

## 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 Niitakaya USA, Inc. (“Niitakaya”), on the other hand, with EHA and Niitakaya 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 Niitakaya 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 Niitakaya manufactures, sells, and/or distributes for sale in California, pickled vegetables products that contain lead and that it does so without first providing the health hazard warning required by Proposition 65. Lead is listed pursuant to Proposition 65 as a chemical known to cause reproductive harm.

#### **1.3 Product Description**

The products covered by this Settlement Agreement are pickled vegetable products including but not limited to Fukujin Zuke, Pickled Vegetable (Fukujin Zuke) (“Covered Products”), that are manufactured, sold and/or distributed for sale in California by Niitakaya.

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

On or around November 14, 2025, EHA served Niitakaya, 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 Niitakaya had violated Proposition 65 by failing to sufficiently warn consumers in California of the health hazards associated with exposures to lead 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**

Niitakaya denies the material, factual, and legal allegations in the Notice and maintains that all of the products it 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 Niitakaya 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 Niitakaya of any fact, finding, conclusion, issue of law or violation of law, such being specifically denied by Niitakaya. This Section shall not, however, diminish or otherwise affect Niitakaya's obligations, responsibilities, and duties under this Settlement Agreement. Notwithstanding the allegations in the Notice, Niitakaya maintains that it has not knowingly manufactured, or caused to be manufactured, the Covered Products for sale in California in violation of Proposition 65.

### **1.6 Effective Date**

For purposes of this Settlement Agreement, the term "Effective Date" shall mean the date this Settlement Agreement is executed by the Parties.

### **1.7 Compliance Date**

For purposes of this Settlement, the term "Compliance Date" means 90 days from the Effective Date.

## **2. INJUNCTIVE RELIEF**

### **2.1 Reformulation Standard**

Beginning on or before the Compliance Date, Defendant 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 Lead Exposure Level" of more than 0.5 micrograms of Lead based on a single serving per day unless such Covered Products comply with the warning requirements of Section 2.2. The warning requirements set forth in section 2.2 shall not apply to

any Reformulated Product. The "Daily Lead Exposure Level" shall be calculated by multiplying the recommended serving size in Covered Product by the concentration of lead in Covered Products. In the event the Office of the Environmental Health Hazard Assessment at any time adopts a safe harbor for Lead that is different than the Reformulation Standard in this Agreement, Niitakaya may comply with the Reformulation Standard in that settlement and will be deemed in compliance with Proposition 65. As used in this Section 2, "distributed for sale in CA" means to directly ship Covered Products into California or to sell Covered Products to a distributor Defendant knows will sell Covered Products in California.

## **2.2 General Warning Requirements**

Commencing on the Compliance Date, Niitakaya agrees any Covered Product sold in California that is not reformulated pursuant to paragraph 2.1 shall contain a Proposition 65 warning, within the meaning of Section 25249.6 of the Act. Niitakaya shall bear the exclusive responsibility to provide any such exposure warnings for Covered Products, and no obligation to provide such warnings is imposed on Mitsuwa Corporation under this Agreement. Niitakaya 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.

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

1) **“WARNING:” [or] “CA WARNING:” [or] “CALIFORNIA WARNING:”**: Consuming this product can expose you to lead, 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 lead. 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 lead, 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 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 is used to provide a warning that includes consumer information, as that term

is defined in Title 27, California Code of Regulations, Section 25600.1(c) as it may be amended from time to time, 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 Covered Products are sold online, a warning that complies with the content requirements of Cal. Code Regs Tit. 27, § 25603 must be provided via 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 purchaser prior to completing the purchase. If a warning is provided using the short-form label content pursuant to Section 25602(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 1/1/28, a 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 retailer receives a warning or a written notice 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 requirements extend to any websites under the exclusive control of Niitakaya where Covered Products are sold into California. In addition, Niitakaya shall provide any third-party website with written notice in accordance with Title 27, California Code of Regulation Section 25600.2.

There shall be no obligation for Niitakaya and its upstream and downstream distributors and downstream retailers 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. With respect to existing Covered Products, meaning those that are currently in the channels of distribution, with distributors and/or retailers, Niitakaya and its downstream distributors and retailers may continue to sell-through those items without a Proposition 65 warning.

(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, Niitakaya 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 lead in this product are no longer required, a lack of warning by Niitakaya 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, which Covered Products are expressly subject to the releases provided in Section 4.1. 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.

**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 in the Notice or referred to in this Settlement Agreement, Niitakaya 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. Niitakaya 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 twenty-one (21) 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, and principles codified at California Code of Civil Procedure Section 1021.5, for all work performed through the mutual execution of this Settlement Agreement. Under these legal principles, Niitakaya agrees to pay twenty-one thousand dollars (\$21,000.00) to EHA and its counsel for all fees and costs incurred in investigating, bringing this matter to the attention of Niitakaya, and negotiating a settlement. The twenty-one thousand dollars (\$21,000.00) is due twenty-one (21) days after the Effective Date.

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

Isaac Fayman  
Entorno Law, LLP  
225 Broadway, Suite 1900  
San Diego, CA 92101

### **3.3 Tax Documentation**

Niitakaya 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 Niitakaya cannot issue any settlement payments pursuant to Section 3.1 and 3.2 above until after Niitakaya receives the requisite W-9 forms from EHA's counsel.

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

### **4.1 EHA's Release of Niitakaya and Downstream Customers and Entities**

This Settlement Agreement is a full, final, and binding resolution of all claims between EHA, on its own behalf, and Niitakaya for all claims that can or could have been asserted by EHA, on its own behalf and not on behalf of the public, on behalf of its past and current agents, representatives, attorneys, successors and assignees ("Releasers"), and Releasers hereby release, without limitations, all actions, causes of action, and claims, in law or in equity, suits, liabilities, demands, obligations, damages, costs, fines, penalties, losses or expenses (including, but not limited to, investigation fees, expert fees, and attorneys' fees) of any nature whatsoever, whether known or unknown, fixed or contingent (collectively, "Claims") against Niitakaya and each of its respective parents, subsidiaries, affiliated entities under common ownership, shareholders, marketplaces, directors, officers, members, agents, employees, attorneys, successors and assignees, and any entity, including, but not limited to each entity to whom Niitakaya directly or indirectly distributes, licenses, or sells the Covered Products, including, but not limited to, its downstream distributors, wholesalers, vendors, licensors, shareholders, customers, retailers (including but not limited to Mitsuwa Corporation), franchisees, cooperative members, owners, users, and licensees ("Releasees"), based on the failure to warn about alleged exposures to lead required under Proposition 65 in the Covered Products manufactured, sold or distributed for sale in California by Niitakaya before the Compliance 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 and not on behalf of the public, on behalf of its past and current agents, representatives, attorneys, successors and assignees hereby covenants not to sue and 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 Niitakaya and Releasees of any nature, character, or kind, whether known or unknown, suspected or unsuspected, including, without limitation, all actions and causes of action, in law and in equity, 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 lead required under Proposition 65 from use of the Covered Products.

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

Niitakaya, 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 exposure to lead from use of 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 one hand, and Niitakaya 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 Niitakaya each acknowledge and understand the significance and consequences of this specific waiver of California Civil Code § 1542.

**4.4 Deemed Compliance with Proposition 65**

The Parties agree that compliance by Niitakaya with this Settlement Agreement constitutes compliance by Niitakaya with Proposition 65 with respect to exposure to lead from use of the Covered Products.

**5. PUBLIC BENEFIT**

It is the Parties' understanding that the commitments it has agreed to herein, and actions to be taken by Niitakaya 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 the Parties 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 Niitakaya's alleged failure to provide a warning concerning actual or alleged exposure to lead prior to use of the Covered Products it has manufactured, distributed, sold, or offered for sale in California, or will manufacture, 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 Niitakaya 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 but only to the extent the deletion of the provision deemed unenforceable does not materially affect, or otherwise result in the effect of the Settlement Agreement being contrary to the intent of the Parties in entering into this Settlement Agreement.

**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. In the event that Proposition 65 is repealed or otherwise rendered inapplicable or limited by reason of law generally, or as to the Covered Products, Niitakaya shall provide written notice to EHA of any asserted change in the law, and shall have no further obligations pursuant to this Settlement Agreement with respect to, and to the extent that, a Product is so affected.

**8. 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 Niitakaya:

Anne Marie Ellis  
Buchalter LLP  
18400 Von Karman Avenue, Suite 800  
Irvine, CA 92612  
aellis@buchalter.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.

**9. 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.

**10. 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).

**11. MODIFICATION**

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

**12. ENTIRE AGREEMENT**

This Settlement Agreement contains the sole and entire agreement of the Parties and any and all prior negotiations and understandings related hereto shall be deemed to have been merged within it. No representations or terms of agreement other than those herein exist or have been made by any Party with respect to the other Party or the subject matter hereof.

**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: 6/17/26

Date: June 11 2026

By:   
ENVIRONMENTAL HEALTH  
ADVOCATES, INC.

By:   
NIITAKAYA USA, INC. *president*