. dba TJ Maxx 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 Intent to Sue" ("Amended Notice") that provided ES Cosmetic and such public enforcers with notice that ES Cosmetic 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 Diethanolamine. To the best of the Parties' knowledge, no public enforcer has commenced or is diligently prosecuting the allegations set forth in the Notice or Amended 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 and Amended Notice concerning ES Cosmetic's and/or The TJX Companies, Inc.'s compliance with Proposition 65. ES Cosmetic and TJX Companies, Inc. deny the material factual and legal allegations contained in IFSC's Notice and Amended Notice and maintains that all products that 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 ES Cosmetic and/or The TJX Companies, Inc. 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 ES Cosmetic and/or The TJX Companies, Inc. of any fact, binding, conclusion, issue of law, or violation of law, such being specifically denied by ES Cosmetic and The TJX Companies, Inc. on their behalf. However, nothing in this section shall diminish or otherwise affect the obligations, responsibilities, and duties of ES Cosmetic 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, and continuing thereafter, Products that ES Cosmetic directly manufactures, imports, distributes, sells, or offers for sale in California shall either be: (a) reformulated Products pursuant to § 2.1, below; or (b) labeled with a clear and reasonable exposure warning pursuant to §§ 2.2 and 2.3, below. For purposes of this Settlement Agreement, a "DEA Free Reformulated Product" is a Product that is in compliance with the standard set forth in § 2.1, below. The warning requirements set forth in §§ 2.2 and 2.3 shall not apply to any DEA Free Reformulated Product or to any Product manufactured prior to the Effective Date.

### **2.1. DEA Free Reformulation Standards**

To qualify as a "DEA Free Reformulated Product," the Product must meet the following standard: DEA content that is either not detectable (i.e., zero) or below the Reporting Limit (defined herein) when the Product is analyzed pursuant to liquid chromatography/tandem mass spectrometry (LC-MS/MS), inductively coupled mass spectroscopy (ICP-MS) or other method of analysis utilized by the International Organization of Standardization (ISO) for qualitative or quantitative screening of cosmetics and cosmetic raw materials.

#### **2.1.1 Reporting Limit**

The "Reporting Limit" is 0.10 ppm in a sample of a Product tested by an accredited testing laboratory employing LC-MS/MS, ICP-MS or other reliable method of analysis utilized by the ISO for qualitative and quantitative screening of cosmetics and cosmetic raw materials.

## 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 ES Cosmetic 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 ES Cosmetic prior to 6 months after the Effective Date, and all such Products are hereby deemed to be exempt from Proposition 65 enforcement.

## 2.3. Warning Language


(a) Where required to meet the criteria set forth in Section 2.2, ES Cosmetic shall display one of the following warning statements on the packaging label of the Products that do not meet the warning exemption standard set forth in Section 2.1 above. The Warning shall consist of either the Standard Warning (under 2.3. (i)) or the Short-Form Warning (under 2.3. (ii)).

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


- 1) **“WARNING:” [or] “CA WARNING:” [or] “CALIFORNIA WARNING:”**  
This product can expose you to chemicals including Diethanolamine, which is [are] known to the State of California to cause cancer. For more information go to [www.P65Warnings.ca.gov](http://www.P65Warnings.ca.gov)

or

ii. Short-Form Warning. The Short-Form Warning shall consist of one of the following statements:


- 2)  **“WARNING:” [or] “CA WARNING:” [or] “CALIFORNIA WARNING:”**  
Cancer risk from exposure to Diethanolamine (“DEA”). See [www.P65Warnings.ca.gov](http://www.P65Warnings.ca.gov).

or

- 3)  **“WARNING:” [or] “CA WARNING:” [or] “CALIFORNIA WARNING:”**  
Can expose you to Diethanolamine (“DEA”), a carcinogen. See [www.P65Warnings.ca.gov](http://www.P65Warnings.ca.gov).

or

On a product manufactured/labeled prior to 1/1/2028, regardless of date of sale:

- 4)  **WARNING:** Cancer – [www.P65Warnings.ca.gov](http://www.P65Warnings.ca.gov)

The ES Cosmetic may use “cancer and” in the warning at its option. ES Cosmetic may include the names of additional chemicals in the warning if they are present in the Products at a level that ES Cosmetic reasonably believes would require a Proposition 65 warning.

(b) The requirements for warnings, set forth in subsection (a) above, are imposed pursuant to the terms of this Settlement Agreement. The Parties recognize that these are not the exclusive methods of providing a warning under Proposition 65 and its implementing regulations. ES Cosmetic shall be deemed to be in compliance with the warning requirements of this Settlement Agreement by either adhering to this Section 2.3 or by complying with the Proposition 65 warning requirements adopted by the State of California Office of Environmental Health Hazard Assessment (“OEHHA”) as of or after the Effective Date.

(c) If Proposition 65 warnings for Diethanolamine should no longer be required, ES Cosmetic shall have no further obligations pursuant to this Settlement Agreement.

(d) INTERNET - As set forth in Cal. Code Regs. Tit. 27, § 25602(b), to the extent Covered Products are sold online, a warning that complies with the content requirements of Cal. Code Regs Tit. 27, § 25603 must be provided via one of the following methods: (1) A warning on the product display page; (2) A clearly marked hyperlink using the word “WARNING” or the words “CA WARNING” or “CALIFORNIA WARNING” on the product display page that links to the warning; or (3) An otherwise prominently displayed warning provided to the purchaser prior to completing the purchase. If a warning is provided using the short-form label content pursuant to Section 25602(a)(4), the warning provided on the website may use the same content. For purposes of this section, a warning is not prominently displayed if the purchaser must search for it in the general content of the website. For internet purchases made prior to 1/1/28, a retail seller is not responsible under Section 25600.2(e)(4) for conspicuously posting or displaying the new warning online until 60 calendar days after the retailer receives a warning or a written notice under Section 25600.2(b) and (c) which updates a short-form warning compliant with Section 25603(c) with content compliant with Section 25603(b). These requirements extend to any short form on a product manufactured/ labeled prior to 1/1/28, regardless of date of sale 5560775.2 websites under the exclusive control of ES Cosmetic where Covered Products are sold into California. In addition, ES Cosmetic shall instruct any third-party website to which it directly sells its Covered Products to include the same online warning, as set forth above, as a condition of selling the Covered Products in California.

(e) 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 IFSC or its counsel. ES Cosmetic shall pay the total Settlement amount of Nine Thousand Eight Hundred Dollars (\$9,800) (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. ES Cosmetic shall issue two separate checks within ten (10) 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 Hazzard 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 “Initiative for Safer Cosmetics” in the amount of One Hundred Twenty-Five Dollars (\$125), representing 25% of the total civil penalty.

### **3.2 Attorney’s Fees and Costs:**

Nine Thousand Three Hundred (\$9,300) of the total Settlement Amount shall be paid to Cliffwood Law Firm, PC within ten (10) days of the Effective Date, as IFSC’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 ES Cosmetic’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 #2024-02716”) 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 IFSC, pursuant to Section 3.1(b) shall be delivered to:

IFSC  
% Cliffwood Law Firm, PC  
Attn: Elham Shabatian  
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 OEHHHA, 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 OEHHHA.

### **5. RELEASE OF ALL CLAIMS**

#### **5.1. Release of ES Cosmetic, 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, IFSC, 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, "Releasors"), 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) ES Cosmetic (b) each of ES Cosmetic's downstream distributors and/or retailers in the stream of commerce (including but not limited to The TJX Companies, Inc. dba TJ Maxx) 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) ES Cosmetic'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"). IFSC 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 ES Cosmetic and the Releasees.

#### **5.2 ES Cosmetic's Release of IFSC**

ES Cosmetic, on behalf of itself, its past and current agents, representatives, attorneys, successors and/or assignees, hereby waives any and all claims against IFSC, her attorneys and other representatives, for any and all actions taken or statements made (or those that could have been taken or made) by IFSC 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. IFSC on behalf of itself only, on one hand, and ES Cosmetic, 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.

IFSC and ES Cosmetic 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 The TJX Companies, Inc. 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 ES Cosmetic International, LLC :**

Michael Sachs, Esq.  
Clark Hill LLP  
505 Montgomery St, 13th Floor  
San Francisco, CA 94111

**For Initiative for Safer Cosmetics:**

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.

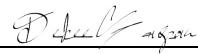
Agreed to:

Date: October 1, 2025

  
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box SIGN 463QK6WQ-4Y5P5QJJ  
Name:  
Title:  
ES Cosmetic International, LLC

Date: October \_\_, 2025

10/14/2025

  
\_\_\_\_\_  
Name:  
Title: Jek YANG, DIRECTOR  
Initiative for Safer Cosmetics