

SETTLEMENT AGREEMENT

This Settlement Agreement and Stipulation for Entry of an Order (hereafter “Settlement Agreement”) is made between the State Water Resources Control Board’s (“State Water Board”) Environmental Laboratory Accreditation Program (“ELAP”) and Environmental Laboratory Network, Inc. (“ELN”) (collectively “Parties”). The Settlement Agreement is executed on the last date of the signatures below.

RECITALS

The Settlement Agreement is made in the following circumstances, which for purposes of this agreement shall constitute recitals of fact:

- A. ELAP is authorized to enforce the requirements of the California Environmental Laboratory Accreditation Act, Health and Safety Code section 100880, *et seq.* (ELAA), including implementing regulations. Laboratories that produce analytical data for California regulatory agencies that is used to demonstrate compliance with requirements of drinking water, wastewater, food for pesticide residues, hazardous waste and other sections of the California Health and Safety and Water Codes (“Regulatory Analyses”) must be accredited by ELAP.
- B. On January 18, 2023, ELAP issued Certificate 3092 to accredit ELN’s laboratory located at 9590 Chesapeake Drive, Suite 300, San Diego (“Certificate 3092”).
- C. On or about May 28, 2023, ELN commenced the physical relocation of its laboratory location to 3440 El Cajon Boulevard in San Diego. ELAP alleges that in relocating its laboratory, ELN did not comply with the ELAA, including implementing regulations at California Code of Regulations, title 22, section 64808.15, subdivision (f). On February 20, 2024, ELAP suspended Certificate 3092.
- D. In connection with the suspension of Certificate 3092, ELAP alleged that ELN, upon relocating its laboratory to 3440 El Cajon Boulevard, failed to maintain a quality management system as required by California Code of Regulations, title 22, section 64802.05 (“Section 64802.05”). ELAP alleged the deficiencies in ELN’s quality management system at the new laboratory location included failing to update and maintain record keeping procedures and to update and maintain compliant policies for sampling procedures, ethics and integrity, and custody, handling and disposal of samples.
- E. ELAP alleges that after the suspension of Certificate 3092, ELN failed to take all appropriate measures to ensure it ceased conducting Regulatory Analyses, as required by the ELAA. ELAP alleges that ELN performed thirty-two (32) Regulatory Analyses in the drinking water program after the suspension of Certificate 3092 in violation of Health & Safety Code sections 100915 and 100895 subdivision (c)(3), and California Code of Regulations, title 22, section 64816.10, subdivision (c).

- F. ELN alleges that its pre-suspension activities were appropriate, that it generally ceased conducting, and did not intentionally conduct, Regulatory Analyses after the suspension of Certificate 3092; that no Regulatory Analyses were conducted at its laboratory location after March 6, 2024; and that it came into compliance with Health & Safety Code sections 100915 and 100895 subdivision (c)(3), and California Code of Regulations, title 22, section 64816.10, subdivision (c).
- G. Following the suspension of Certificate 3092, ELN took action to address and remedy deficiencies alleged by ELAP in ELN's quality management system and to regain accreditation from ELAP. ELN submitted a complete and accurate application for accreditation of its laboratory located at 3440 El Cajon Boulevard in San Diego to ELAP, obtained acceptable proficiency testing (PT) reports, and paid all required fees. ELN obtained and validly passed an on-site assessment that verified its quality system and technical capabilities.
- H. On April 1, 2025, ELAP issued ELAP Certificate No. 3116 to ELN for its laboratory located at 3440 El Cajon Boulevard in San Diego.
- I. ELAP's suspension of Certificate No. 3092 had a profound impact on ELN's business operations. ELN is a small business with fewer than five employees. It lost clients and revenue and suffered economic stress as a result of the suspension. ELN continues to face substantial challenges in rebuilding its business.
- J. The Parties engaged in settlement negotiations regarding ELN's alleged violations of Health & Safety Code sections 100915 and 100895 subdivision (c)(3), and California Code of Regulations, title 22, section 64816.10, subdivision (c) and 64802.05 ("the Enforcement Action"). During that process, ELN provided complete and accurate documents and data in response to all requests by ELAP, including complete and accurate financials and tax returns. In agreeing to the terms of this settlement to resolve the Enforcement Action, ELAP considered the nature and extent of the violations, the willfulness of ELN's conduct, the suspension of Certificate No. 3092, ELN's implementation of corrective action and return to compliance, ELN's cooperation during settlement discussions, ELN's ability to pay an administrative liability, and the deterrent effect on both ELN and the regulated community.
- K. This Settlement Agreement entered into by the Parties and a proposed Order is presented to the State Water Board, or its delegee, for adoption as an Order by settlement, pursuant to Government Code section 11415.60.
- L. This Settlement Agreement will become effective when the State Water Board, or its delegee, issues an Order approving the Settlement Agreement.

STIPULATIONS

In consideration of the above recitals and in consideration of the mutual covenants set forth in the Settlement Agreement, the Parties do hereby agree to settle the Enforcement Action as follows:

1. **Recitals Incorporated.** The preceding Recitals are incorporated herein.
2. **Confidentiality.** The Parties agree that all oral and written statements and agreements made during the course of settlement discussions are in contemplation of the protections in and will remain fully protected by Evidence Code sections 1152 and 1154 ("Settlement Discussions"). The Settlement Discussions are confidential and will not be admissible as evidence in any administrative or judicial proceeding or hearing. If the Order approving the Settlement Agreement is not approved, the Settlement Discussion and the Settlement Agreement are not admissible in an adjudicative proceeding or civil action pursuant to Government Code section 11415.60.
3. **Monetary Penalty.** The parties agree as follows:
 - a) ELN shall pay a \$3,000.00 penalty to the State Water Board. ELN shall submit payment no later than thirty (30) calendar days after the State Water Board, or its delegee, issues an Order Approving Settlement Agreement.
 - b) ELN shall pay an additional \$10,000 penalty to the State Water Board, payable as follows:
 - i. For each Regulatory Analyses performed by ELN, ELN shall pay ELAP ten percent (10%) of the amount invoiced to the client for the Regulatory Analyses. ELN's payment obligation extends to all Regulatory Analyses performed under ELAP Certificate 3116, including Regulatory Analyses that ELN subcontracts out to another ELAP accredited laboratory, except that ELN may report and deduct the amount actually paid to a third-party laboratory from the amount invoiced to the client in calculating the amount due for subcontracted Regulatory Analyses.
 - ii. ELN shall submit a monthly report to ELAP that contains the following: (a) the total number of sample analyses performed during the reporting period, *i.e.*, the total of each analysis performed by ELN whether for a regulatory or a nonregulatory purpose; (b) the total number of Regulatory Analyses performed during the reporting

period; and (c) for each Regulatory Analyses performed during the reporting period, a spreadsheet that contains the following details for each Regulatory Analyses ("Monthly Report"):

Customer ID	Chain of Custody No.	No. of Samples	Date Sample(s) Received	Analyses Performed	Amount Invoiced to Client	Subcontracted Out (Y/N) and Amount Paid

iii. The reporting period for each Monthly Report shall run from the first day of the month to the last day of the month. The Monthly Report must be submitted electronically to ELAP no later than the tenth day of the month following the reporting period. The Monthly Report shall be emailed to ELAP at michael.head@waterboards.ca.gov or at such other email address(es) as directed by ELAP.

iv. To ensure compliance with this paragraph, ELN shall maintain the following text on its Chain of Custody or other intake form and take all reasonable measures to ensure the correct box is marked for each sample, and that the information is true and correct:

☐ Regulatory Sample* ☐ Non-Regulatory Sample

*A Regulatory Sample is a sample used to demonstrate compliance with requirements of drinking water, wastewater, food for pesticide residues, hazardous waste and other sections of the California Health and Safety or Water Codes.

v. ELN's obligation to submit Monthly Reports and to make payments to ELAP pursuant to paragraph 3(b) shall commence on the date the Order Approving Settlement Agreement is adopted. ELN's obligation to submit Monthly Reports and to make payments pursuant to paragraph 3(b) shall terminate when the total amount paid to the State Water Board is \$10,000 or two years after the date the Order Approving Settlement Agreement is adopted, whichever occurs first.

vi. The first payment required under paragraph 3(b) shall be due one hundred and eighty (180) days after the date the Order Approving Settlement Agreement is adopted, and each subsequent payment shall be due at one hundred and eighty day (180) intervals thereafter.

- vii. ELN shall provide all data and documents requested by ELAP reasonably necessary to monitor and audit ELN's compliance with paragraph 3, including chain of custody and related documents, billing and payment records, applicable bank records and to the extent reasonably necessary ELN's contemporaneous financials.
- 4. **Proficiency Testing.** Once per year ELAP accredited laboratories are required to obtain an "Acceptable" PT score for each Field of Accreditation ("FOA") held by the laboratory. In addition to satisfying this annual PT requirement, ELN shall pay for and complete one additional PT for each FOA listed on ELAP Certificate No. 3116 during calendar year 2026. ELN shall provide the results of all PTs to ELAP and shall not withhold failed PT results from ELAP. All procedures set forth in the ELAA, including implementing regulations for PTs, including failed PTs, shall apply to all PTs taken by ELN, including pursuant to this paragraph. By December 31, 2026, ELN shall submit a certification to ELAP declaring under oath that it has complied with this paragraph. In exchange for ELN's agreement to the terms set forth in this paragraph, ELAP has agreed to reduce the monetary penalty imposed in paragraph 3.
- 5. **Representation and Warranty.** ELN represents and warrants that all facts, information, and documents provided to ELAP regarding the Enforcement Action and during settlement negotiations, including the matters set forth in Recitals above, are true, accurate, and complete and do not contain any material misstatements or omissions.
- 6. **Public Notice.** The Parties understand and agree that the Settlement Agreement and the Order Approving Settlement Agreement will be noticed for a twenty-one (21) day public review period prior to consideration by the State Water Board, or its delegee. If significant new information is received that materially affects the propriety of presenting the Settlement Agreement and Order to the State Water Board, or its delegee for adoption, ELAP may unilaterally withdraw its approval of and void the Settlement Agreement and refrain from presenting it to the State Water Board, or its delegee, subject to the meet and confer obligation below. ELN agrees that it may not rescind or otherwise withdraw its approval of the Settlement Agreement. The Parties agree that the procedure contemplated for public review of the Settlement Agreement is lawful and adequate. In the event objections, procedural or otherwise, are raised prior to the Order Approving Settlement Agreement becoming effective, the Parties agree to meet and confer concerning any such objections and may agree to revise or adjust the procedure as necessary or advisable under the circumstances.

7. **If the Settlement Agreement Does Not Take Effect.** In the event that this Settlement Agreement does not take effect because the Order approving it is not adopted by the State Water Board, or its delegee, or is vacated in whole or in part by the State Water Board or a court, the Parties acknowledge that the Parties shall be returned to their positions as of the moment before this Agreement became effective and the protections of Paragraph 2 shall apply, including that this Agreement may not be used as evidence or indication of liability or admission by any Party, and will be fully protected by California Evidence Code sections 1152 and 1154; California Government Code section 11415.60; Rule 408, Federal Rules of Evidence; and any other applicable privilege under federal and/or state law. ELAP may take all authorized actions in connection with the Enforcement Action, including without limitation it may issue a citation pursuant to Health and Safety Code section 100880 for any violation that is encompassed by the Enforcement Action. The Parties also agree to waive any and all objections related to their efforts to settle this matter, including, but not limited to:
- a) Objections related to prejudice or bias of any of the State Water Board members or their advisors and any other objections to the extent that they are premised in whole or in part on the fact that the State Water Board members or their advisors were exposed to some of the material facts and the Parties' settlement positions as a consequence of reviewing the Stipulation and/or the Order, and therefore may have formed impressions or conclusions prior to conducting any contested evidentiary hearing in this matter; or
 - b) Laches or delay or other equitable defenses based on the time period for administrative or judicial review of the alleged violations to the extent this period has been extended by settlement discussions and/or these settlement proceedings.
8. **Remedies for Breach.** ELN's breach of the Settlement Agreement constitutes a violation of the Order Approving Settlement and a violation of the ELAA and may be enforced in accordance with the provisions of the ELAA, including without limitation Health and Safety Code sections 100875, 100880, 100885, 100890 and 100905, in addition to any other remedy allowed by law.
9. **Notices.** Notices required and sent under the Settlement Agreement shall be provided in writing by both email and physical mail as follows, until otherwise directed by the party. (A) **For ELAP:** Environmental Laboratory Accreditation Program, Attn Michael Head, 1001 I Street, Sacramento, CA, 95814; michael.head@waterboards.ca.gov. (B) **For ELN:** Jenny Douglas, Owner,

Environmental Laboratory Network, Inc., 3440 El Cajon Boulevard, San Diego, CA 92104; jenny@envirolabnetwork.com.

10. **Payments**. All payments required by the Settlement Agreement shall be payable to the **Environmental Laboratory Improvement Fund**. ELN shall indicate on the payment instrument the number of the Order Approving Settlement Agreement (DW 2025-XXXX-EXEC). The payment shall be mailed to Environmental Laboratory Accreditation Program, Attn Michael Head, 1001 I Street, Sacramento, CA, 95814. A copy of the payment instrument shall be sent to Laura Mooney, Attorney IV, State Water Resources Control Board, Office of Enforcement, 801 K Street, Suite 2300, Sacramento, 95814.
11. **State Water Board Authority**. The Settlement Agreement is not intended to and shall not be construed to limit or preclude the State Water Board from exercising its authority under any statute, regulation, ordinance, or other law.
12. **Waiver of Reconsideration and Waiver of Petition and Right to Appeal**. Except in the instance where the Settlement Agreement is not approved by the State Water Board, or its delegee, ELN waives its right to request reconsideration of the Order approving this Settlement Agreement and/or the Enforcement Action, and waives its right to petition for writ of administrative mandate in the California Superior Court and/or any California appellate level court regarding the Settlement Agreement, the Order approving the Settlement Agreement and/or the Enforcement Action.
13. **Independent Judgment**. Each Party represents and declares that in executing the Settlement Agreement it is relying solely on its own judgment, knowledge, and belief concerning the nature, extent and duration of its rights and claims, and that it has not been influenced to any extent whatsoever in the execution of the Settlement Agreement by any representations or statements regarding any matters made by other parties hereto or by any person representing them.
14. **No Precedent**. The Settlement Agreement involves unique facts and legal issues and shall not be used as a precedential decision of the State Water Board.
15. **Additional Documents**. Each Party agrees that it will cooperate fully in executing any additional documents necessary to give full effect to the Settlement Agreement.
16. **Entire Agreement**. The Settlement Agreement reflects and represents the entire agreement between and among the Parties and supersedes any and all prior understandings, representations, and agreements whether written or unwritten.

17. **Mutual Agreement**. The Parties have agreed to the language in the Settlement Agreement. The Settlement Agreement shall not be construed against the party that drafted the Settlement Agreement or any portion of the Settlement Agreement.
18. **Counterparts**. The Settlement Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which, together, shall constitute one and the same instrument.
19. **Reasonableness of Settlement**. The Parties represent and warrant that the Settlement Agreement is made in good faith and in full recognition of the implications of such agreement.
20. **Section Headings**. The Parties intend that the paragraph headings of the Settlement Agreement be used solely as a convenient reference and that they shall not in any manner amplify, limit, modify, or otherwise aid in the interpretation of the Settlement Agreement.
21. **Effective Date**. The Settlement Agreement shall become effective immediately upon issuance of the Order approving the Settlement Agreement.
22. **Choice of Law**. The Settlement Agreement shall be interpreted and governed by the laws of the State of California.
23. **No Waiver of Other Requirements**. Nothing in the Settlement Agreement shall excuse ELN from meeting any other applicable requirement, legislation, regulation, or other authority.

IT IS SO STIPULATED AND AGREED.

Date: _____

Signed original available upon request

Darrin Polhemus
Deputy Director
Division of Drinking Water
State Water Resources Control Board

Date: _____

Signed original available upon request
Environmental Laboratory Network, Inc.

By: _____

Its: _____