

SETTLEMENT AGREEMENT

1. INTRODUCTION

1.1 Parties

This Settlement Agreement is entered into by and between CalSafe Research Center, Inc. ("CRC"), on the one hand, and Turtle Island Foods, Inc. d/b/a The Tofurky Company ("Tofurky") on the other hand, with CRC and Tofurky each individually referred to as a "Party" and collectively as the "Parties," to resolve the allegations in the November 8, 2024 60-Day Notice of Violation in compliance with the Safe Drinking Water and Toxic Enforcement Act of 1986, Health & Safety Code § 25249.6 *et seq.* ("Proposition 65").

1.2 General Allegations

CRC alleges that Tofurky sells and/or distributes in California certain products, specified in Section 1.3 below, containing lead without a warning as required by Health and Safety Code §§ 25249.5 *et seq.* ("Proposition 65"). Lead is listed pursuant to Proposition 65 as a chemical known to cause cancer and birth defects or other reproductive harm. Tofurky denies these allegations.

1.3 Product Descriptions

The products covered by this Settlement Agreement are defined as, and expressly limited to "Tofurky, Plant-Based Chick'n Barbecue (UPC# 025583005211)" and "Tofurky, Plant-Based Chick'n Sesame Garlic (UPC# 025583005235)" (the "Products") that CRC alleges to contain lead and that are manufactured, sold or distributed for sale in California by Tofurky.

1.4 Notice of Violation

On November 8, 2024, CRC served a 60-Day Notice of Violation ("the Notice") on Tofurky, the California Attorney General and the other requisite public enforcers, alleging that Tofurky and others violated Proposition 65 when they failed to warn consumers in California of the alleged exposures to lead from the Products.

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.

1.5 No Admission

Tofurky denies the material, factual and legal allegations contained in the Notice and maintains that all of the products it 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, nor shall compliance with this Settlement Agreement constitute or be construed as, an admission by Tofurky or any of its officers, directors, shareholders, employees, agents, parent companies, subsidiaries, divisions, affiliates, franchisees, licensees, customers, suppliers, distributors, wholesalers, retailers, or any other entity affiliated with Tofurky through the Products' chain of commerce of any fact, finding, conclusion of law, issue of law or violation of law, such being specifically denied by Tofurky. This Section shall not, however, diminish or otherwise affect Tofurky's obligations, responsibilities, and duties under this Settlement Agreement. Tofurky maintains that it has not knowingly manufactured or caused to be manufactured the Products in violation of Proposition 65.

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 **Clear and Reasonable Warnings**

Beginning on the Effective Date, Tofurky 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, Products that expose a person to an exposure level of more than 0.5 micrograms of lead per serving, with serving size measured by the serving size specified on the label of the Products, unless it provides a warning in compliance with Article 6 of Proposition 65 regulations (27 California Code of Regulations §§ 25600 et seq.).

As used in this Settlement Agreement, the term "Distributing into the State of California" shall mean to directly ship the Products into California for sale in California or to sell the Products to a distributor that Tofurky knows or has reason to know will sell the Products in California.

2.2 **General Warning Requirements**

Tofurky agrees that 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. Each warning shall be provided in a manner such that an ordinary consumer or user under customary conditions before purchase or use understands to which *specific* Product the warning applies, so as to minimize the risk of consumer confusion.

For the purposes of this Settlement Agreement, a clear and reasonable warning for the Products shall consist of a warning affixed to the packaging, label, tag, or directly to each of the Products sold or distributed in California by Tofurky. The warning shall comply with the safe harbor language under Article 6 of the Proposition 65 regulations; for example, the warning options for lead are as follows:

- 1) **WARNING:** Consuming this product can expose you to 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.

Tofurky may, at its option, use the words "CA WARNING:" or "CALIFORNIA WARNING:" instead of the word "WARNING:".

- 2) **WARNING:** Risk of cancer and reproductive harm from exposure to lead. See www.P65Warnings.ca.gov/food.

or

WARNING: Can expose you to lead, a carcinogen and reproductive toxicant. See www.P65Warnings.ca.gov/food.

Tofurky may, at its option, use the words "CA WARNING:" or "CALIFORNIA WARNING:" instead of the word "WARNING:"

The warning shall be offset in a box with black outline.

If, after the Effective Date, Tofurky sells Products via the internet to customers located in California, Tofurky shall provide warnings for each Product by including either the warning or a clearly marked hyperlink using the word "WARNING" or "CA WARNING" or "CALIFORNIA WARNING" on the Product display page, or by otherwise prominently displaying the warning to the purchaser prior to completing the purchase.

For Products that Tofurky provides for a downstream entity to sell on the internet, Tofurky shall include an instruction that the entity comply with the warning requirements of this section.

Where a consumer product sign, label or shelf tag used to provide a warning includes consumer information, as that term is defined in Title 27 California Code of Regulations § 25600.1(c) ("Consumer Information"), in language(s) other than English, the warning must also be provided in the other language(s) in addition to English.

(i) Changes in Warning Regulations or Statutes

In the event that the Office of Environmental Health Hazard Assessment promulgates one or more regulations requiring or permitting warning text and/or methods of transmission different than those set forth above, Tofurky shall be entitled to use, at its discretion, such other warning text and/or method of transmission without being deemed in breach of this Settlement Agreement. In the event Proposition 65 is repealed, preempted, or is otherwise rendered inapplicable, by reason of law, generally, as to the Products or as to lead, such that providing that a Proposition 65 warning for the Products is no longer required, a lack of warning will not thereafter be a breach of this Settlement Agreement.

2.3 Grace Period for Existing Inventory of Products

The injunctive requirements of Section 2 shall not apply to Product that is already in the stream of commerce as of six months following the Effective Date, which Product is expressly subject to the releases provided in Section 4.1.

3. MONETARY SETTLEMENT TERMS

3.1 Total Settlement Payment

In full satisfaction of all potential civil penalties, attorneys' fees, and costs, Tofurky shall make a total settlement payment of Twenty Thousand Dollars **(\$20,000.00)** ("Total Settlement Amount"). The Total Settlement Amount shall be apportioned into a Civil Penalty and Attorney's Fees and Costs as set forth in Sections 3.2 and 3.3 below.

3.2 Civil Penalty Payment

Pursuant to Health and Safety Code§ 25249.7(b)(2), and in settlement of all claims alleged in the Notice or referred to in this Settlement Agreement, Tofurky agrees to pay Two Thousand Dollars **(\$2,000.00)** 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 CRC. Within thirty (30) days of the Effective Date, Tofurky shall issue a check to "OEHHA" in the amount of One Thousand Five Hundred Dollars **(\$1,500.00)** and shall, pursuant to the instructions below, wire to CRC the amount of Five Hundred Dollars **(\$500.00)**.

All payments owed to OEHHA (EIN: 68-0284486) pursuant to this Section shall be delivered directly to OEHHA (Memo Line "Prop 65 Penalties") 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 CRC shall be sent via wire to:

Wire Instructions:

Account Name: The Law Offices of Joseph R. Manning
Bank Name: J.P. Morgan Chase Bank, N.A.
Bank Address: 2967 Michelson Dr, Ste A, Irvine, CA 92612
Wire Routing / ABA Number: 021000021
Swift Code: CHASUS33
Account Number: 579068902

For further benefit of: Civil Penalty Payment File No. P65-1038

3.3 Attorney Fees and Costs

The Parties reached an accord on the compensation due to CRC and its counsel under the private attorney general doctrine and principles of contract law. Under these legal principles, within thirty (30) days of the Effective Date, Tofurky agrees to pay Eighteen Thousand Dollars (**\$18,000.00**) to CRC and its counsel for all fees and costs incurred in investigating, bringing this matter to the attention of Tofurky, and negotiating a settlement.

The payment shall be sent via wire to:

Wire Instructions:

Account Name: The Law Offices of Joseph R. Manning
Bank Name: J.P. Morgan Chase Bank, N.A.
Bank Address: 2967 Michelson Dr, Ste A, Irvine, CA 92612
Wire Routing / ABA Number: 021000021
Swift Code: CHASUS33
Account Number: 579068902
For further benefit of: Attorney's Fees and Costs File No. P65-1038

3.4 Tax Documentation

Tofurky agrees to provide a completed IRS 1099 form for its payments to, and CRC and Manning Law agree to provide IRS W-9 forms for each of the payees under this Settlement Agreement. The Parties acknowledge that Tofurky cannot issue any settlement payments pursuant to Section 3 above until after Tofurky receives the requisite W-9 forms from CRC's counsel.

4. CLAIMS COVERED AND RELEASED

4.1 CRC's Release of Tofurky

This Settlement Agreement is a full, final, and binding resolution of the claims that were or could have been asserted by CRC arising out of the allegations in the Notice. CRC, acting on its own

behalf, in the public interest, and on behalf of its past and current agents, representatives, attorneys, successors and assignees (“Releasers”) releases Tofurky, its past and present officers, directors, shareholders, employees, agents, attorneys, parent companies, subsidiaries, divisions, affiliates, franchisees, licensees, customers, suppliers, distributors (the “Tofurky Releasees”) and all entities to which Tofurky Releasees directly or indirectly distribute or sell the Product, including but not limited to, and any other distributors, wholesalers, marketplace hosts, customers, retailers, franchisees, cooperative members, licensors, and licensees, (collectively, the “Released Parties” and individually, a “Released Party”) based on the failure to provide a clear and reasonable warning under Proposition 65 about alleged exposures to lead contained in the Products that were manufactured, processed, distributed, sold and/or offered for sale in California before the Effective Date, as set forth in the Notice. The Parties further agree that compliance with Section 2 of this Settlement Agreement shall be deemed compliance with Proposition 65 with respect to alleged exposures to lead in the Products.

In further consideration of the promises and agreements herein contained, CRC, acting on its own behalf and not on behalf of the public, fully releases and discharges the Tofurky Releasees and Released Parties. CRC, on behalf of itself and its past and current representatives, attorneys, officers, directors, shareholders, employees, agents, parent companies, successors, and/or assignees, subsidiaries and divisions hereby waives CRC’s rights to institute or participate in, directly or indirectly, any form of legal action and fully releases and discharges the Released Parties from any and all claims CRC may have, including, without limitation, all actions, causes of action, in law or equity, suits, demands, liabilities, obligations, damages, penalties, fees, costs, fines, and expenses asserted, or that could have been asserted based on or related to the handling, use, sale, distribution or consumption of the Product in California, as to any alleged violation of Proposition 65 or its implementing regulations in relation to the Product, including without limitation any failure to provide Proposition 65 warnings on the Products with respect to exposures to lead.

4.2 Tofurky’s Release of CRC

Tofurky on behalf of its past and current agents, representatives, attorneys, successors and assignees hereby waives any and all claims against CRC and its attorneys and other representatives, for any and all actions taken, or statements made by CRC 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 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. CRC on behalf of itself only, and Tofurky on behalf of itself 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. CRC and Tofurky 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 KNOWN 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 principals.

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 CRC

Joseph R. Manning, Jr.
Manning Law, APC
26100 Towne Center Drive
Foothill Ranch, CA 92610
Tel: Office (949) 200-8757 Fax: (866) 843-8309
p65@manninglawoffice.com

For Tofurky

Mr. Kiyotaka Miyauchi
PO Box 176
Hood River, OR 97031

With Copy To:

Natalie E. Rainer
K&L Gates LLP
4 Embarcadero Center, Suite 1200
San Francisco, CA 94111
Tel: (415) 882-8029
Natalie.Rainer@klgates.com

8. COUNTERPARTS: FACSIMILE SIGNATURES

This Settlement Agreement may be executed in counterparts and by facsimile or portable document format (PDF) signature, 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 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.*

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

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

10. MODIFICATION

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

11. ENTIRE AGREEMENT

This Settlement Agreement contains the sole and entire agreement and understanding of the Parties with respect to the subject matter hereof, and any and all prior discussions, negotiations, commitments, and understandings related hereto, if any, shall be deemed to have been merged within it. No warranties, representations, or agreements 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 Settlement Agreement have been made by, or relied on, any Party. No other agreements not specifically contained or referenced herein, oral or otherwise, shall be deemed to exist or to bind any of the Parties hereto.

12. INTERPRETATION

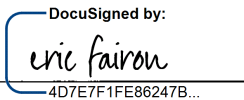
No inference, assumption or presumption shall be drawn, and no provision of this Settlement Agreement shall be construed against any Party, based upon the fact that one of the Parties and/or their counsel prepared or drafted any portion of this Settlement Agreement. The Parties waive the provisions of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

AGREED TO:

Date: 4/29/2025

By:  4D7E7F1FE86247B...

CalSafe Research Center, Inc.

AGREED TO:

Date: Apr 24, 2025

By: 

Turtle Island Foods, Inc.
d/b/a The Tofurky Company