

## **SETTLEMENT AGREEMENT AND RELEASE**

This Settlement Agreement and Release ("Agreement") between Environmental Research Center, Inc. ("ERC") and American Mayhem LLC, individually and dba American Dream Nut Butter, and American Dream Cookie Company, LLC (collectively "American Dream") is effective on the date on which it is fully executed ("Effective Date"). ERC and American Dream 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 American Dream on March 7, 2025, March 26, 2025, and April 24, 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"):

**American Dream Cookie Co Peanut Butter Protein Cookie**  
**American Dream Cookie Co Lemon Protein Cookie**  
**American Dream Cookie Co Chocolate Peanut Butter Protein Cookie†**  
**American Dream Cookie Co Snickerdoodle Protein Cookie**  
**American Dream Cookie Co Cake Batter Protein Cookie**  
**American Dream Cookie Co Double Chocolate Protein Cookie**  
**American Dream Double Butter Crunch Peanut Butter**  
**American Dream Candy Cane Kisses Dream Cake**  
**American Dream Cookie Batter Dream Cake**  
**American Dream Brownie Batter Dream Cake®**  
**American Dream Gingerdoodle Dream Cake®**

All of the Covered Products may also be referred to as "Lead Covered Products."

The Covered Products identified by the symbol "⊕" may also be referred to as "Mercury Covered Products."

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

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SETTLEMENT AGREEMENT AND RELEASE

### 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 sixty (60) days after the Effective Date (the "Compliance Date"), American Dream 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, (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 Mercury Covered Product that exposes a person to a "Daily Mercury Exposure Level" of more than 0.3 micrograms of mercury per day and/or (3) any Cadmium Covered Product that exposes as person to a "Daily Cadmium Exposure Level" of more than 4.1 micrograms of cadmium per day, 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 or to sell a Covered Product to a distributor that American Dream knows, or should know through reasonable inquiry, 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 Mercury Exposure Level," shall be measured in micrograms, and shall be calculated using the following formula: micrograms of mercury 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 mercury exposure per day. If the label contains no recommended daily servings, then the number of recommended daily servings shall be one.

3.1.4 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

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### 3.2 Clear and Reasonable Warnings

If American Dream is required to provide a warning pursuant to Section 3.1, the following warning must be utilized ("Warning"):

**WARNING:** Consuming this product can expose you to chemicals including [lead] [and] [mercury][and] [cadmium] 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](http://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. American Dream shall use the phrase "cancer and" in the Warning only 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 or if American Dream has reason to believe that another Proposition 65 chemical is present at a level requiring the cancer warning. As identified in the brackets, the warning shall appropriately reflect whether there is lead, mercury, cadmium, or multiple chemicals present in each of the Covered Products, but if there is a chemical present at a level that requires a cancer warning, the chemical requiring use of the phrase "cancer and" in the Warning shall always be identified.

The Warning shall be securely affixed to or printed upon the label of any 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 lay person 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.

American Dream 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 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.

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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 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 American Dream to contain other chemicals that violate Proposition 65's safe harbor thresholds. A Conforming Mercury Covered Product is a Mercury Covered Product for which the "Daily Mercury Exposure Level" is no greater than 0.3 micrograms of mercury 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 American Dream to contain other chemicals that violate Proposition 65's safe harbor thresholds. 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 American Dream to contain other chemicals that violate Proposition 65's safe harbor thresholds.

### **3.4 Testing and Quality Control Methodology**

**3.4.1** Subject to Section 3.4.8, beginning within one year of the Effective Date, American Dream shall arrange for lead, mercury, and cadmium testing of the Covered Products at least once a year for a minimum of four (4) 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 American Dream intends 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 four (4) consecutive years, then the testing requirements of this Section will no longer be required as to the Covered Products. .

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

**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.

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**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 American Dream's 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 forty-five (45) days American Dream's receipt of ERC's written request, American Dream shall deliver or cause to be delivered lab reports obtained pursuant to Section 3.4, and related documentation, to ERC. American Dream shall retain all such lab reports and related documentation for a period of three (3) 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 four-year time period identified in this section 3.4.6.

**3.4.7** The testing and reporting requirements of Section 3.4 do not apply to any Covered Product for which American Dream has provided the Warning specified in Section 3.2 continuously and uninterrupted after the Compliance Date; however, in the event American Dream ceases to provide the Warning specified in Section 3.2, American Dream may only do so after it has tested such Covered Product, and American Dream shall be required to comply with the testing requirements of Section 3.4 prior to ceasing to provide the Warning, unless American Dream can show to the satisfaction of ERC that the cessation in providing the Warning was a temporary error that was resolved when discovered.

**3.4.8** American Dream shall not be obligated to test any Covered Product pursuant to this Section 3.4 during any period of time that such Covered Product is discontinued and/or not being sold to California consumers. However, if American Dream resumes sales of such Covered Product to California consumers, American Dream shall be required to begin testing the Covered Product in accordance with Section 3.4 before resuming sales to California consumers and shall begin, continue or resume complying with the testing requirements of Section 3.4 with respect to the Covered Product immediately after the date that American Dream resumes selling the Covered Product to California consumers. American Dream shall not include the period of time the Covered Product was discontinued and/or not sold to California consumers in calculating the four years for which testing is required by this Section 3.4. For purposes of this Section 3.4.8, the term "discontinued" shall mean that the Covered Product is not being manufactured.

**3.5** Nothing in Section 3 of this Agreement shall prevent or preclude ERC, at its sole cost and expense, 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, mercury, cadmium, or other chemicals that is permissible in consumer products under Proposition 65.

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4. American Dream shall make a total payment of \$30,000.00 ("Total Settlement Amount") to ERC in six periodic payments (the "Periodic Payments") according to the following payment schedule ("Due Dates"):

- Payment 1 – \$5,000.00 within 5 days of the Effective Date (the first Due Date)
- Payment 2 – \$5,000.00 within 35 days of the Effective Date (the second Due Date)
- Payment 3 – \$5,000.00 within 65 days of the Effective Date (the third Due Date)
- Payment 4 – \$5,000.00 within 95 days of the Effective Date (the first Due Date)
- Payment 5 – \$5,000.00 within 125 days of the Effective Date (the second Due Date)
- Payment 6 – \$5,000.00 within 155 days of the Effective Date (the third Due Date)

American Dream shall make these Periodic Payments by ACH transfer to ERC's account, for which ERC will give American Dream the necessary account information. The Total Settlement Amount shall be allocated as follows:

a. \$3,000.00 shall be considered a civil penalty pursuant to California Health and Safety Code §25249.7(b)(1). ERC shall remit 75% (\$2,250.00) 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% (\$750.00) of the civil penalty.

b. \$4,218.58 shall be considered a reimbursement to ERC for its costs incurred as a result of bringing this matter to American Dream's attention and negotiating a settlement.

c. \$22,781.42 shall be distributed to ERC for its in-house legal fees.

d. In the event that American Dream fails to remit, in full, any of the Periodic Payments owed under Section 4 of this Agreement on or before the applicable Due Date, American Dream shall be deemed to be in material breach of its obligations under this Agreement. ERC shall provide written notice of the delinquency to American Dream and its counsel via electronic mail. If American Dream fails to remit the delinquent payment within five (5) business days from the date of ERC's written notice, the Total Settlement Amount, less any amounts previously paid pursuant to Section 4, 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 any release provisions in Section 6 that are for the benefit of American Dream and the Released Parties (as defined in Section 6.1) shall be suspended and of no effect until such time as the Total Settlement Amount is paid in full. Additionally, American Dream agrees 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.

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**6. Binding Effect; Claims Covered and Released**

**6.1.** This Agreement is a full, final, and binding resolution between ERC, and its respective officers, directors, shareholders, employees, agents, parent companies, and subsidiaries, and American Dream and its respective officers, directors, shareholders, employees, agents, parent companies, and subsidiaries, and the predecessors, successors, and assigns of any of them (collectively, "Released Parties").

**6.2** ERC, 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 mercury (for the Mercury Covered Products) and/or cadmium (for the Cadmium Covered Product) up to and including the Effective Date.

**6.3** ERC, and American Dream, 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 Effective 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,, and American Dream, , acknowledge that this Agreement is expressly intended to cover and include all such claims up to and including the Effective Date, including all rights of action therefore. ERC and American Dream 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 American Dream, on behalf of itself 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

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lead in the Lead Covered Products, and/or mercury in the Mercury Covered Products and/or cadmium in the Cadmium 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 American Dream's products other than the Covered Products.

7. Nothing herein shall be construed as diminishing American Dream's continuing obligations to comply with Proposition 65.

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](mailto:chris.heptinstall@erc501c3.org)

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](mailto:charles.poss@erc501c3.org)

**FOR AMERICAN MAYHEM LLC, individually and dba AMERICAN DREAM NUT BUTTER and AMERICAN DREAM COOKIE COMPANY, LLC:**

Mark Hurley, Member  
American Dream Nut Butter  
4202 N Ems Blvd, Suite 100  
Greenfield, IN 46140  
Email: [mark@americandreamnutbutter.com](mailto:mark@americandreamnutbutter.com)

With a copy to:

Gregory J. Cagnassola  
DeFur Voran  
8409 Fishers Center Drive  
Fishers, IN 46038  
Telephone: (317) 585-8085  
Email: [gcagnassola@defur.com](mailto:gcagnassola@defur.com)

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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 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.

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.

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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.

DATED: 7/31/25

AMERICAN MAYHEM LLC, individually and  
dba AMERICAN DREAM NUT BUTTER

By: Mark A Hurley  
Name: Mark A. Hurley  
Title: Member

DATED: 7/31/25

AMERICAN DREAM COOKIE COMPANY,  
LLC

By: Mark A Hurley  
Name: Mark A. Hurley  
Title: Member

DATED: 7/31/25

ENVIRONMENTAL RESEARCH CENTER, INC.

By: Chris Heptinstall  
Chris Heptinstall  
Executive Director

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