

## **SETTLEMENT AGREEMENT**

### **1. INTRODUCTION**

#### **1.1 Parties**

This Settlement Agreement (“Settlement Agreement”) is entered into by and between Environmental Health Advocates, Inc. (“EHA”), on the one hand, and Atalanta Corporation (“Atalanta”), on the other hand, with EHA and Atalanta 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 Atalanta 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 section 25249.6 *et seq.* (“Proposition 65”).

#### **1.2 General Allegations**

EHA alleges that Atalanta manufactures, sells, and/or distributes for sale in California, artichokes products that contain Cadmium and that it does so without first providing the health hazard warning required by Proposition 65. Cadmium is listed pursuant to Proposition 65 as a chemical known to cause developmental or reproductive toxicity.

#### **1.3 Product Description**

The products covered by this Settlement Agreement are defined as, and expressly limited to artichokes including, but not limited to, Maria Artichoke Quarters (“Covered Products”), that are purchased, manufactured, imported, sold and/or distributed for sale in California by Atalanta.

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

On or around December 6, 2024, EHA served Atalanta, the California Attorney General, and certain other public enforcement agencies with a 60-Day Notice of Violation of Proposition 65 (“Notice”). The Notice alleged that Atalanta and Jensen’s Foods (“Jensen”) had violated Proposition 65 by failing to sufficiently warn consumers in California of the health hazards associated with exposures to Cadmium 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 Notice.

### **1.5 No Admission**

Atalanta denies the material, factual, and legal allegations in the Notice and maintains that all of the products it purchased, manufactured, imported, sold 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 by Atalanta 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 by Atalanta of any fact, finding, conclusion, issue of law or violation of law, such being specifically denied by Atalanta. This Section shall not, however, diminish or otherwise affect Atalanta'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.

### **1.7 Compliance Date**

For purposes of this Settlement Agreement, the term "Compliance Date" means one-hundred (100) days from the Effective Date.

## **2. INJUNCTIVE RELIEF**

### **2.1 Reformulation Standard**

Beginning on the Compliance Date, Atalanta shall be permanently enjoined from manufacturing, distributing, or directly selling in the State of California, any Covered Product that exposes a person to a "Daily Cadmium Exposure Level" of more than 4.1 micrograms of Cadmium based on a single serving per day unless such Covered Product complies with the warning requirements of Section 2.2. The "Daily Cadmium Exposure Level" shall be calculated by multiplying the recommended serving size in grams of the Covered Product by the concentration level (the "Concentration Level") of Cadmium in a gram of the Covered Products.

## **2.2 Testing and Quality Control Methodology.**

**2.2.1.** The Concentration Level for the Covered Products will be determined by utilizing the testing protocols at Sections 2.2.2. through 2.2.7. herein. The testing requirements of Section 2.2.1 do not apply to any of the Covered Products for which Atalanta has provided a warning as specified in Section 2.3.

**2.2.2.** All testing pursuant to this Settlement Agreement shall be performed: (a) by an independent third-party laboratory certified by the California Environmental Laboratory Accreditation Program for the analysis of heavy metals; and, (b) using a laboratory method that complies with the performance and quality control factors appropriate for the method used, including limit of detection, limit of quantification, accuracy, and precision and meets the following criteria: Inductively Coupled Plasma-Mass Spectrometry (ICP-MS) achieving a limit of quantification of less than or equal to 0.010 mg/kg or any other testing method subsequently agreed upon in writing by the Parties.

**2.2.3.** For purposes of this Settlement Agreement and for determining whether Atalanta is distributing or directly selling in the State of California Covered Products with Cadmium concentration levels in excess of a Daily Cadmium Exposure Level of 4.1 micrograms per day, under this Section 2, the concentration levels shall be measured in micrograms per gram (ppm). For example, if the testing of Covered Products under Sections 2.2.2. and 2.2.3. results in a Concentration Level of 31.5 ppb, that number shall be divided by 1,000 to determine micrograms per gram of 0.0315 parts per million (ppm). If the recommended serving size of the Covered Product is 130 grams, then the Daily Cadmium Exposure Level of the Product is 4.095 micrograms per serving per day, which is below the maximum Section 2.1 Daily Cadmium Exposure Level of 4.1 micrograms per day. In this circumstance, no product warnings are required for the Product under Section 2. of this Settlement Agreement.

**2.2.4.** Atalanta and the Releasees (as defined in Section 4.1 below) shall have no obligation or liability with respect to any Covered Products that are sold and/or distributed in California after the date of the Notice, or with respect to the allegations contained in the Notice except as otherwise

set forth in this Settlement Agreement.

**2.2.5.** As used in this Section 2, “directly sold or distributed for sale in the State of California” means to directly ship Covered Products into California or to sell Covered Products to a distributor Atalanta knows will sell Covered Products in California.

**2.2.6.** EHA reserves the right to test the Covered Products and, if it believes there is a violation of Section 2 herein, may assert any new claims that may arise, based on its testing results (“EHA Compliance Test Results”) subject to the provisions of Section 2.2.7. If EHA’s Compliance Test Results provide a Concentration Level where the Daily Cadmium Exposure Level is exceeded in the Covered Product, EHA shall provide Section 9 notice to Atalanta with complete copies of all test results within thirty (30) days of its receipt of the test results (the “Compliance Notice”).

**2.2.7.** Upon receipt of Compliance Notice from EHA, Atalanta may elect at its cost to obtain three (3) tests of at least three (3) samples from each of four (4) separate lots of Covered Products (or the maximum number of lots available for testing if less than 4) during a period of at least one (1) year to determine the geometric mean of all of the samples tested to derive the “Average Reformulation Level.” The Average Reformulation Level shall be reported to EHA per Section 9 within thirty (30) days of its determination and shall be controlling and operate to conclusively rebut the Compliance Notice if lower than the EHA Compliance Test Results. The parties shall meet and confer with regard to any issues in this enforcement process.

### **2.3 General Warning Requirements**

Commencing on the Compliance Date, Atalanta agrees any Covered Product sold that was not reformulated pursuant to Section 2.1 shall contain a Proposition 65 warning. Atalanta 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 the consumer or user understands to which *specific* Covered Products the warning applies, 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 warning affixed to the packaging, label, tag, directly to each Covered Product sold in California by Atalanta, or on a placard, shelf tag, sign or electronic device or automatic process that contains one of the following statements:

1) **“WARNING:” [or] “CA WARNING:” [or] “CALIFORNIA WARNING:”** Consuming this product can expose you to cadmium, which is known to the State of California to cause birth defects or other reproductive harm. For more information go to [www.P65Warnings.ca.gov/food](http://www.P65Warnings.ca.gov/food).

**OR**

**SHORT FORM**

2) **“WARNING:” [or] “CA WARNING:” [or] “CALIFORNIA WARNING:”** Risk of reproductive harm from exposure to cadmium. See [www.P65Warnings.ca.gov/food](http://www.P65Warnings.ca.gov/food).

**OR**

**SHORT FORM**

3) **“WARNING:” [or] “CA WARNING:” [or] “CALIFORNIA WARNING:”** Can expose you to cadmium, a reproductive toxicant. See [www.P65Warnings.ca.gov/food](http://www.P65Warnings.ca.gov/food).

**OR**

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

4) **WARNING: Reproductive Harm –**  
[www.P65Warnings.ca.gov/food](http://www.P65Warnings.ca.gov/food).

Pursuant to California Code of Regulations, Title 27 section 25607.1, where the warning is provided on the food product label, it must be set off from other surrounding information and enclosed in a box. Where a specific food product sign, label, placard, or shelf tag is used to provide a warning, it must be displayed with such conspicuousness, as compared with other words,

statements, or designs as to render it likely to be read and understood by an ordinary individual prior to sale. In no case shall a warning statement appear in a type size smaller than 6-point type. Where a sign, labeling, or label as defined in section 25600.1 of Title 27 is used to provide a warning that includes consumer information 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 California Code of Regulations, Title 27 section 25602, subdivision (b), to the extent Covered Products are sold online, a warning that complies with the content requirements of section 25603 must be provided via of the following methods: (1) A warning on the product display page; (2) A clearly marked hyperlink using the word “WARNING” or the words “CA WARNING” or “CALIFORNIA WARNING” on the product display page that links to the warning; or (3) An otherwise prominently displayed warning provided to the purchaser prior to completing the purchase. If a warning is provided using the short-form label content pursuant to section 25602, subdivision (a)(4), the warning provided on the website may use the same content. For purposes of this Section, a warning is not prominently displayed if the purchaser must search for it in the general content of the website. For internet purchases made prior to January 1, 2028, a retail seller is not responsible under section 25600.2, subdivision (e)(4) for conspicuously posting or displaying the new warning online until 60 calendar days after the retailer receives a warning or a written notice under section 25600.2, subdivision (b) and (c) which updates a short-form warning compliant with section 25603, subdivision (c) with content compliant with section 25603(b). These requirements extend to any websites under the exclusive control of Atalanta where Covered Products are sold into California. In addition, Atalanta shall instruct any third-party website to which it directly sells its Covered Products to include the same online warning, as set forth above, as a condition of selling the Covered Products in California.

There shall be no obligation for Atalanta to provide a warning for Covered Products that entered the stream of commerce prior to the Compliance Date, and the Section 4 release applies to all such Covered Products.

- (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 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, Atalanta 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. If regulations or legislation are enacted providing that Proposition 65 warnings as to cadmium in this product are no longer required, a lack of warning by Atalanta will not thereafter be a breach of this Settlement Agreement.

#### **2.4 Grace/Sell-Through Period for Covered Products**

The injunctive requirements of Section 2 shall not apply to Covered Products that are manufactured, packaged or already in the stream of commerce on or before the Compliance Date, which Covered Products are expressly subject to the releases provided in Section 4.1 regardless of when such Covered Products were, or are in the future, distributed or sold to customers. For the avoidance of doubt, Covered Products in the stream of commerce specifically include, but are not limited to, Covered Products in the process of manufacture. As a result, the obligations of Atalanta, or Releasees (if applicable), stated in this Section 2 do not apply to Covered Products manufactured, packaged, shipped or put into commerce from the Effective Date through the Compliance Date.

### **3. MONETARY SETTLEMENT TERMS**

#### **3.1 Civil Penalty Payment**

Pursuant to California Health and Safety Code section 25249.7, subdivision (b)(2), and in settlement of all claims alleged in the Notice and referred to in this Settlement Agreement, Atalanta agrees to pay three thousand dollars (\$3,000.00) in civil penalties. The penalty payment will be allocated in accordance with California Health and Safety Code sections 25249.12, subdivisions (c)(1) and (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. Atalanta 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 \$2,250.00 to OEHHA, due fifteen (15) days after the Effective Date.
- One payment of \$750.00 to EHA, due fifteen (15) 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, Atalanta agrees to pay twenty-five thousand dollars (\$25,000.00) to EHA and its counsel for all fees and costs incurred in investigating, bringing this matter to the attention of Atalanta, and negotiating a settlement. The twenty-five thousand dollars (\$25,000.00) is due fifteen (15) days after the Effective Date.



All payments required under this Section shall be made payable to Entorno Law, LLP and delivered to:

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

### **3.3 Tax Documentation**

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

## **4. CLAIMS COVERED AND RELEASED**

### **4.1 EHA's Release of Atalanta**

This Settlement Agreement is a full, final, and binding resolution of all claims between EHA, on its own behalf, and Atalanta 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, successors and assignees, against Atalanta and each of its respective parents, subsidiaries, affiliated entities under common ownership, directors, officers, members, principals, agents, employees, attorneys, insurers, accountants, predecessors, successors, assigns, and any entity, including, but not limited to each entity to whom Atalanta directly or indirectly distributes or sells the Covered Products, including, but not limited to, its upstream farmers, suppliers, manufacturers, importers, purchasers, distributors, and wholesalers, and all downstream suppliers, importers, distributors, wholesalers, customers, retailers, vendors, auctioneers, dealers, owners, purchasers (including but not limited to Jensen), franchisees, cooperative members, licensors, licensees, third party resellers and users (collectively "Releasees"), based on the failure to warn about exposures to cadmium required under Proposition 65 in the Covered Products purchased, manufactured, imported, directly sold or distributed for sale in the State of California by Atalanta before the Effective Date, as alleged in

the Notice, or for any other reason.

In further consideration of the promises and agreements herein contained, EHA on its own behalf, on behalf of its past and current agents, representatives, attorneys, 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 Atalanta 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 cadmium required under Proposition 65 in the Covered Products purchased, manufactured, imported, distributed, sold or offered for sale by Atalanta, on or before the Compliance Date.

#### **4.2 Atalanta's Release of EHA**

Atalanta, 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.

#### **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 Notice and relating to the Covered Products will develop or be discovered. EHA on behalf of itself only, on the one hand, and Atalanta 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 Compliance 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.**

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

**5. PUBLIC BENEFIT**

It is Atalanta's understanding that the commitments it has agreed to herein, and actions to be taken by Atalanta under this Settlement Agreement confer a significant benefit to the general public, as set forth in Code of Civil Procedure section 1021.5 and California Administrative Code, Title 11, section 3201. As such, it is the intent of Atalanta 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 Atalanta's alleged failure to provide a warning concerning actual or alleged exposure to cadmium prior to use of the Covered Products it has purchased, manufactured, imported, distributed, sold, or offered for sale in California, or will purchase, 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 Atalanta 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.

**8. ENFORCEMENT**

In any action to enforce the terms of this Settlement Agreement, the prevailing party shall be entitled to its reasonable attorney fees and costs.

**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 Atlanta:

Robert J. Parks  
Parks and Solar, LLP  
600 West Broadway, Suite 1200  
San Diego, CA 92101  
rparks@parksandsolar.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.

**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, subd. (f)**

EHA and its attorneys agree to comply with the reporting form requirements referenced in California Health and Safety Code section 25249.7, subdivision (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:**

**AGREED TO:**

Date: 12/8/25

Date: 04/12/2025

By:   
ENVIRONMENTAL HEALTH  
ADVOCATES, INC.

By:   
THOMAS GELLERT (Dec 4, 2025 21:37:26 EST)  
ATALANTA CORPORATION






# 2025-12-04 SETTLEMENT AGREEMENT

Final Audit Report

2025-12-05

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