

SETTLEMENT AGREEMENT

1. INTRODUCTION

1.1 Parties

This Settlement Agreement is entered into by and between Environmental Health Advocates, Inc. ("EHA"), on the one hand, and Glymed Plus, L.L.C. ("Glymed"), on the other hand, with EHA and Glymed each individually referred to as a "Party" and collectively as the "Parties." EHA is a corporation in the State of California serving in the interest of the general public by seeking to promote awareness of exposures to toxic chemicals and to improve human health by reducing or eliminating hazardous substances used in consumer products. EHA alleges that Glymed is a person in the course of doing business for purposes of the Safe Drinking Water and Toxic Enforcement Act of 1986, California Health and Safety Code § 25249.6 *et seq.* ("Proposition 65").

1.2 General Allegations

EHA alleges that Glymed either manufactures, imports, sells, offers for sale and/or distributes for sale in California, acne treatment cream products that contain diethanolamine ("DEA") and that it does so without first providing the health hazard warning required by Proposition 65. DEA is listed pursuant to Proposition 65 as a chemical known to cause cancer.

1.3 Product Description

The products covered by this Settlement Agreement are defined as, and expressly limited to all sizes and forms of packaging of Glymed Plus Blemish Control No. 5 ("Covered Products"), that are or were either manufactured, imported, sold, offered for sale, and/or distributed for sale in California by Glymed. This Settlement Agreement expressly applies to the reformulated versions of the Covered Products. Glymed represents that it commenced reformulation efforts prior to the Effective Date to remove DEA from the Covered Products. While the process of reformulation, relabeling and repackaging is time intensive, it is intended to result in a permanent removal of DEA from the Covered Products.

1.4 Notice of Violation

On or around December 17, 2024, EHA served Glymed, the California Attorney General, and certain other public enforcement agencies with two 60-Day Notices of Violation of Proposition 65

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(“Notices”). The Notices alleged that Glymed had violated Proposition 65 by failing to sufficiently warn consumers in California of the health hazards associated with exposures to DEA contained in Covered Products.

To the best of the parties’ knowledge, no public enforcer has commenced or is otherwise prosecuting an action to enforce the violations alleged in the Notices.

1.5 No Admission

Glymed denies the material, factual, and legal allegations in the Notices and maintains that all of the products it sold, offered for sale and/or distributed for sale in California, including Covered Products, have been, and are, in compliance with all laws. Nothing in this Settlement Agreement shall be construed as an admission against interest by Glymed of any fact, finding, conclusion, issue of law or violation of law, nor shall compliance with this Settlement Agreement constitute or be construed as an admission against interest by Glymed of any fact, finding, conclusion, issue of law or violation of law, such being specifically denied by Glymed. This Section shall not, however, diminish or otherwise affect Glymed's obligations, responsibilities, and duties 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 executed by the Parties and both Parties have notice thereof.

2. INJUNCTIVE RELIEF


2.1 Reformulation Standard

On and after the Reformulation Date, and as further detailed in Section 2.2, Glymed shall be permanently enjoined from either manufacturing, importing, selling, offering for sale or distributing for sale in California, or directly selling in the State of California, any Covered Product that has a DEA content above the Reporting Limit of 10 mg/kg when 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 for Standardization (ISO) for qualitative and quantitative screening of cosmetics and cosmetic raw materials (the “Reformulation Standard”). The “Reformulation Date” shall be December 15, 2025.

2.2 General Warning Requirements


Commencing on the Reformulation Date, Glymed agrees any Covered Product subject to this Settlement Agreement manufactured on and after the Reformulation Date that does not meet the Reformulation Standard pursuant to paragraph 2.1 shall contain a “clear and reasonable” Proposition 65 warning, within the meaning of Section 25249.6 of the Act. Glymed 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 seen, read and understood by an ordinary individual under customary conditions before purchase or use. Each warning shall be provided in a manner such that the consumer or user understands to which specific Covered Products the warning applies, and which listed chemical(s) is/are implicated, so as to minimize the risk of consumer confusion.

For purposes of this Settlement Agreement, a clear and reasonable warning for the Covered Products shall consist of a product-specific warning via one or more of the following methods: (1) A posted sign, shelf tag, or shelf sign for the consumer product at each point of display of the product; (2) Any electronic device or process that automatically provides the warning to the purchaser (not applicable to internet purchases, which are subject to the provisions of § 25602(b)); (3) A warning directly affixed to the product’s label or tag; or (4) A short-form warning on the label that complies with the content requirements set forth in §§ 25603(b) and 25603(a). Specifically, pursuant to § 25603(a) – (d), one of the following statements must be utilized:

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


OR

SHORT FORM

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

OR

SHORT FORM

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

**SHORT FORM ON
A PRODUCT
MANUFACTURED/
LABELED PRIOR
TO 1/1/28,
REGARDLESS OF
DATE OF SALE**

OR

- 4)  WARNING: Cancer- www.P65Warnings.ca.gov

The triangle above shall be yellow on the warning statement. 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. The symbol shall be placed to the left of the warning text, in a size no smaller than the height of the word, “WARNING.” A short-form warning must be provided on a product in a type size that complies with Cal. Code Regs. Tit. 27, § 25601(c). In no case shall a warning statement displayed on the Covered Products’ packaging appear in a type size smaller than 6-point type. Where a sign, labeling, or label as defined in Section 256001.1 is used to provide a warning that includes “consumer information” (as defined under Proposition 65) about a product in a language other than English, the warning must also be provided in that language in addition to English.

As set forth in Cal. Code Regs. Tit. 27, § 25602(b), to the extent Glymed sells Covered Products online via a proprietary website, Glymed shall provide a warning that complies with the content requirements of Cal. Code Regs. Tit. 27, § 25603 via at least 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 California purchaser, or for a shipment to a California consumer, prior to completing the purchase. If a warning on the Covered Product is provided using the short-form label content pursuant to Section 25602(a)(4), the warning provided on the Glymed proprietary 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 sales made prior to 1/1/28, a third party 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 third party retailer receives a warning or a written notice from Glymed 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 warning requirements extend to any websites under the exclusive control of Glymed where Covered Products are sold to consumers in California. In addition, Glymed shall instruct any third-party internet seller to which it directly sells its Covered Products to include the same warning for its third party online sales, as set forth above, as a condition of selling the Covered Products in California.

- (i) There shall be no obligation for Glymed to provide a warning for Covered Products manufactured prior to the Reformulation Date, and the Section 4 releases apply to all such Covered Products and Glymed specifically bargained, and provided consideration, for said releases of claims. 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 Proposition 65 warning text and/or methods of transmission applicable to the Covered Products and the chemical at issue, which are different than those set forth above, Glymed shall be entitled to use, at its discretion, such other warning text and/or method of transmission without being deemed in breach of this Agreement. If regulations or legislation are enacted providing that Proposition 65 warnings as to DEA in this product are no longer required, a lack of warning by Glymed will not thereafter be a breach of this Agreement.

2.3 Grace Period for Existing Inventory of Covered Products

The injunctive requirements of Section 2 shall not apply to Covered Products that are already in the stream of commerce as of the Effective Date, nor to Covered Products manufactured prior to the Reformulation Date, which Covered Products are expressly subject to the releases provided in Section 4.1.

3. MONETARY SETTLEMENT TERMS

3.1 Civil Penalty Payment

Pursuant to Health and Safety Code § 25249.7(b)(2), and in settlement of all claims alleged

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in the Notices or referred to in this Settlement Agreement, Glymed 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 EHA. Shall issue two separate checks for the initial civil penalty payment to (a) "OEHHA" and (b) Environmental Health Advocates, Inc. as follows:

- One payment of \$1,500.00 to OEHHA, due fourteen (14) days after the Effective Date.
- One payment of \$500.00 to EHA, due fourteen (14) days after the Effective Date.

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 Service Delivery:

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

For Non-United States Postal Service Delivery:

Mike Gyurics
Fiscal Operations Branch Chief
Office of Environmental Health Hazard Assessment
1001 "I" Street
Sacramento, CA 95814

All penalty payments owed to EHA shall be sent to:

Environmental Health Advocates
225 Broadway, Suite 1900
San Diego, CA 92101

3.2 Attorney Fees and Costs

The Parties reached an accord on the compensation due to EHA and its counsel under the private attorney general doctrine and principles of contract law. Under these legal principles, Glymed agrees to pay twenty thousand five hundred dollars (\$20,500.00) to EHA and its counsel for all fees

and costs incurred in investigating, bringing this matter the attention of Glymed, and negotiating a settlement. The twenty thousand five hundred dollars (\$20,500.00) in Attorney's Fees and Costs shall be payable to Entorno Law, LLP as one payment of \$20,500.00, due fourteen (14) days after the Effective Date.

All payments required under this Section shall be delivered to:

Noam Glick
Entorno Law, LLP
225 Broadway, Suite 1900
San Diego, CA 92101

3.3 Tax Documentation

Glymed agrees to provide a completed IRS 1099 for its payments, and EHA agrees to provide current IRS W-9 forms for each of the payees under this Settlement Agreement within two days of the Effective Date. The Parties acknowledge that Glymed cannot issue any settlement payments pursuant to Section 3.1 and 3.2 above until after Glymed receives the requisite W-9 forms from EHA's counsel.

4. CLAIMS COVERED AND RELEASED

4.1 EHA's Release of Glymed

This Settlement Agreement is a full, final, and binding resolution of all claims between EHA, on its own behalf and not on behalf of the public, and Glymed for all claims that can or could have been asserted by EHA, on its own behalf, on behalf of its past and current agents, representatives, attorneys, predecessors, successors and assignees, against Glymed and each of its respective parents, subsidiaries, affiliated entities under common ownership, directors, officers, members, employees, attorneys, and any entity, including, but not limited to each entity from whom Glymed directly or indirectly purchased or sourced the Covered Products, and each entity to whom Glymed directly or indirectly distributed or sold the Covered Products, including, but not limited to, its downstream distributors, wholesalers, customers, retailers, franchisees, cooperative members and licensees ("Releasees"), based on the failure to warn about exposures to DEA required under Proposition 65 in the Covered Products either manufactured, imported, sold, offered for sale or distributed for sale in California by Glymed before the Reformulation Date, as alleged in the Notices, or for any other

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reason.

In further consideration of the promises and agreements herein contained, EHA on its own behalf and not on behalf of the public, on behalf of its past and current agents, representatives, attorneys, predecessors, successors and assignees hereby waives any and all rights it may have to institute or participate in, directly or indirectly, any form of legal action and releases all claims against Glymed and Releasees including, without limitation, all actions and causes of action, suits, liabilities, demands, obligations, damages, costs, fines, penalties, losses or expenses including, but not exclusively, investigation fees, expert fees and attorney fees arising under Proposition 65 with respect to the alleged or actual failure to warn about exposures to DEA required under Proposition 65 in the Covered Products either manufactured, imported, distributed, sold or offered for sale or distributed for sale in California by Glymed, before the Reformulation Date.

4.2 Glymed's Release of EHA

Glymed, on its own behalf and on behalf of its past and current agents, representatives, attorneys, successors, and assignees, hereby waives any and all claims against EHA and its attorneys and other representatives, for any and all actions taken or statements made by EHA 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 Covered Products up through the Effective Date.

4.3 California Civil Code Section 1542

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. EHA on behalf of itself only, on one hand, and Glymed on behalf of itself only, on the other hand, acknowledge that this Settlement Agreement is expressly intended to cover and include all such claims up through the Effective Date. The Parties acknowledge that the claims released in Sections 4.1 and 4.2 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.

AC EHA initials

JM Glymed initials

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

4.4 COMPLIANCE WITH PROPOSITION 65

Compliance by Glymed with this Settlement Agreement shall constitute compliance with Proposition 65 by Glymed and the Releasees with regard to alleged DEA in the Covered Products.

5. PUBLIC BENEFIT

It is Glymed's understanding that the commitments it has agreed to herein, and actions to be taken by Glymed under this Settlement Agreement 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 Glymed that to the extent any other private party serves a notice and/or initiates an action alleging a violation of Proposition 65 with respect to Glymed's alleged failure to provide a warning concerning actual or alleged exposure to DEA prior to use of the Covered Products it has either manufactured, imported, distributed, sold, or offered for sale in California, or either will manufacture, import, 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 Covered Products addressed in this Settlement Agreement, provided that Glymed is in material compliance with this Settlement Agreement.

6. SEVERABILITY

If, subsequent to the execution of this Settlement Agreement, any provision of this Settlement Agreement is held by a court to be unenforceable, the validity of the remaining provisions shall not be adversely affected.

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. The terms of this Settlement Agreement apply

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to the Parties and their respective predecessors, successors and assigns. The warning obligations of this Settlement Agreement do not apply to Covered Products that are not sold in California.

8. ENFORCEMENT

This Settlement Agreement is enforceable solely by the Parties hereto. In any action to enforce the terms of this Settlement Agreement, the prevailing party shall be entitled to its reasonable attorneys' fees and costs. Prior to enforcement, however, the aggrieved Party shall contact the allegedly breaching Party, provide information supporting its allegation of an alleged breach and the Parties initially shall meet and confer in good faith to endeavor amicably to resolve the alleged breach.

9. NOTICE

Unless specified herein, all correspondence and notice required to be provided pursuant to this Settlement Agreement shall be in writing and sent by: (a) personal delivery; (b) first-class, registered or certified mail, return receipt requested; or (c) a recognized overnight courier on any Party by the other at the following addresses:

For Glymed:

Judith M. Praitis
Faegre Drinker Biddle & Reath LLP
1800 Century Park East, Suite 1500
Los Angeles, California 90067
judith.praitis@faegredrinker.com

For EHA:

Noam Glick
Entorno Law, LLP
225 Broadway, Suite 1900
San Diego, CA 92101

Any Party may, from time to time, specify in writing to the other a change of address to which all notices and other communications shall be sent. Courtesy communications may be sent via email.

10. 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.

11. COMPLIANCE WITH HEALTH & SAFETY CODE § 25249.7(f)

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

12. MODIFICATION

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

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: 4/16/25

By: 
ENVIRONMENTAL HEALTH
ADVOCATES, INC.

AGREED TO:

Date: 4/17/2025

By: 
GLYMED PLUS, L.L.C.