

**SETTLEMENT AGREEMENT BETWEEN APS&EE, LLC AND MEMPHIS HEALTH
FOOD DISTRIBUTORS LLC**

1. RECITALS

1.1 The Parties

1.1.1 This Settlement Agreement (“Agreement”) is entered into by and between APS&EE, LLC (“APS&EE”) and Memphis Health Food Distributors LLC (“MHFD”). APS&EE and MHFD shall hereinafter collectively be referred to as the “Parties”.

1.1.2 APS&EE is an organization based in California with an interest in protecting the environment, improving human health and the health of ecosystems, and supporting environmentally sound practices, which includes promoting awareness of exposure to toxic chemicals and reducing exposure to hazardous substances found in consumer products.

1.1.3 APS&EE alleges that MHFD is a person in the course of doing business as the term is defined in California *Health & Safety Code* section 25249.6 et seq. (“Proposition 65”).

1.2 Allegations

1.2.1 APS&EE alleges that MHFD distributed, sold or made available for sale in the State of California Mushroom Matcha Blend, including but not limited to 8-60013-05464-9 (hereinafter, the “Product(s)”) causing users in California to be exposed to lead without providing “clear and reasonable warnings”, in violation of Proposition 65. Lead is potentially subject to Proposition 65 warning requirements because it is listed by the State of California as known to cause cancer and birth defects or other reproductive harm.

1.2.2 On December 22, 2025, APS&EE served a Sixty-Day Notice of Violation (“60-Day Notice”), along with a Certificate of Merit, to MHFD, as well as The TJX Companies, Inc., and the various public enforcement agencies regarding the alleged violation of Proposition 65 with respect to the Products.

1.3 No Admissions

MHFD denies all material, factual and legal allegations contained in APS&EE's Notice and maintains that it has complied with all laws applicable to such allegations. Nothing in this Agreement shall be construed as an admission by MHFD of any fact, finding, conclusion, issue of law, or violation of law; nor shall compliance with this Agreement constitute or be construed as an admission by MHFD of any fact, finding, conclusion, issue of law, or violation of law, each having been expressly contested and denied by MHFD. This Agreement is the product of negotiation and compromise and is accepted by MHFD solely for purposes of settling, compromising, and resolving issues disputed in the Notice. However, nothing in this section shall affect the Parties' obligations, duties, and responsibilities under this Agreement.

1.4 Compromise

The Parties enter into this Agreement in order to resolve the controversy described above in a manner consistent with prior Proposition 65 settlements and consent judgments that were entered on behalf of the public interest and to avoid prolonged and costly litigation between them.

1.5 Effective and Compliance Dates

The "Effective Date" shall be the date upon which a complete and fully executed copy of the Agreement is delivered to each Party or its counsel. The term "Compliance Date" means thirty (30) calendar days after the Effective Date.

2. INJUNCTIVE RELIEF

2.1 Reformulation Standard

As of the Compliance Date, MHFD shall not sell, distribute, or cause the Products to be offered for sale in California unless: (a) the Products expose a person to less than 0.5 micrograms of lead per day based on the recommended Daily Serving as calculated below in Section 2.2, or (b) the Products are distributed, sold, or offered for sale with a clear and reasonable warning as described below in Section 2.3.

2.2 Exposure Calculation

2.2.1 A "Daily Serving" (for purposes of determining Proposition 65

compliance for chemicals present in the Products) shall be defined by the serving size set forth on the label of the Products under "Nutrition Facts", "Supplement Facts", or equivalent. If the label, package, or Product display page on the internet¹ do not recommend a number of daily servings, then the number of daily servings shall be one.

2.2.2 The daily exposure shall be calculated by using the following formula: micrograms of lead per gram, multiplied by grams of Product per serving, multiplied by servings of the Product per day.

2.3 Proposition 65 Warnings

Whenever a warning is required under Section 2.1, MHFD shall use one of the following options:

Option 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 [cancer and] birth defects or other reproductive harm. For more information go to www.P65Warnings.ca.gov/food.

Option 2

WARNING [*or* **CA WARNING** *or* **CALIFORNIA WARNING**]: Risk of [cancer and] reproductive harm from exposure to lead. See www.P65Warnings.ca.gov/food.

or

WARNING [*or* **CA WARNING** *or* **CALIFORNIA WARNING**]: Can expose you to lead, a [carcinogen and] reproductive toxicant. See www.P65Warnings.ca.gov/food.

Option 3 (for Product manufactured and labeled before January 1, 2028)

WARNING: [Cancer and] Reproductive Harm -www.P65Warnings.ca.gov.

¹ The "Product display page on the internet" applies to Products purchased therefrom, not to Products purchased elsewhere, such as a brick-and-mortar retail store.

If the daily exposure for the Product exceeds 15 micrograms of lead, where daily exposure is determined pursuant to Section 2.2, MHFD shall include the phrase “cancer and” or “carcinogen and” in the warning.

Nothing in this Agreement shall prevent MHFD from modifying any warning contained in Option 1 or 2 to disclose the presence of additional chemicals if MHFD determines that such disclosure is appropriate or required.

Under Option 3, the warning shall be accompanied by a symbol consisting of a black exclamation point in a yellow equilateral triangle with a bold black outline. Where the label for the product is not printed using the color yellow, the symbol may be printed in black and white. The symbol shall be placed to the left of the text of the warning, in a size no smaller than the height of the word “WARNING”.

Each warning shall be provided on the Product label, set off from other surrounding information, enclosed with a box. Additionally, if the Product contains consumer information in a foreign language, the warning must be provided in the foreign language. The Products shall carry said warning on each label with such conspicuousness as compared with other words, statements or designs as to render it likely to be read and understood by an ordinary consumer prior to sale. A Product that is sold by MHFD on the internet to persons located in California shall also provide the warning message to Californians by a clearly marked hyperlink on the product display page, or otherwise prominently displayed to the California purchaser before the purchaser completes his or her purchase of the Product. For Products that MHFD provides for a downstream entity to sell on the internet to persons located in California, MHFD shall comply with 27 CCR section 25600.2(b) and (c) and include an instruction that the entity comply with the warning requirements of this section.

2.4 Products in the Stream of Commerce

Any Products distributed, sold, or otherwise in the stream of commerce downstream from MHFD prior to the Compliance Date shall not be subject to the injunctive relief requirements in Section 2, as such Products are expressly covered by the release set forth in Section 4.

3. PAYMENTS

3.1 Civil Penalty Pursuant To Proposition 65

In settlement of all claims referred to in this Agreement, MHFD shall pay a total civil penalty of one thousand five hundred dollars (\$1,500.00) to be apportioned in accordance with *Health and Safety Code* section 25249.12(c)(1) and (d), with 75% (\$1,125.00) for State of California Office of Environmental Health Hazard Assessment (“OEHHA”), and the remaining 25% (\$375.00) for APS&EE.

MHFD shall issue these payments as part of the total payment described below in Section 3.2 via wire transfer to Law Offices of Lucas T. Novak. After receipt of the final wire transfer, Law Offices of Lucas T. Novak shall be responsible for forwarding the respective payments to OEHHA and APS&EE.

3.2 Reimbursement Of APS&EE’s Fees And Costs

MHFD shall reimburse APS&EE’s reasonable expert’s and attorney’s fees and costs incurred in prosecuting the instant action, for all work performed through execution of this Agreement, in the amount of sixteen thousand dollars (\$16,000.00). Accordingly, MHFD shall remit total payment via wire transfer to Law Offices of Lucas T. Novak in the amount of seventeen thousand five hundred dollars (\$17,500.00) which includes the civil penalty described in Section 3.1, and apportioned in three separate installments as follows:

- \$ 8,000.00 due within fourteen (14) calendar days of the Effective Date.
- \$ 6,000.00 due within forty-four (44) calendar days of the Effective Date.
- \$ 3,500.00 due within seventy-four (74) calendar days of the Effective Date.

APS&EE’s counsel shall provide MHFD with wire instructions on or before the Effective Date.

4. RELEASES

4.1 APS&EE’s Release Of MHFD

APS&EE on behalf of itself, and on behalf of its past, current, and future members, managers, directors, shareholders, owners, employees, predecessors, successors, and assignees (collectively “Releasers”) in consideration of the promises and monetary payments contained herein, hereby releases MHFD and its past, current, and future parents, subsidiaries, affiliated

companies under common ownership or control, shareholders, directors, members, managers, officers, owners, partners, agents, employees, representatives, attorneys, successors and assignees (“Releasees”), as well as its downstream customers, distributors, wholesalers, retailers, online marketplaces/e-commerce platforms, and franchisees, including The TJX Companies, Inc. (“Downstream Releasees”), from any alleged violations of Proposition 65 asserted in the Notice regarding the alleged or actual failure to warn about exposures to lead from Products distributed, sold, or offered for sale by MHFD in California before the Compliance Date. Compliance with the terms of this Agreement constitutes compliance with Proposition 65 by the Releasees with respect to the alleged or actual failure to warn about exposures to lead from the Products.

4.2 MHFD’s Release Of APS&EE

MHFD, by this Agreement, waives all rights to institute any form of legal action against APS&EE, its shareholders, directors, members, officers, employees, attorneys, experts, successors and assignees for actions or statements made or undertaken, whether in the course of investigating claims or seeking enforcement of Proposition 65 against MHFD in this matter. If any Releasee or Downstream Releasee should institute any such legal action, then APS&EE’s release as to that person or entity in this Agreement shall be rendered void and unenforceable.

4.3 Waiver Of Unknown Claims

It is possible that other claims not known to the Parties related to the Products will hereafter be discovered or developed. The Parties acknowledge that this Agreement is expressly intended to cover and include all such claims as to the Products through and including the Compliance Date, including all rights of action therefor, to the extent such claims arise out of or relate to the alleged violation(s) of Proposition 65 based on failure to warn about lead exposures from the Products. The Parties acknowledge that the claims released in Sections 4.1 and 4.2 may include unknown claims, and nevertheless APS&EE in particular intends to release such claims against MHFD, Releasees, and Downstream Releasees with respect to alleged violation(s) of Proposition 65 based on failure to warn about lead exposures from the Products, and in doing so waives California Civil Code § 1542, which 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.

The Parties acknowledge that they have been advised by counsel as to the specific effect of this release.

5. SEVERABILITY

Should any part or provision of this Agreement for any reason be declared by a Court to be invalid, void or unenforceable, the remaining portions and provisions shall continue in full force and effect.

6. GOVERNING LAW

The terms of this Agreement shall be governed by the laws of the State of California. This Agreement is entered into in the State of California and may only be enforced in the State of California.

7. NOTICES

All correspondence and notices required to be provided under this Agreement shall be in writing and delivered personally or sent by first class or certified mail addressed as follows, in addition to electronic mail:

<p>TO MHFD: Greg Berlin, Esq. ALSTON & BIRD 350 South Grand Avenue 51st Floor Los Angeles, CA 90071 greg.berlin@alston.com</p>	<p>TO APS&EE: Lucas Novak, Esq. Law Offices of Lucas T. Novak 8335 W Sunset Blvd., Suite 217 Los Angeles, CA 90069 lucas.nvk@gmail.com</p>
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8. COUNTERPARTS

This Agreement may be executed in counterparts, each of which shall be deemed an original, and all of which, when taken together, shall constitute the same document. Execution and delivery of this Agreement by e-mail, facsimile, or other electronic means shall constitute legal and binding execution and delivery. Any photocopy of the executed Agreement shall have

the same force and effect as the originals.

9. ENTIRE AGREEMENT

This Agreement contains the sole and entire agreement and understanding of the Parties with respect to the entire subject matter hereof, and any and all prior discussions, negotiations, commitments, or understandings related thereto, if any, are hereby merged herein and therein. There are no warranties, representations, or other agreements between the Parties or any of their counsel except as expressly set forth herein. No representations, oral or otherwise, express or implied, other than those specifically contained or referred to in this Agreement have been made by any Party hereto or any of their counsel. No other agreements not specifically contained or referenced herein, oral or otherwise, shall be deemed to exist or to bind any of the Parties hereto or any of their counsel.

10. AUTHORIZATION

The undersigned are authorized to execute this Agreement on behalf of their respective Parties. Each Party has read, understood, and agrees to all of the terms and conditions of this Agreement. Each Party warrants to the other that it is free to enter into this Agreement and is not subject to any conflicting obligation that will or might prevent or interfere with the execution or performance of this Agreement by said Party.

AGREED TO:

Date: 5/22/26

By: 
Authorized Representative of APS&EE, LLC

AGREED TO:

Date: 05/21/2026

By: 
Authorized Representative of Memphis Health Food Distributors LLC