

**SETTLEMENT AGREEMENT & RELEASE**

This Settlement Agreement & Release ("Agreement"), dated this 23<sup>rd</sup> day of November, 2021, is by and between:

- Plandai Biotechnology, Inc. a Nevada corporation, having a principal place of business at 4811 49<sup>th</sup> Street, San Diego, CA 92115 ("PLPL"); and,
- Berkshire Capital Management, Inc., a New York corporation having a principal place of business at 670 White Plains Road, Ste. 120, Scarsdale NY 10583 ("Berkshire").

**RECITALS:**

**WHEREAS**, from time to time from 2013 to 2015, PLPL issued a series of unsecured promissory notes to Berkshire totaling an aggregate of \$6,900,000 as follows:

1. November 25, 2013; \$250,000 principal; 6% interest: due June 30, 2015;
2. February 11, 2014; \$950,000 principal; 6% interest: due June 30, 2015;
3. June 26, 2014; \$500,000 principal; 6% interest: due June 30, 2015;
4. August 26, 2014; \$800,000 principal; 6% interest: due June 30, 2015;
5. August 26, 2014; \$10,000 principal; 6% interest: due June 30, 2015;
6. September 11, 2014; \$1,000,000 principal; 6% interest: due June 30, 2015;
7. November 25, 2014; \$500,000 principal; 6% interest: due June 30, 2015;
8. December 18, 2014; \$500,000 principal; 6% interest: due June 30, 2015;
9. December 30, 2014; \$500,000 principal; 6% interest: due June 30, 2015;
10. February 15, 2015; \$150,000 principal; 6% interest: due June 30, 2015;
11. March 19, 2015; \$400,000 principal; 6% interest: due June 30, 2015;
12. April 20, 2015; \$500,000 principal; 6% interest: due June 30, 2015.
13. May 19, 2015; \$340,000 principal; 6% interest: due June 30, 2015;
14. June 4, 2015; \$100,000 principal; 6% interest: due June 30, 2015; and,
15. June 25, 2015; \$400,000 principal; 12% interest: due June 30, 2016.



Copies of the unsecured promissory notes are attached to this Agreement and incorporated herein by reference.

**WHEREAS**, on June 29, 2015, the maturity date for all outstanding unsecured promissory notes was agreed to be extended until November 1, 2015;

**WHEREAS**, on October 30, 2015, the maturity date for all outstanding unsecured promissory notes was agreed to be extended until February 1, 2016.

**WHEREAS**, certain disputes have arisen between PLPL and Berkshire concerning the unsecured promissory notes.

**WHEREAS**, PLPL and Berkshire deem it to be in their mutual best interest to avoid the commencement of legal action, including, but not limited to (i) a civil action for damages filed in any court of competent jurisdiction, (ii) an arbitration in any venue, or (iii) any other civil action of any kind or sort consistent with any applicable law and the unsecured promissory notes, as amended, and to resolve any and all disputes between them finally and forever in order to avoid the inconvenience, costs and expenses related to any and all such legal actions, upon the terms and condition set forth herein, including the application of California law to this Agreement; and,

**NOW THEREFORE**, in consideration for the mutual promises and covenants contained herein, the sufficiency of which is hereby acknowledged, PLPL and Berkshire hereto agree as follows:

**Section 1. Incorporation of the RECITALS clauses.**

1.1. The Parties acknowledge that all of the representations and exhibits set forth in the RECITALS clauses of this Agreement are incorporated herein by reference and made a material part of this Agreement with the same force and effect as if more fully set forth here at. The Parties waive any rule of contract construction or legal presumption that would prohibit any court of competent jurisdiction from construing or enforcing this Agreement based upon the contents of the RECITALS above.



**Section 2. Settlement Terms, Document Delivery; Release of All Claims.**

2.1. **Settlement Terms.** Upon the execution of this Agreement, Berkshire shall release PLPL from any and all obligations to pay all principal and all accrued interest under the unsecured promissory notes, as amended.

2.2. **Release of All Claims.** Immediately upon execution of this settlement agreement, the remainder of this agreement shall go into effect. Except as provided for herein, and in further consideration of the mutual covenants hereto, PLPL and Berkshire agree on behalf of themselves, and their respective successors, assigns, officers, directors, shareholders, attorneys, employees, agents, independent contractors, affiliates, control persons, administrators, and any and all persons or business entities acting by and through each of them as the case may be, to irrevocably and unconditionally remise, release, acquit, satisfy and forever discharge each other, specifically including their agents, directors, officers, affiliates, employees representatives, insurance carriers, attorneys, divisions and subsidiaries, (and all agents, directors, officers, employees, representatives, insurance carriers, and attorneys of such divisions and subsidiaries), and their predecessors, successors, administrators and assigns, and all persons acting by, through, under, or in concert with any of them (collectively "Releases"), of and from any and all claims, actions, causes of action, suits, debts, charges, complaints, claims, liabilities, obligations, promises, agreements, controversies, damages, and expenses (including attorney fees and costs actually incurred), of any nature whatsoever, known or unknown, in law or equity, arising out of the facts contained in the RECITALS, as well as any other claims based on constitutional, statutory, common law, or regulatory grounds.

2.3. Except as for any specific rights created by virtue of this Agreement, PLPL and Berkshire promise not to institute any future suits or proceedings at law or in equity or any arbitration or administrative proceedings against each other for or on account of any claim or cause of action arising specifically out of the facts in the RECITALS herein.



2.4. This is intended as a full and complete release and discharge of any or all claims that PLPL and Berkshire may or might have or had against each other regarding the subject matter hereof, and Berkshire and PLPL do so in full and final settlement, release and discharge of any and all such claims and the Parties intend to and does forever hereby release and discharge the each other of and from any and all liability of any nature whatsoever for all damages to each other, specifically including, but not limited to, all past, present and future rights to recover for sums of money compromised in this Agreement on account of said events alleged in the RECITALS, as well as for all consequences, effects and results thereto and resulting damages to each other, whether the same or any circumstances pertaining thereto are now known or unknown to PLPL and Berkshire or anyone else, expected or unexpected by PLPL and Berkshire or anyone else, or have already appeared or developed or may now be latent or may in the future appear or develop or become known to PLPL and Berkshire or anyone else, and all rights under Section 1542 of the Civil Code of the State of California are hereby expressly waived by PLPL and Berkshire, who understand, and have had the opportunity to meet and confer with counsel of their choice as to the effects of waiving Section 1542, that said Section provides as follows:

**"A general release does not extend to claims which the creditor does not know or suspect to exist in his favor at the time of executing the release, which if known by him must have materially affected his settlement with the debtor."**

2.5 This Agreement constitutes a compromise, settlement, and release of disputed claims and is being entered into solely to avoid the burden, inconvenience, and expense of litigating those claims. No Party to this Agreement admits any liability to the other Party with respect to any such claim or any other matter. Each Party expressly denies liability as to every claim, which may be asserted by the other Party. Therefore, this Agreement is not to be and shall never be construed or deemed an admission or concession by any of the Parties hereto of liability or culpability at any time for any purpose concerning any claim being compromised, settled, and released, or any other matter.



2.7 This Agreement constitutes a compromise, settlement, and release of claims and is being entered into solely to avoid the burden, inconvenience, and expense of litigating those claims. No Party to this Agreement admits any liability to the other Party with respect to any such claim or any other matter. Each Party expressly denies liability as to every claim, which may be asserted by the other Party. Therefore, this Agreement is not to be and shall never be construed or deemed an admission or concession by any of the Parties hereto of liability or culpability at any time for any purpose concerning any claim being compromised, settled, and released, or any other matter.

**Section 3. Miscellaneous Provisions.**

3.1. **Notices.** All notices, offers of other communications required or permitted to be given pursuant to this Agreement shall be in writing and shall be considered as properly given or made (i) if delivered personally; or (ii) upon receipt by facsimile transmission (with written confirmation of receipt) or confirmed electronic mail; or (iii) after the expiration of the second business day following deposit with documented overnight delivery service; or (iv) five business days of transmission by regular mail. All notices given or made pursuant hereto shall be so given or made to the parties at the following addresses:

If to PLPL:

Plandai Biotechnologies, Inc.  
Attention: Mr. Tad Mailander  
4811 49<sup>th</sup> Street  
San Diego, CA 92115

If to Berkshire:

Berkshire Capital Management, Inc.  
Attention: Mr. Joseph Fiore  
670 White Plains Road, Ste. 120  
Scarsdale, NY 10583

The address of any party hereto may be changed by a notice in writing given in accordance with the provisions hereof.

3.2. **Severability.** If any provision of this Agreement is held by a court of competent jurisdiction to be invalid, illegal, or unenforceable, such provision shall be severed and enforced to the extent possible or modified in such a way as to make it enforceable, and the invalidity, illegality or



unenforceability thereof shall not affect the validity, legality or enforceability of the remaining provisions of this Agreement.

3.3. **Binding on Affiliated Third Parties.** This Agreement shall inure to the benefit of and shall be binding upon PLPL and Berkshire and their respective agents, representatives, executors, administrators, trustees, personal representatives, partners, directors, officers, shareholders, agents, attorneys, insurers, employees, representatives, predecessors, successors, heirs, and assigns.

3.4. **Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of the State of California without regard to principles of conflict of laws. Any controversy or claim arising out of or relating to this Settlement Agreement or the Breach thereof, shall be settled by civil action in the federal or state courts sitting in San Diego, California. In the event any civil action is commenced, the prevailing party shall be determined by a court, and the court shall award the prevailing party its attorney fees as an element of costs.

3.5. **Counterparts.** This Agreement may be executed in multiple counterparts, all of which shall be deemed originals, and with the same effect as if all Parties had signed the same document. All of such counterparts shall be construed together with and shall constitute one Agreement, but in making proof, it shall only be necessary to produce one such counterpart. A facsimile transmission shall be as valid and enforceable as an original.

3.6. **Entire Understanding.** This Agreement is the entire, final, and complete agreement of the Parties relating to the subject of this Agreement and supersedes and replaces all prior or existing written and oral agreements between the Parties or their representatives relating thereto.

3.7. **Further Assurances.** The parties agree to execute and deliver to each other such other documents, and to do such other acts and things, all as the other party may reasonably request for the purpose of carrying out the intent of this Agreement.

3.8. **Amendments.** This Agreement shall not be amended or otherwise modified unless in writing signed by all of the parties hereto.



3.9. **Acknowledgment.** PLPL and Berkshire acknowledges (i) Each has read this Agreement including all exhibits completely, and have consulted with their respective attorneys concerning its contents and legal consequences, and have requested any change in language necessary or desirable to effectuate their intent and expectations so that the rule of construction of contracts construing ambiguities against the drafting party shall be inapplicable; (ii) They have taken all corporate actions and obtained all corporate authorizations, consents and approvals as are conditions precedent to their authority to execute this Agreement, and thus warrant that they are fully authorized to bind the Party for which they execute this Agreement; and, (iii) There has been and will be no assignment or other transfer of any claim released herein, or any part thereof, and each Party agrees to defend, indemnify and hold harmless the other party from any claims, obligations, or other liabilities, including specifically attorney's fees and costs incurred, which result from the assertion by any third party of a right to any claim which is released by this Agreement. The foregoing warranties and representations shall survive the execution and delivery of this Agreement.

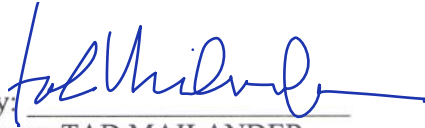
3.10. **Assignment.** This Agreement shall be binding upon and inure to the benefit of each party hereto or to such party's heirs, executors, administrators, successors and assigns and nothing in this Agreement, express or implied, is intended to confer upon any other person any rights or remedies of any nature whatsoever under or by reason of this Agreement.

3.11. **Confidentiality.** Each of the parties represents and agrees that it will keep the terms, provisions and amounts in this Agreement confidential and that it will not, without the consent of the other Party, disclose, divulge or furnish such confidential information to any person other than their immediate families, their attorney and accountant (all of whom will be informed of and bound by this confidentiality provision) except as required by law or, if necessary, to any applicable taxing authorities.

**IN WITNESS WHEREOF**, the parties have signed this agreement upon the date first written above.



**PLANDAI BIOTECHNOLOGY, INC.**


By: 

December 3, 2021

Name: TAD MAILANDER

Title: Principal Executive Officer

**BERKSHIRE CAPITAL MANAGEMENT, INC.**

By: 

Name: JOSEPH FIORE

Title: Chief Executive Officer