

SETTLEMENT AGREEMENT AND RELEASE

This Settlement Agreement and Release ("Agreement") between Environmental Research Center, Inc. ("ERC") and Leprino Foods Company ("Leprino"), and Leprino Performance Brands LLC, individually and dba Ascent Protein ("Ascent") (Leprino and Ascent are referred to as the "the Leprino Entities"), is effective on the date on which it is fully executed ("Effective Date"). ERC and the Leprino Entities are referred to individually as a "Party" and collectively as the "Parties." The Parties agree as follows:

1. This matter arises out of the Notices of Violation of California Health & Safety Code §25249.5, *et seq.* (also known as "Proposition 65") that ERC served on the Leprino Entities on February 7, 2025, and February 19, 2025 (the "Notices") with regard to the following products identified below (individually referred to as a "Covered Product" or collectively referred to as the "Covered Products"):

- ♣ Ascent Plant Protein Plant-Powered Post-Workout Recovery Vanilla Bean Plant Protein Powder Blend
- † Ascent Plant Protein Plant-Powered Post-Workout Recovery Chocolate Plant Protein Powder Blend

The Covered Products may also be referred to as "Lead Covered Products."

The Covered Product identified by the symbol "†" may also be referred to as "Cadmium Covered Product."

The Covered Product identified by the symbol "♣" may also be referred to as "PFOA Covered Product."

2. The Parties enter into this Agreement in order to fully resolve all claims, demands, and allegations regarding the Notices and for the purpose of avoiding prolonged litigation. Nothing in this Agreement shall be construed as an admission of the Parties of any fact, issue of law, or violation of law, nor shall compliance with this Agreement constitute or be construed as an admission by the Parties of any fact, issue of law or violation of law. Nothing in this Agreement or any document referred to shall be construed as giving rise to any presumption or inference of admission or concession by the Parties as to any fault, wrongdoing or liability. This Section shall not diminish or otherwise affect the obligations, responsibilities, and duties of the Parties under this Agreement.

3. INJUNCTIVE RELIEF, REFORMULATION, TESTING AND WARNINGS

In consideration of the following covenants and conditions contained in this Agreement, the Parties have provided the releases as set forth in Section 6 below:

3.1 Beginning October 1, 2025 (the "Compliance Date"), the Leprino Entities shall be permanently enjoined from manufacturing for sale in the State of California, "Distributing

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into the State of California," or directly selling in the State of California, (1) any Lead Covered Product that exposes a person to a "Daily Lead Exposure Level" of more than 0.5 micrograms of lead per day and/or (2) any Cadmium Covered Product that exposes a person to a "Daily Cadmium Exposure Level" of more than 4.1 micrograms of cadmium per day and/or (3) any PFOA Covered Product that exposes a person to any amount of Perfluorooctanoic acid ("PFOA") that can be reliably detected, all pursuant to the testing methodologies and level of quantification set forth in Section 3, unless such Covered Product meets the warning requirements under Section 3.2.

3.1.1 As used in this Agreement, the term "Distributing into the State of California" shall mean to directly ship a Covered Product into California for sale in California, after the Compliance Date or to sell a Covered Product to a distributor after the Compliance Date that the Leprino Entities know or have reason to know will sell the Covered Product in California.

3.1.2 For purposes of this 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 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 recommended daily servings appearing on the label), which equals micrograms of lead exposure per day. If the label contains no recommended daily servings, then the number of recommended daily servings shall be one.

3.1.3 For purposes of this Agreement, the "Daily Cadmium Exposure Level," shall be measured in micrograms, and shall be calculated using the following formula: micrograms of cadmium 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 recommended daily servings appearing on the label), which equals micrograms of cadmium exposure per day. If the label contains no recommended daily servings, then the number of recommended daily servings shall be one.

3.1.4 In calculating the Daily Lead Exposure Level for a Covered Product, the Leprino Entities shall be allowed to deduct the amount of lead which is deemed "naturally occurring" in any ingredient listed in **Table 1** that is contained in that Covered Product under the following conditions: For the first three (3) years that the Leprino Entities claim entitlement to a "naturally occurring" allowance, the Leprino Entities shall provide ERC with the following information: (a) the Leprino Entities must produce to ERC a written list of each ingredient in the Covered Product, and the amount, measured in grams, of each such ingredient contained therein, for which a "naturally occurring" allowance is claimed; (b) the Leprino Entities must provide ERC with documentation of laboratory testing, conducted during the year for which the "naturally occurring" allowance is claimed, that complies with Sections 3.4.3 and 3.4.4 and that shows the amount of lead, if any, contained in any ingredient listed in **Table 1** that is contained in the Covered Product and for which the Leprino Entities intend to deduct "naturally occurring" lead; (c) If the laboratory testing reveals the presence of lead in any ingredient listed in **Table 1** that is contained in the Covered Product, the Leprino Entities shall

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be entitled to deduct the amount of lead contained in each such ingredient, up to the full amount of the allowance for that ingredient as listed in **Table 1** but not to exceed the total amount of lead actually contained in that ingredient in the Covered Product; and (d) If the Covered Product does not contain an ingredient listed in **Table 1**, the Leprino Entities shall not be entitled to a deduction for "naturally occurring" lead in the Covered Product for that ingredient.

The information required by Sections 3.1.4 (a) and (b) shall be provided to ERC within thirty (30) days of the first anniversary of the Compliance Date, and annually within thirty (30) days of the anniversary of the Compliance Date, for the first (3) three years that the Leprino Entities shall claim entitlement to the "naturally occurring" allowance. After the first (3) three years, ERC may request this information, no more than once per year thereafter, and the Leprino Entities shall provide the requested information to ERC within thirty (30) days of such a request.

TABLE 1

INGREDIENT	ALLOWANCES OF AMOUNT OF LEAD
Cocoa Powder	Up to 1.0 microgram/gram
Chocolate Liquor	Up to 1.0 microgram/gram
Cocoa Butter	Up to 0.1 micrograms/gram
Calcium (elemental)	Up to 0.8 micrograms/gram
Ferrous Fumarate	Up to 0.4 micrograms/gram
Zinc Oxide	Up to 8.0 microgram/gram
Magnesium Oxide	Up to 0.4 micrograms/gram
Magnesium Carbonate	Up to 0.332 micrograms/gram
Magnesium Hydroxide	Up to 0.4 micrograms/gram
Zinc Gluconate	Up to 0.8 micrograms/gram
Potassium Chloride	Up to 1.1 micrograms/gram

3.2 Clear and Reasonable Warnings

If the Leprino Entities are required to provide a warning pursuant to Section 3.1, one of the following warning options must be utilized ("Warning"):

OPTION 1:

WARNING: Consuming this product can expose you to chemicals including [lead] [and] [cadmium][and] [perfluorooctanoic acid] which is [are] 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.

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OPTION 2:

WARNING: Risk of [cancer from exposure to [lead] [perfluorooctanoic acid] and] reproductive harm from exposure to [lead] [and] [cadmium] [and] [perfluorooctanoic acid]. See www.P65Warnings.ca.gov/food.

OR

OPTION 3:

WARNING: Can expose you to [[lead] [perfluorooctanoic acid] a carcinogen and] [lead] [and] [cadmium] [and] [perfluorooctanoic acid] a reproductive toxicant. See www.P65Warnings.ca.gov/food

The Warning shall begin either with the word “**WARNING,**” as indicated above, or the words “**CA WARNING**” or “**CALIFORNIA WARNING,**” in all capital letters and bold print. The Leprino Entities shall use the phrase “cancer and” in the Option 1 Warning or “cancer from exposure to [lead] [perfluorooctanoic acid] and” in the Option 2 Warning or “[lead] [perfluorooctanoic acid] a carcinogen and” in the Option 3 Warning (each referred to individually as a “Cancer Phrase”) if the “Daily Lead Exposure Level” is greater than 15 micrograms of lead as determined pursuant to the quality control methodology set forth in Section 3.4 and/or there is any detectible level of PFOA. As identified in the brackets, the warning shall appropriately reflect the presence of at least one listed chemical that is present in each of the Covered Products at a level that requires a warning for each toxicological endpoint (cancer or reproductive harm).

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 and enclosed in a box. In addition, for any Covered Product sold over the internet, the Warning shall appear on the primary product display page or on the checkout page when a California delivery address is indicated for any purchase of any Covered Product. If the Warning is provided on the checkout page, an asterisk or other identifying method must be utilized to identify which product on the checkout page is subject to the Warning. In no event shall any internet or website Warning be contained in or made through a link.

The Warning shall be at least the same size as the largest of any other health or safety warnings also appearing on the website or on the label and in no event less than six (6) point type. No statements intended to or likely to have the effect of diminishing the impact of, or reducing the clarity of, the Warning on the average California consumer shall accompany the Warning. Further, no statements may accompany the Warning that state or imply that the source of the listed chemical has an impact on or results in a less harmful effect of the listed chemical.

The Leprino Entities must display the above Warning with such conspicuousness, as compared with other words, statements or designs on the label, or on its website, as applicable, to render the Warning likely to be read and understood by an ordinary individual under customary conditions of purchase or use of the product. Where a sign or label used to provide the Warning

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for a Covered Product includes consumer information about the Covered Product in a language other than English, the Warning must also be provided in that language in addition to English.

For purposes of this 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.

3.3 Conforming Covered Products

A Conforming Lead Covered Product is a Lead Covered Product for which the "Daily Lead Exposure Level" is no greater than 0.5 micrograms of lead per day as determined by the exposure methodology set forth in Section 3.1.2 and the quality control methodology described in Section 3.4, and that is not known by the Leprino Entities to contain other chemicals that violate either Proposition 65's safe harbor thresholds or the thresholds set forth in this Agreement. A Conforming Cadmium Covered Product is a Cadmium Covered Product for which the "Daily Cadmium Exposure Level" is no greater than 4.1 micrograms of cadmium per day as determined by the exposure methodology set forth in Section 3.1.2 and the quality control methodology described in Section 3.4, and that is not known by the Leprino Entities to contain other chemicals that violate either Proposition 65's safe harbor thresholds or the thresholds set forth in this Agreement. A Conforming PFOA Covered Product is a PFOA Covered Product that does not contain any level of PFOA that can be reliably detected using available technologies as determined by the quality control methodology described in Section 3.4, and that is not known by the Leprino Entities to contain other chemicals that violate either Proposition 65's safe harbor thresholds or the thresholds set forth in this Agreement.

3.4 Testing and Quality Control Methodology

3.4.1 Beginning within one year of the Effective Date, the Leprino Entities shall arrange for lead, cadmium, and PFOA testing of the Covered Products at least once a year for a minimum of five (5) consecutive years by arranging for testing of three (3) randomly selected samples of the Covered Products, in the form intended for sale to the end-user, which the Leprino Entities intend to sell or is manufacturing for sale in California, directly selling to a consumer in California or "Distributing into the State of California." If tests conducted pursuant to this Section demonstrate that no Warning is required for the Covered Products during each of the five (5) consecutive years, then the testing requirements of this Section will no longer be required as to the Covered Products. However, if during or after the five-year testing period, the Leprino Entities change ingredient suppliers for the Covered Products and/or reformulate the Covered Products, the Leprino Entities shall test that Covered Product annually for at least four (4) consecutive years after such change is made.

3.4.2 For purposes of measuring the "Daily Lead Exposure Level" and/or the "Daily Cadmium Exposure Level," the highest lead and/or cadmium detection result of the three (3) randomly selected samples of the Covered Products will be controlling.

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3.4.3 All testing pursuant to this Agreement shall be performed using a laboratory method that complies with the performance and quality control factors appropriate for the method used, including limit of detection and limit of quantification, sensitivity, accuracy, and precision that meets the following criteria: Inductively Coupled Plasma-Mass Spectrometry ("ICP-MS") achieving a limit of quantification of less than or equal to 0.005 mg/kg (5 ppb) for lead and cadmium, and less than or equal to 0.080 ng/g for PFOA.

3.4.4 All testing pursuant to this Agreement shall be performed by an independent third-party laboratory certified by the California Environmental Laboratory Accreditation Program or an independent third-party laboratory that is registered with the United States Food & Drug Administration.

3.4.5 Nothing in this Agreement shall limit the Leprino Entities' ability to conduct, or require that others conduct, additional testing of the Covered Products, including the raw materials used in their manufacture.

3.4.6 Within thirty (30) days of ERC's written request, the Leprino Entities shall deliver lab reports obtained pursuant to Section 3.4, and related documentation, to ERC. The Leprino Entities shall retain all such lab reports and related documentation for a period of five years from the date of each test. Any request by ERC for lab reports and related documentation shall be made prior to the expiration of the five-year time period identified in this section 3.4.6.

3.5 Nothing in Section 3 of this Agreement shall prevent or preclude ERC from obtaining and relying upon its own testing for purposes of enforcement, so long as such testing meets the requirements of Sections 3.4.3 and 3.4.4. Nothing in Section 3.4 of this Agreement is intended by either Party to set a precedent for the level of lead, cadmium, PFOA, or other chemicals that is permissible in consumer products under Proposition 65.

4. Ascent shall make a total payment of \$42,500 ("Total Settlement Amount") by wire transfer to ERC's account within 10 business days of the Effective Date ("Due Date"), for which ERC will give Ascent the necessary account information. The Total Settlement Amount shall be allocated as follows:

a. \$12,500.00 shall be considered a civil penalty pursuant to California Health and Safety Code §25249.7(b)(1). ERC shall remit 75% (\$9,375.00) of the civil penalty to the Office of Environmental Health Hazard Assessment ("OEHHA") for deposit in the Safe Drinking Water and Toxic Enforcement Fund in accordance with California Health and Safety Code §25249.12(c). ERC will retain the remaining 25% (\$3,125.00) of the civil penalty.

b. \$2,888.09 shall be considered a reimbursement to ERC for its costs incurred as a result of bringing this matter to the Leprino Entities' attention and negotiating a settlement.

c. \$27,111.91 shall be distributed to ERC for its in-house legal fees.

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d. In the event that Ascent fails to remit the Total Settlement Amount owed under Section 4 of this Agreement on or before the Due Date, the Leprino Entities shall be deemed to be in material breach of their obligations under this Agreement. ERC shall provide written notice of the delinquency to the Leprino Entities via electronic mail. If Ascent fails to deliver the Total Settlement Amount within five days from the written notice, the Total Settlement Amount shall become immediately due and payable and shall accrue interest at the statutory judgment interest rate provided in the Code of Civil Procedure section 685.010, and the Leprino Entities shall forfeit any release provisions in Section 6 that are for the benefit of the Leprino Entities and the Released Parties (as defined in Section 6.1) until such time as the Total Settlement Amount is paid in full. Additionally, the Leprino Entities agree to pay ERC's reasonable attorneys' fees and costs for any efforts to collect the payment due under this Agreement.

5. Except as expressly set forth in Section 4, the Parties shall bear their own costs, expenses, and attorneys' fees related to the Notices.

6. **BINDING EFFECT; CLAIMS COVERED AND RELEASED**

6.1. This Agreement is a full, final, and binding resolution between ERC, on behalf of itself, and the Leprino Entities and their respective officers, directors, shareholders, employees, agents, parent companies, subsidiaries, divisions, suppliers, franchisees, licensees, customers (not including private label customers of the Leprino Entities), distributors, wholesalers, retailers, and all other upstream and downstream entities in the distribution chain of any Covered Product, and the predecessors, successors, and assigns of any of them (collectively, "Released Parties").

6.2 ERC, on behalf of itself only, hereby fully releases and discharges the Released Parties from any and all claims, actions, causes of action, suits, demands, liabilities, damages, penalties, fees, costs, and expenses asserted, or that could have been asserted from the handling, use, or consumption of the Covered Products, as to any alleged violation of Proposition 65 or its implementing regulations arising from the failure to provide Proposition 65 warnings on the Covered Products regarding lead (for Lead Covered Products) and/or cadmium (for the Cadmium Covered Product) and/or PFOA (for the PFOA Covered Product) that are manufactured, sold, supplied, and/or distributed by the Released Parties up to and including the Compliance Date.

6.3 ERC, on its own behalf only, and the Leprino Entities on their own behalf only, further waive and release any and all claims they may have against each other for all actions or statements made or undertaken in the course of seeking or opposing enforcement of Proposition 65 in connection with the Notices up to and including the Compliance Date, provided, however, that nothing in Section 6 shall affect or limit any Party's right to seek to enforce the terms of this Agreement.

6.4 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. ERC, on behalf of itself only, and the Leprino Entities, on behalf of themselves only,

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acknowledge that this Agreement is expressly intended to cover and include all such claims up to and including the Compliance Date, including all rights of action therefor. ERC and the Leprino Entities acknowledge that the claims released in Sections 6.2 and 6.3 above may include unknown claims, and the Parties nevertheless waive California Civil Code section 1542 as to any such unknown claims. California Civil Code section 1542 reads as follows:

(i) 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.

ERC, on behalf of itself only, and the Leprino Entities, on behalf of themselves only, acknowledge and understand the significance and consequences of this specific waiver of California Civil Code section 1542.

6.5 Compliance with the terms of this Agreement shall be deemed to constitute compliance with Proposition 65 by any of the Released Parties regarding alleged exposures to lead in the Lead Covered Products, and/or cadmium in the Cadmium Covered Product and/or PFOA in the PFOA Covered Product as set forth in the Notices.

6.6 Nothing in this Agreement is intended to apply to any occupational or environmental exposures arising under Proposition 65, nor shall it apply to any of the Leprino Entities' products other than the Covered Products.

7. Nothing herein shall be construed as diminishing the Leprino Entities' continuing obligations to comply with Proposition 65, as applicable to their respective operations.

8. All notices required to be given to either Party to this Agreement by the other shall be in writing and sent to the following agents listed below via first-class mail, or via electronic mail where required. Courtesy copies of notices sent via first-class mail may also be sent via email.

FOR ENVIRONMENTAL RESEARCH CENTER, INC.:

Chris Heptinstall, Executive Director
Environmental Research Center
3111 Camino Del Rio North, Suite 400
San Diego, CA 92108
Tel: (619) 500-3090
Email: chris.heptinstall@erc501c3.org

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With a copy to:
Charles W. Poss
Environmental Research Center, Inc.
3111 Camino Del Rio North, Suite 400
San Diego, CA 92108
Ph: (619) 500-3090
Email: charles.poss@erc501c3.org

**FOR LEPRINO FOODS COMPANY; LEPRINO PERFORMANCE BRANDS LLC,
individually and dba ASCENT PROTEIN:**

Legal Department
Leprino Performance Brands LLC
1830 W. 38th Avenue
Denver, CO 80211
Ph: (303) 480-2600
Email: legal@leprinofoods.com

With a copy to:
Rohit A. Sabnis
Sophie B. Castillo
Keller & Heckman LLP
Three Embarcadero Center, Suite 1420
San Francisco, CA 94111
Telephone: (415) 948-2807
Email: sabnis@khlaw.com
castillo@khlaw.com

9. After executing this Agreement, ERC will submit to the California Attorney General a Report of Settlement. In addition, ERC will provide to the California Attorney General a signed copy of this Agreement. The Parties acknowledge and agree that the Parties shall provide as much information as is requested by the California Attorney General, or any other governmental agency, regarding the Notices, the settlement, and this Agreement.

10. This Agreement contains the entire agreement between the Parties with regard to settlement of the Notices, and supersedes all prior or contemporaneous agreements or understandings, written or oral, with regard to the Notices as set forth in this Agreement. This Agreement may be amended or modified as to injunctive terms only in whole or in part at any time only by an agreement in writing executed by the Parties.

11. This Agreement shall be binding upon and shall inure to the benefit of the Parties and their respective owners, principals, shareholders, members, managers, officers, directors, employees, agents, successors, and assigns.

12. No inference, assumption or presumption shall be drawn, and no provision of this

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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. If any provision, term, or section of this Agreement is found to be invalid, illegal, or unenforceable, then all remaining provisions, terms, or sections shall continue in full force and effect and remain binding on the Parties. If any provision, term, or section of this Agreement is determined to be unenforceable, then such provision, term, or section may be modified so that the unenforceable provision, term, or section is enforceable to the greatest extent possible.

14. This Agreement shall be deemed to have been entered into in the State of California and governed and interpreted by the laws of the State of California, regardless of the physical locations of the individuals executing this Agreement at the time of execution.

15. The Parties acknowledge by signing this Agreement that they have a right to consult an attorney and that they have either consulted their attorney(s) with respect to the Notices and the terms and conditions of this Agreement or have made the decision not to consult with an attorney regarding the Notices and the terms and conditions of this Agreement. The Parties further acknowledge that they fully understand this Agreement and the effect of signing and executing this Agreement.

16. Any legal action to enforce this Agreement shall be brought in the county of Alameda of the State of California. ERC shall be entitled to recover its reasonable attorneys' fees and costs that are necessary and required to enforce the Agreement pursuant to California Code of Civil Procedure section 1021.5. If ERC alleges that any Covered Product fails to qualify as a Conforming Covered Product (for which ERC alleges that no Warning has been provided), then ERC shall inform the Leprino Entities in a reasonably prompt manner of its test results, including information sufficient to permit the Leprino Entities to identify the Covered Products at issue. The Leprino Entities shall, within thirty (30) days following such notice, provide ERC with testing information, from an independent third-party laboratory meeting the requirements of this Agreement, demonstrating the Leprino Entities' compliance with the Agreement. The Parties shall first attempt to resolve the matter prior to ERC taking any further legal action.

17. This Agreement may be signed in counterparts, and each counterpart, as well as any facsimile, e-mail, copy of this Agreement, or any other counterpart, shall be deemed to be an original.

18. Each of the individuals who execute this Agreement represents and warrants they have the authority to execute this document and bind the respective Parties to the terms and conditions of this Agreement, and have read, understand, and agree to all the terms and conditions in this Agreement.

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19. PUBLIC BENEFIT

The Parties enter into this Settlement Agreement with the understanding that the commitments made herein, and actions to be taken by the Leprino Entities under this Settlement Agreement, confer a significant benefit to the general public, as set forth in Code of Civil Procedure section 1021.5 and Cal. Admin. Code tit. 11, section 3201. As such, it is the Leprino Entities' intent by entering into this Settlement Agreement that to the extent any other private party initiates an action against the Leprino Entities alleging a violation of Proposition 65 with respect to failure to provide a clear and reasonable warning concerning exposure to lead, cadmium, or PFOA from the Covered Products manufactured, distributed, sold or offered for sale by the Leprino Entities in California, and subject to the Leprino Entities' material compliance with this Settlement Agreement, such action by another private party would not confer a significant benefit on the general public as to those Covered Products and Proposition 65-listed chemicals addressed under this Agreement.

DATED: June 26, 2025 LEPRINO FOODS COMPANY

By: 

Name: Jason Eckert

Title: SVP, GM – Global Nutrition

DATED: June 26, 2025 LEPRINO PERFORMANCE BRANDS LLC,
individually and dba ASCENT PROTEIN

By: 

Name: B.T. Nauslar

Title: VP, Business Development and Marketing

DATED: 6/26/2025 ENVIRONMENTAL RESEARCH CENTER, INC.

By: 

Chris Hepinstall
Executive Director

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