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12 SUNDIA CORPORATION, individually and doing business as
GOOD GREENS

15 SUPERIOR COURT OF THE STATE OF CALIFORNIA
16 COUNTY OF ALAMEDA

17 ENVIRONMENTAL RESEARCH
18 CENTER, INC., a California non-profit
corporation

19 Plaintiff,

20 vs.

21 SUNDIA CORPORATION, individually
22 and doing business as GOOD GREENS;
and DOES 1-100

23 Defendant.

CASE NO. RG18916396

STIPULATED CONSENT
JUDGMENT

Health & Safety Code § 25249.5 *et seq.*

Action Filed: August 6, 2018

Trial Date: None set

25 1. INTRODUCTION

26 1.1 On August 13, 2018 Plaintiff Environmental Research Center, Inc. ("ERC"),
27 a non-profit corporation, as a private enforcer and in the public interest, initiated this action by
28

ENDORSED
FILED
ALAMEDA COUNTY

DEC 14 2018

CLERK OF THE SUPERIOR COURT
By DIANNE HYATT
Deputy

1 filing a Complaint for Injunctive and Declaratory Relief and Civil Penalties (the "Complaint")
2 pursuant to the provisions of California Health and Safety Code section 25249.5 *et seq.*
3 ("Proposition 65"), against Sundia Corporation, individually and doing business as Good Greens
4 (hereinafter "Good Greens"), and Does 1-100. In this action, ERC alleges that a number of
5 products manufactured, distributed, or sold by Good Greens contain lead, a chemical listed under
6 Proposition 65 as a carcinogen and reproductive toxin, and expose consumers to this chemical at
7 a level requiring a Proposition 65 warning. These products (referred to hereinafter individually
8 as a "Covered Product" or collectively as "Covered Products") are all sizes and all forms of
9 packaging and labeling of:

- 10 (1) Good! Greens Wildberry,
- 11 (2) Good! Greens Chocolate Coconut,
- 12 (3) Good! Greens Chocolate Raspberry,
- 13 (4) Good! Greens Chocolate Peanut Butter,
- 14 (5) Good! Greens Chocolate Mint,
- 15 (6) Good! Greens Chocolate Chunk, and
- 16 (7) Good! Greens Apple Crumb Yogurt.

17 Covered Products shall include those products with minor variations in formulation so long as
18 they have the same internal UPC codes as the Covered Products. Good Greens shall not change
19 the internal UPC Codes for the Covered Products during the term of this Agreement, but Good
20 Greens may terminate any given UPC Code if it elects to terminate a Covered Product.

21 **1.2** ERC and Good Greens are hereinafter referred to individually as a "Party" or
22 collectively as the "Parties."

23 **1.3** ERC is a 501 (c)(3) California non-profit corporation dedicated to, among other
24 causes, helping safeguard the public from health hazards by reducing the use and misuse of
25 hazardous and toxic chemicals, facilitating a safe environment for consumers and employees,
26 and encouraging corporate responsibility.

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1 **1.4** For purposes of this Consent Judgment, the Parties agree that Good Greens is a
2 business entity that has employed ten or more persons at times relevant to this action and qualifies
3 as a “person in the course of doing business” within the meaning of Proposition 65. Good Greens
4 has either manufactured, distributed, and/or sold the Covered Products at times material to this
5 action.

6 **1.5** The Complaint is based on allegations contained in ERC’s Notices of Violation
7 dated May 1, 2018 and June 1, 2018 that were served on the California Attorney General, other
8 public enforcers, and Good Greens (“Notices”). True and correct copies of the 60-Day Notices
9 dated May 1, 2018 and June 1, 2018 are attached hereto as **Exhibits A and B** respectively and
10 each is incorporated herein by reference. ERC agrees that, at the time the Motion to Approve
11 this Consent Judgment is heard, more than 60 days will have passed since the Notices were
12 served on the Attorney General, public enforcers, and Good Greens and no designated
13 governmental entity has filed a complaint against Good Greens with regard to the Covered
14 Products or the alleged violations.

15 **1.6** ERC’s Notices and Complaint allege that use of the Covered Products exposes
16 persons in California to lead without first providing clear and reasonable warnings in violation
17 of California Health and Safety Code section 25249.6. Good Greens denies all material
18 allegations contained in the Notices and Complaint.

19 **1.7** The Parties have entered into this Consent Judgment in order to settle,
20 compromise, and resolve disputed claims and thus avoid prolonged and costly litigation.
21 Nothing in this Consent Judgment, nor compliance with this Consent Judgment, shall constitute
22 or be construed as an admission against interest by any of the Parties or by any of their respective
23 officers, directors, shareholders, employees, agents, parent companies, subsidiaries, divisions,
24 franchisees, licensees, customers, suppliers, manufacturers, distributors, wholesalers, or retailers
25 of any fact, issue of law, or violation of law.

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1 **1.8** Except as expressly set forth herein, nothing in this Consent Judgment shall
2 prejudice, waive, or impair any right, remedy, argument, or defense the Parties may have in any
3 current or future legal proceeding unrelated to these proceedings.

4 **1.9** The Effective Date of this Consent Judgment is the date on which ERC serves
5 notice on Good Greens that it has been entered as a Judgment by this Court.

6 **2. JURISDICTION AND VENUE**

7 For purposes of this Consent Judgment and any further court action that may become
8 necessary to enforce this Consent Judgment, the Parties stipulate that this Court has subject matter
9 jurisdiction over the allegations of violations contained in the Complaint, personal jurisdiction
10 over Good Greens as to the acts alleged in the Complaint, personal jurisdiction over ERC, that
11 venue is proper in Alameda County, and that this Court has jurisdiction to enter this Consent
12 Judgment as a full and final resolution of all claims up through and including the Effective Date
13 which were or could have been asserted in this action based on the facts alleged in the Notices and
14 Complaint.

15 **3. INJUNCTIVE RELIEF, REFORMULATION, TESTING AND WARNINGS**

16 **3.1** Beginning on the Effective Date, Good Greens shall be permanently enjoined
17 from manufacturing for sale in the State of California, "Distributing into the State of
18 California," or directly selling in the State of California, any Covered Products which expose a
19 person to a "Daily Lead Exposure Level" of more than 0.5 micrograms of lead per day unless it
20 meets the warning requirements under Section 3.2. Notwithstanding the foregoing, so long as
21 Good Greens can document the date of manufacture of a Covered Product, Covered Products
22 manufactured prior to the Effective Date may be distributed or sold without a "Warning"
23 (defined below) by any person after the Effective Date without violation of this Consent
24 Judgment.

25 **3.1.1** As used in this Consent Judgment, the term "Distributing into the State
26 of California" shall mean to directly ship a Covered Product into California for sale in
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1 California or to sell a Covered Product to a distributor that Good Greens knows will sell the
2 Covered Product in California.

3 **3.1.2** For purposes of this Consent Judgment, the “Daily Lead Exposure
4 Level” shall be measured in micrograms, and shall be calculated using the following formula:
5 micrograms of lead per gram of product, multiplied by grams of product per serving of the
6 product (using the largest serving size recommended on the product label), multiplied by
7 servings of the product per day (using the largest number of recommended daily servings
8 appearing on the label for a single day of consumption), *minus* the “Naturally Occurring Lead”
9 (defined below), which equals micrograms of lead exposure per day. If the label contains no
10 recommended daily servings, then the number of recommended daily servings shall be one as
11 defined by the single serving on the nutrition fact panel or supplement fact panel on the label.

12 **3.1.3** In calculating the Daily Lead Exposure Level for a Covered Product,
13 Good Greens shall be allowed to deduct the amount of lead which is deemed to be Naturally
14 Occurring Lead in any ingredient listed in **Table 1** (“Lead Ingredient”) that is contained in that
15 Covered Product under the following conditions: (a) Good Greens itself or from its Lead
16 Ingredient supplier shall obtain either (i) a valid test result showing lead is present in the Lead
17 Ingredient at a specific concentration or in a range; or (ii) a certificate of analysis or certificate
18 of compliance that shows lead is present in the Lead Ingredient at a specific concentration or in
19 a range; and (b) Good Greens shall obtain the documentation in Section 3.1.3(a) (i) or (ii) for at
20 least two delivered lots of a Lead Ingredient listed in Table 1, if up to four (4) lots of that Lead
21 Ingredient are delivered within twelve (12) months of the Effective Date, and documentation for
22 at least three (3) lots of a Lead Ingredient if up to eight (8) lots of that Lead Ingredient are
23 delivered within twelve (12) months of the Effective Date, and documentation for at least four
24 (4) lots of a Lead Ingredient if nine (9) or more lots of that Lead Ingredient are delivered within
25 twelve (12) months of the Effective Date; and (c) Good Greens shall document the total amount
26 (in grams) of each Lead Ingredient contained in the Covered Product. If the documentation
27 obtained pursuant to Section 3.1.3(a) and (b) documents the presence of lead in any Lead
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1 Ingredient in **Table 1**, Good Greens shall be entitled to deduct the amount of the Naturally
2 Occurring Lead for that Lead Ingredient, as listed in **Table 1**. If the Covered Product does not
3 contain a Lead Ingredient listed in **Table 1**, Good Greens shall not be entitled to a deduction for
4 the Naturally Occurring Lead in **Table 1** for that Covered Product.

5 To deduct the Naturally Occurring Lead in any Covered Product for purposes of
6 determining the Daily Lead Exposure Level under this Consent Judgment, as provided in this
7 Section 3.1.3, Good Greens shall provide to ERC, within thirty (30) days after the first
8 anniversary of the Effective Date, the documentation required under Section 3.1.3(a)-(c).
9 Thereafter, for three (3) additional consecutive anniversaries after the Effective Date, if Good
10 Greens deducts Naturally Occurring Lead in a Lead Ingredient in calculating the Daily Lead
11 Exposure Level, Good Greens shall provide to ERC, within thirty (30) days after each such
12 anniversary date, the documentation for each Lead Ingredient required under Section 3.1.3(a)-(c)
13 for each such applicable twelve (12) month period.

14 **TABLE 1**

INGREDIENT	NATURALLY OCCURRING AMOUNTS OF LEAD
Calcium (Elemental)	0.8 micrograms/gram (up to a maximum amount of 1.2 micrograms of lead if there are 1.5 grams or more of elemental calcium in the Covered Product)
Cocoa-powder	1.0 micrograms/gram
Chocolate Liquor	1.0 micrograms/gram
Cocoa Butter	0.1 micrograms/gram

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23 **3.2 Clear and Reasonable Warnings**

24 If Good Greens is required to provide a warning pursuant to Section 3.1, the following
25 warning must be utilized (“Warning”):

26 **WARNING:** Consuming this product can expose you to chemicals including lead which is
27 [are] 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.

28 Good Greens shall use the phrase “cancer and” in the Warning if Good Greens has documented or

1 is in possession of representative test results indicating that the "Daily Lead Exposure Level" is
2 greater than fifteen (15) micrograms of lead as determined pursuant to the quality control
3 methodology set forth in Section 3.4.

4 The Warning shall be securely affixed to or printed upon the container or label of each
5 Covered Product and must be set off from other surrounding information and if on the label it
6 must be enclosed in a box. The Warning on the Covered Product label shall be at least the same
7 size as other warnings on the label so long as the Warning remains clearly visible and readable to
8 the consumer. In addition, for any Covered Product sold over the internet by or through Good
9 Greens' proprietary website, the Warning either shall (a) appear on the product display page on
10 which the Covered Product is identified (but may not be provided via a hyperlink on that product
11 display page) or (b) appear to the purchaser, not via a hyperlink, during the checkout process and
12 prior to completion thereof when a California delivery address is indicated for any purchase of
13 any Covered Product. An asterisk or other method of identifying the existence of the Warning
14 must be utilized so the purchaser may readily identify the specific Covered Product(s) subject to
15 the Warning.

16 For Covered Products sold over the internet by or through Good Greens' own website, the
17 Warning shall be at least the same size as other health or safety warnings also appearing on the
18 product display page on Good Greens' website. For all Warnings, the word "**WARNING**" shall
19 be in all capital letters and in bold print. Statements supplemental to the Warning which are
20 immediately proximate thereto are allowed only to the extent they identify the source of the
21 exposure or provide information on how consumers of the Covered Products may avoid or reduce
22 exposure to the identified chemical or chemicals. Except as set forth in the immediately preceding
23 sentence, no statements shall appear adjacent to the Warning and, specifically, no statements
24 adjacent to the Warning may state that the source of the listed chemical renders the listed chemical
25 non-harmful or healthful.

26 Good Greens must display the above Warning with such conspicuousness, as compared
27 with other words, statements or designs on the label or container, or on its website, if applicable, to
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1 render the Warning likely to be read and understood by an ordinary individual under customary
2 conditions of purchase or use of the product.

3 **3.3 Reformulated Covered Products**

4 A Reformulated Covered Product is a Covered Product for which the "Daily Lead
5 Exposure Level" is no greater than 0.5 micrograms of lead per day as determined by the quality
6 control methodology described in Section 3.4 and for which the Uniform Product Code (UPC)
7 remains the same.

8 **3.4 Testing and Quality Control Methodology**

9 **3.4.1** Beginning within one (1) year of the Effective Date, Good Greens shall
10 arrange for lead testing of the Covered Products at least once a year for a minimum of three (3)
11 consecutive years by arranging for testing of three (3) randomly selected samples from
12 different lots of each of the Covered Products, in the form intended for sale to the end-user,
13 which Good Greens intends to sell or is manufacturing for sale in California, directly selling to
14 a consumer in California, or "Distributing into the State of California." If three (3) or more lots
15 of a given Covered Product are not available at the time of such sampling, then the samples
16 shall be selected from such number of lots as are available. If tests conducted pursuant to this
17 Section demonstrate that no Warning is required for a Covered Product during each of three (3)
18 consecutive years, then the testing requirements of this Section will no longer be required as to
19 that Covered Product; provided, however, that Good Greens shall not be required under this
20 Consent Judgment to test any Covered Product for more than four (4) consecutive years from
21 the Effective Date. Nothing in this Section 3.4.1 shall diminish Good Greens' ongoing
22 obligation to provide an accurate Warning when required hereunder.

23 **3.4.2** For purposes of measuring the "Daily Lead Exposure Level," the
24 average (arithmetic mean) of the lead detection results of the three (3) randomly selected
25 samples of the Covered Products will be controlling for all purposes under this Consent
26 Judgment.

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1 **3.4.3** All testing pursuant to this Consent Judgment shall be performed using a
2 laboratory method that complies with the performance and quality control factors appropriate
3 for the method used, including limit of detection, qualification, accuracy, and precision that
4 meets the following criteria: Inductively Coupled Plasma-Mass Spectrometry (“ICP-MS”)
5 achieving a limit of quantification of less than or equal to 0.010 mg/kg.

6 **3.4.4** All testing pursuant to this Consent Judgment by Good Greens shall be
7 performed by an independent third-party laboratory certified by the California Environmental
8 Laboratory Accreditation Program or an independent third-party laboratory that is registered
9 with the United States Food & Drug Administration.

10 **3.4.5** Nothing in this Consent Judgment shall limit Good Greens’ ability to
11 conduct, or require that others conduct, additional testing of the Covered Products, including
12 the raw materials used in their manufacture.

13 **3.4.6** Within thirty (30) days of ERC’s written request, Good Greens shall
14 deliver lab reports obtained pursuant to Section 3.4 to ERC. Good Greens shall retain all test
15 results and documentation for a period of three (3) years from the date of each test. ERC shall
16 not request such lab reports more than once annually, absent good cause to do so.

17 **3.4.7** No testing shall be required for a Covered Product which includes a
18 Warning compliant with Section 3.2 on the label, container, or on Good Greens’ proprietary
19 website or for a Covered Product that is no longer manufactured, a Covered Product which is
20 not sold in California, or, with respect to internet sales by and through Good Greens’ own
21 website, a Covered Product that is not shipped to a California shipping address, or for a
22 Covered Product that is merely transshipped through California (i.e., remains unopened) to a
23 retailer or distributor outside of California that does not sell that particular Covered Product to
24 persons inside of California.

25 **4. SETTLEMENT PAYMENT**

26 **4.1** In full satisfaction of all potential civil penalties, additional settlement payments,
27 attorney’s fees, and costs, Good Greens shall make a total payment of \$30,000.00 (“Total
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1 Settlement Amount”) to ERC within five (5) business days of the Effective Date (“Due Date”).
2 Good Greens shall make this payment by wire transfer to ERC’s account, for which ERC will
3 give Good Greens the necessary account and taxpayer payment information at least five (5)
4 business days prior to the Effective Date. The Total Settlement Amount shall be apportioned as
5 follows:

6 4.2 \$5,307.07 shall be considered a civil penalty pursuant to California Health and
7 Safety Code section 25249.7(b)(1). Within fifteen (15) business days ERC shall remit 75%
8 (\$3,980.30) of the civil penalty to the Office of Environmental Health Hazard Assessment
9 (“OEHHA”) for deposit in the Safe Drinking Water and Toxic Enforcement Fund in
10 accordance with California Health and Safety Code section 25249.12(c). ERC will retain the
11 remaining 25% (\$1,326.77) of the civil penalty.

12 4.3 \$1,435.73 shall be distributed to ERC as reimbursement to ERC for reasonable
13 costs incurred in bringing this action.

14 4.4 \$1,575.00 shall be distributed to Michael Freund as reimbursement of ERC’s
15 attorney’s fees, \$5,362.50 shall be distributed to Ryan Hoffman as reimbursement of ERC’s
16 attorney’s fees, while \$16,319.70 shall be distributed to ERC for its in-house legal fees. Except
17 as explicitly provided herein, each Party shall bear its own fees and costs.

18 4.5 In the event that Good Greens fails to remit the Total Settlement Amount owed
19 under Section 4 of this Consent Judgment on or before the Due Date, Good Greens shall be
20 deemed to be in material breach of its obligations under this Consent Judgment. ERC shall
21 provide written notice of the delinquency to Good Greens via electronic mail. If Good Greens
22 fails to deliver the Total Settlement Amount within five (5) days from the written notice, the
23 Total Settlement Amount shall accrue interest at the statutory judgment interest rate provided in
24 the California Code of Civil Procedure section 685.010. Additionally, Good Greens agrees to
25 pay ERC’s reasonable attorney’s fees and costs for any efforts to collect the payment due under
26 this Consent Judgment.

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1 **5. MODIFICATION OF CONSENT JUDGMENT**

2 **5.1** This Consent Judgment may be modified (except as to money terms): (i) by
3 written stipulation of the Parties and upon entry by the Court of a modified consent judgment or
4 (ii) by motion of either Party pursuant to Section 5.3 or 5.4 and upon entry by the Court of a
5 modified consent judgment.

6 **5.2** If any Party seeks to modify this Consent Judgment under Section 5.1, then that
7 Party must provide written notice to the other Party of its intent (“Notice of Intent”). The
8 Parties shall meet and confer in good faith regarding the proposed modification. Within thirty
9 (30) days of that meeting, if there remains a dispute over the proposed modification, the Party
10 disputing the modification shall provide the other Party a written basis for its position. The
11 Parties shall continue to meet and confer for an additional thirty (30) days in an effort to
12 resolve any remaining disputes. Should it become necessary, the Parties may agree in writing
13 to different deadlines for the meet-and-confer period.

14 **5.3** In the event that Good Greens initiates or otherwise requests a modification
15 under Section 5.1, and the meet and confer process leads to a joint motion or application for a
16 modification of the Consent Judgment, Good Greens shall reimburse ERC its costs and
17 reasonable attorney’s fees for the time spent in the meet-and-confer process and filing and
18 arguing the motion or application. ERC shall not be reimbursed for costs or attorney’s fees for
19 an uncontested motion, or for a ministerial motion (such as a change in name or contact
20 information) or if ERC does not expend more than two (2) hours of attorney time on the joint
21 motion.

22 **5.4** Where the meet-and-confer process does not lead to an uncontested motion or to
23 a joint motion or application in support of a modification of the Consent Judgment, then either
24 Party may seek judicial relief on its own.

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1 **6. RETENTION OF JURISDICTION, ENFORCEMENT OF CONSENT**
2 **JUDGMENT**

3 6.1 This Court shall retain jurisdiction of this matter to enforce, modify, or terminate
4 this Consent Judgment. This Consent Judgment may be enforced solely by the Parties hereto,
5 including their respective successors or assigns, provided each Party identifies any such
6 successor or assign in writing to the other Party.

7 6.2 If ERC alleges that any Covered Product failed or fails to bear a Warning with
8 respect to lead and was manufactured for sale in the State of California, "Distributed into the
9 State of California," or directly sold in violation of this Consent Judgment, then ERC shall
10 inform Good Greens in a reasonably prompt manner of its test results, including information
11 sufficient to permit Good Greens to identify the Covered Products at issue, and of ERC's
12 calculation of the Daily Lead Exposure Level. Good Greens shall, within thirty (30) days
13 following such notice, provide ERC with testing information, from an independent third-party
14 laboratory meeting the requirements of Sections 3.4.3 and 3.4.4, and other relevant information
15 it may wish to present to ERC, if any, demonstrating Good Greens' compliance with the
16 Consent Judgment, if warranted. The Parties shall first attempt to resolve the matter prior to
17 ERC taking any further legal action.

18 **7. APPLICATION OF CONSENT JUDGMENT**

19 This Consent Judgment applies to, and is binding upon, and benefits the Parties and their
20 respective officers, directors, shareholders, employees, agents, parent companies, subsidiaries,
21 divisions, franchisees, licensees, customers (excluding private labelers), distributors, wholesalers,
22 retailers, predecessors, successors, and assigns. This Consent Judgment shall have no application
23 to any Covered Product which is distributed or sold exclusively outside the State of California and
24 which is not used by California consumers.

25 **8. BINDING EFFECT, CLAIMS COVERED AND RELEASED**

26 8.1 This Consent Judgment is a full, final, and binding resolution between ERC,
27 on behalf of itself and in the public interest, and Good Greens and its respective officers,
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1 directors, shareholders, employees, agents, parent companies, subsidiaries, divisions, suppliers,
2 manufacturers, franchisees, licensees, customers (not including private label customers of Good
3 Greens), distributors, wholesalers, retailers, and all other upstream and downstream entities in
4 the distribution chain of any Covered Product, and the predecessors, successors, and assigns of
5 any of them (collectively, "Released Parties"). ERC, on behalf of itself and in the public
6 interest, hereby fully releases and discharges the Released Parties from any and all claims,
7 actions, causes of action, suits, demands, liabilities, damages, penalties, fees, costs, and
8 expenses asserted, or that could have been asserted from the handling, use, or consumption of
9 the Covered Products manufactured on or prior to the Effective Date, as to any alleged
10 violation of Proposition 65 or its implementing regulations arising from the failure to provide
11 Proposition 65 warnings on the Covered Products regarding lead up to and including the
12 Effective Date.

13 **8.2** ERC on its own behalf only, and Good Greens on its own behalf only,
14 further waive and release any and all claims they may have against each other for all actions or
15 statements made or undertaken in the course of seeking or opposing enforcement of Proposition
16 65 in connection with the Notices and Complaint up through and including the Effective Date,
17 provided, however, that nothing in Section 8 shall affect or limit any Party's right to seek to
18 enforce the terms of this Consent Judgment.

19 **8.3** It is possible that other claims not known to the Parties, arising out of the facts
20 alleged in the Notices and Complaint, and relating to the Covered Products, will develop or be
21 discovered. ERC on behalf of itself only, and Good Greens on behalf of itself only,
22 acknowledge that this Consent Judgment is expressly intended to cover and include all such
23 claims up through and including the Effective Date, including all rights of action therefore.
24 ERC and Good Greens acknowledge that the claims released in Sections 8.1 and 8.2 above may
25 include unknown claims, and nevertheless waive California Civil Code section 1542 as to any
26 such unknown claims. California Civil Code section 1542 reads as follows:

27 A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE
28 CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER
 FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF

1 KNOWN BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS
2 OR HER SETTLEMENT WITH THE DEBTOR.

3 ERC on behalf of itself only, and Good Greens on behalf of itself only, acknowledge and
4 understand the significance and consequences of this specific waiver of California Civil Code
5 section 1542.

6 **8.4** Compliance with the terms of this Consent Judgment by Good Greens shall be
7 deemed to constitute compliance with Proposition 65 by any Released Party regarding alleged
8 exposures to lead in the Covered Products as set forth in the Notices and Complaint after the
9 Effective Date.

10 **8.5** Nothing in this Consent Judgment is intended to apply to any occupational or
11 environmental exposures arising under Proposition 65, nor shall it apply to any of Good
12 Greens' products other than the Covered Products.

13 **9. SEVERABILITY OF UNENFORCEABLE PROVISIONS**

14 In the event that any of the provisions of this Consent Judgment are held by a court to be
15 unenforceable, the validity of the remaining enforceable provisions shall not be adversely affected.

16 **10. GOVERNING LAW**

17 The terms and conditions of this Consent Judgment shall be governed by and construed in
18 accordance with the laws of the State of California.

19 **11. PROVISION OF NOTICE**

20 All notices required to be given to either Party to this Consent Judgment by the other shall
21 be in writing and sent to the following agents listed below via first-class mail. Courtesy copies via
22 email may also be sent.

23 **FOR ENVIRONMENTAL RESEARCH CENTER, INC.:**

24 Chris Heptinstall
25 Executive Director, Environmental Research Center
26 3111 Camino Del Rio North, Suite 400
27 San Diego, CA 92108
28 Telephone: (619) 500-3090
Email: chris_erc501c3@yahoo.com

1 With a copy to:
2 MICHAEL FREUND
3 RYAN HOFFMAN
4 MICHAEL FREUND & ASSOCIATES
5 1919 Addison Street, Suite 105
6 Berkeley, CA 94704
7 Telephone: (510) 540-1992
8 Facsimile: (510) 540-5543
9

6 **SUNDIA CORPORATION, individually and doing business as GOOD GREENS**

7 Bradford Oberwager
8 Sundia Corporation, individually and doing business as Good Greens
9 340 S. Lemon Ave. #8093N
10 Walnut, CA 91789
11 brad@oberwager.com

11 With a copy to:
12 JUDITH M. PRAITIS
13 SIDLEY AUSTIN LLP
14 555 West Fifth Street, Suite 4000
15 Los Angeles, California 90013-1010
16 Telephone: (213) 896-6000
17 Facsimile: (213) 896-6600
18 Email: jpraitis@sidley.com.

17 **12. COURT APPROVAL**

18 **12.1** Upon execution of this Consent Judgment by the Parties, ERC shall notice a
19 Motion for Court Approval. Good Greens shall not object to judicial approval of the Consent
20 Judgment. in the form it was executed and, upon request of ERC, shall file a Statement of Non-
21 Opposition to these Consent Judgment terms

22 **12.2** If the California Attorney General objects to any term in this Consent Judgment,
23 the Parties shall meet and confer with the Attorney General, or with each other, as applicable,
24 to attempt in good faith to resolve the concern in a timely manner, and if possible prior to the
25 hearing on the motion.

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1 **12.3** If this Stipulated Consent Judgment is not approved by the Court in the form it
2 was executed within one (1) year of execution by all Parties it shall be void and have no force
3 or effect.

4 **13. EXECUTION AND COUNTERPARTS**

5 This Consent Judgment may be executed in counterparts, which taken together shall be
6 deemed to constitute one document. A facsimile or .pdf signature shall be construed to be as valid
7 as the original signature.

8 **14. DRAFTING**

9 The terms of this Consent Judgment have been reviewed by the respective counsel for each
10 Party prior to its signing, and each Party has had an opportunity to fully discuss the terms and
11 conditions with its legal counsel. The Parties agree that, in any subsequent interpretation and
12 construction of this Consent Judgment, no inference, assumption, or presumption shall be drawn,
13 and no provision of this Consent Judgment shall be construed against any Party, based on the fact
14 that one of the Parties and/or one of the Parties' legal counsel prepared and/or drafted all or any
15 portion of the Consent Judgment. It is conclusively presumed that all of the Parties participated
16 equally in the preparation and drafting of this Consent Judgment.

17 **15. GOOD FAITH ATTEMPT TO RESOLVE DISPUTES**

18 If a dispute arises with respect to either Party's compliance with the terms of this Consent
19 Judgment entered by the Court, the Parties shall meet and confer in person, by telephone, and/or in
20 writing and endeavor to resolve the dispute in an amicable manner. No action or motion may be
21 filed in the absence of such a good faith attempt to resolve the dispute beforehand.

22 **16. ENFORCEMENT**

23 This Consent Judgment may be enforced exclusively by the Parties hereto. ERC may,
24 by motion or order to show cause before the Superior Court of Alameda County, enforce the
25 terms and conditions contained in this Consent Judgment. In any action brought by ERC to
26 enforce this Consent Judgment, ERC may seek whatever fines, costs, penalties, or remedies as
27 are provided by law for failure to comply with the Consent Judgment.

28

1 **17. ENTIRE AGREEMENT, AUTHORIZATION**

2 **17.1** This Consent Judgment contains the sole and entire agreement and
3 understanding of the Parties with respect to the entire subject matter herein, and any and all
4 prior discussions, negotiations, commitments, and understandings related hereto. No
5 representations, oral or otherwise, express or implied, other than those contained herein have
6 been made by any Party. No other agreements, oral or otherwise, unless specifically referred to
7 herein, shall be deemed to exist or to bind any Party.

8 **17.2** Each signatory to this Consent Judgment certifies that he or she is fully
9 authorized by the Party he or she represents to stipulate to this Consent Judgment.

10 **18. REQUEST FOR FINDINGS, APPROVAL OF SETTLEMENT AND ENTRY OF**
11 **CONSENT JUDGMENT**

12 This Consent Judgment has come before the Court upon the request of the Plaintiff. The
13 Plaintiff requests the Court to fully review this Consent Judgment and, being fully informed
14 regarding the matters which are the subject of this action, to:

15 (1) Find that the terms and provisions of this Consent Judgment represent a fair and
16 equitable settlement of all matters raised by the allegations of the Complaint that the matter has
17 been diligently prosecuted, and that the public interest is served by such settlement; and

18 (2) Make the findings pursuant to California Health and Safety Code section
19 25249.7(f)(4), approve the Settlement, and approve this Consent Judgment.

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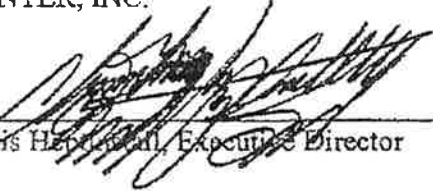
27 ///

28 ///

1 **IT IS SO STIPULATED:**

2 Dated: 6/18/, 2018

ENVIRONMENTAL RESEARCH
CENTER, INC.

3
4
5 By: 
Chris Hartzell, Executive Director

6
7
8 Dated: June 18, 2018

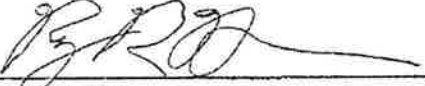
SUNDIA CORPORATION, individually and
doing business as GOOD GREENS

9
10 By: BMJ OZ
Bradford Oberwager, Founder and
Chairman

11
12
13
14 **APPROVED AS TO FORM:**


15
16 Dated: 8/13, 2018

MICHAEL FREUND & ASSOCIATES

17
18 By: 
Ryan Hoffman
Attorneys for Plaintiff Environmental
Research Center, Inc.

19
20
21
22 Dated: June 19, 2018

SIDLEY AUSTIN LLP

23
24 By: 
Judith M. Praitis
Attorney for Defendant Sundia
Corporation, individually and doing
business as Good Greens

ORDER AND JUDGMENT

Based upon the Parties' Stipulation, and good cause appearing, this Consent Judgment is approved and Judgment is hereby entered according to its terms.

IT IS SO ORDERED, ADJUDGED AND DECREED.

Dated: DEC. 13, 2018



Judge of the Superior Court

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