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Attorneys for Defendant Morinda Holdings, Inc.

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SAN FRANCISCO

ENVIRONMENTAL RESEARCH CENTER, Case No. CGC-11-508698
a California non-profit corporation

Plaintiff,

v.

MORINDA HOLDINGS, INC. and
DOES 1-100

Defendants.

**[PROPOSED] AMENDED STIPULATED
CONSENT JUDGMENT AND
PROPOSED] ORDER**

[Health & Safety Code Section 25249.5
et seq.]

ACTION FILED: March 2, 2011
TRIAL DATE: June 4, 2012
HEARING DATE: April 17, 2012
DEPT.: 302
TIME: 9:30 a.m.

1. INTRODUCTION

1.1 On March 2, 2011, Plaintiff Environmental Research Center (“ERC”), a non-profit corporation, as a private enforcer, and in the public interest, initiated this action by filing a Complaint for Injunctive and Declaratory Relief and Civil Penalties pursuant to the provisions of Cal. Health & Safety Code Section 25249.5 et seq. (“Proposition 65”), against Defendant

Morinda Holdings, Inc. (“Morinda”). On November 28, 2011, ERC filed a First Amended Complaint for Injunctive and Declaratory Relief and Civil Penalties against Morinda. In these actions, ERC claims that products manufactured and distributed by Morinda contain lead, a chemical listed under Proposition 65 as a carcinogen and reproductive toxin, and exposes consumers at a level requiring a Proposition 65 warning. These products are Seabuck-7, Mangoxan, Pft Brands Inc Goji Zen, Tahitian Noni International Inc. Tahiti Trim Plan 40 Appetite Suppressant, Tahitian Noni International Inc. Fiber Blend and Tahitian Noni International Inc. Tahiti Trim Plan 40 Complete Shake Vanilla (the “Covered Products”). ERC and Morinda shall sometimes be referred to individually as a “Party” or collectively as the “Parties.”

1.2 ERC is a California non-profit corporation dedicated to, among other causes, helping safeguard the public from health hazards by bringing about a reduction in the use and misuse of hazardous and toxic chemicals, facilitating a safe environment for consumers and employees and encouraging corporate responsibility. ERC has diligently prosecuted this matter and is settling this case in the public interest.

1.3 Morinda is a business entity that employs ten or more persons. Morinda arranges the manufacture, distribution and sale of the Covered Products.

1.4 The Complaint and First Amended Complaint are based on allegations contained in Notices of Violation dated November 23, 2010 and January 14, 2011 that were served on the California Attorney General, other public enforcers and Morinda. A true and correct copy of these Notices of Violation is attached hereto as Exhibit A. More than 60-days have passed since these Notices of Violation were mailed and no public enforcement entity has filed a complaint against Morinda with regard to the Covered Products or the alleged violations.

1.5 ERC's Notices of Violation, the Complaint and First Amended Complaint allege that the Covered Products expose persons in California to lead without first providing clear and reasonable warnings, in violation of Cal. Health & Safety Code Section 25249.6. Morinda denies all material allegations contained in the Notices of Violation, Complaint and First Amended Complaint and specifically denies that the Covered Products require a Proposition 65 warning or otherwise cause harm to any person.

1.6 The Parties have entered into this Consent Judgment in order to settle, compromise and resolve disputed claims and thus avoid prolonged and costly litigation. Nothing in this Consent Judgment shall constitute or be construed as an admission by any of the Parties, or by any of their respective officers, directors, shareholders, employees, agents, parent companies, subsidiaries, divisions, affiliates, franchises, licensees, customers, distributors, wholesalers, or retailers, of any fact, conclusion of law, issue of law, violation of law, fault, wrongdoing, or liability, including without limitation, any admission concerning any alleged violation of Proposition 65, nor shall this Consent Judgment be offered or admitted as evidence in any administrative or judicial proceeding or litigation in any court, agency, or forum, except with respect to an action seeking to enforce the terms of this Consent Judgment.

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

1.8 The Effective Date of this Consent Judgment shall be the date on which it is entered as a Judgment by this Court.

1.9 Subsequent to receiving ERC's Notices of Violation, Morinda has taken steps to reduce exposures of lead to consumers using the six Covered Products. Seabuck 7 was discontinued in

June of 2011. Mangoxan was reformulated in June 2011 to levels below 0.5 ug/day. Future Mangoxan manufacturing will be done with the new formula. The other four Covered Products are in the process of being phased out, and to the extent that such products are still sold prior to discontinuance, Proposition 65 warning labels as set forth in Paragraph 3 will be conspicuously affixed or printed upon the product's label of any the Covered Products.

2. JURISDICTION AND VENUE

For purposes of this Consent Judgment only, the Parties stipulate that this Court has jurisdiction over the allegations of violations contained in the Complaint and First Amended Complaint and personal jurisdiction over Morinda as to the acts alleged in the Complaint and First Amended Complaint, that venue is proper in San Francisco County, and that this Court has jurisdiction to enter this Consent Judgment as a full and final resolution of all claims which were or could have been asserted in this action based on the facts alleged in the Notices of Violation, the Complaint and First Amended Complaint.

3. INJUNCTIVE RELIEF, REFORMULATION, TESTING AND WARNINGS

3.1 On or after the Effective Date, Morinda shall be permanently enjoined from manufacturing for sale in California, distributing into California, or directly selling to a consumer in California any Covered Product for which the maximum daily dose recommended on the label contains more than 0.5 micrograms of lead unless such Covered Product complies with the warning requirement set forth in Section 3.2 below or this Court or the California Office of Environmental Health Hazard Assessment (OEHHA) determines that no such warning for these Covered Products is required.

3.2 Clear and Reasonable Warnings. For those Covered Products that are subject to the warning requirement of Section 3.1, Morinda shall provide the following warning as specified below:

WARNING: This product contains lead, a chemical known to the State of California to cause [cancer and] birth defects or other reproductive harm. The term “cancer” shall be used in the warning only if the maximum dose recommended on the label contains more than 15 micrograms of lead while using the testing protocol set forth in Section 3.4.

3.3 The warning shall be prominently fixed to or printed upon the product’s label of any the Covered Products so as to be clearly conspicuous, as compared with other statements or designs on the label as to render it likely to be read and understood by an ordinary purchaser or user of the product. If the warning is displayed on the product’s label, the warning shall be at least the same size as the largest of any other health or safety warnings on the product and the word “warning” shall be in all capital letters and in bold print.

3.4 Testing

(a) Once a year, on or before the anniversary of the entry of the Consent Judgment, Morinda shall test, or cause to be tested, four (4) randomly selected samples of each Covered Product (in the form intended for sale to California, manufactured after the date of the prior year’s random test) for lead content. Testing for lead shall be performed using Inductively Coupled Plasma-Mass Spectrometry (“ICP-MS”) and closed-vessel, microwave-assisted digestion employing high-purity reagents or any other testing method subsequently agreed upon in writing by the Parties. Morinda shall provide any test results to ERC within thirty days of receipt of such test results. Morinda shall retain all test results for a period of four years from the date of each respective test. All testing pursuant to this Consent Judgment shall be performed by a laboratory

certified by the California Environmental Laboratory Accreditation Program or a laboratory that is registered with the United States Food & Drug Administration.

(b) If tests conducted pursuant to this Consent Judgment demonstrate that no warning is required for a Covered Product during each of three (3) consecutive years, (when using the maximum daily dose recommended on the label for the Covered Product) then the testing requirements of this Section 3.3 are no longer required as to that Covered Product. However, if after the three (3) year period, Morinda changes ingredient suppliers for any of the Covered Products and/or reformulates any of the Covered Products, Morinda shall test that Covered Product at least once after such change is made.

4. SETTLEMENT PAYMENT

4.1 In full and final satisfaction of all potential civil penalties, payment in lieu of civil penalties, attorneys' fees, and costs, Morinda shall make a total payment of \$70,000.00, payable to Michael Freund Attorney Client Trust Fund (counsel for ERC), within ten (10) business days of receiving the Notice of Entry of this Consent Judgment. Michael Freund shall be responsible for allocating and sending the payments to the other recipients as follows:

4.2 \$7,300.00 as civil penalties pursuant to California Health & Safety Code section 25249.7(b)(1). Of this amount, \$5,475.00 shall be payable to OEHHA, and \$1,825.00 shall be payable to ERC. Cal. Health & Safety Code §§ 25249.12(c)(1) & (d). ERC's counsel shall forward the civil penalty payment to OEHHA, and send a copy of the transmittal letter to counsel for Morinda.

4.3 \$22,388.00 in lieu of further civil penalties, payable to ERC, for the following projects and activities: (1) awarding grants to California non-profit organizations dedicated to public health and environmental groups whose activities are consistent with the mission of ERC as set forth in the Addendum; (2) funding ERC's Voluntary Compliance Program ("VCP") to work with companies not subject to Proposition 65 to reduce lead exposures from their products;

(3) funding ERC's Got Lead? Program to assist consumers in testing products for lead; and (4) the continued monitoring of past consent judgments and settlements to ensure companies are in compliance with Proposition 65. In deciding the grantee proposals or distributions, ERC takes into consideration several factors including: (a) the nexus between the alleged harm in the underlying case(s), and the grant program work; (b) the potential for toxics reduction, prevention, remediation or education benefits to California residents from the proposal; (c) the budget requirements of the proposed grantee and the alternate funding sources available to it for its project; and (d) ERC's assessment of the grantee's chances for success in its program work.

4.4 \$15,000.00 payable to ERC, as reimbursement to ERC for reasonable investigation costs associated with the enforcement of Proposition 65 and other costs incurred as a result of investigating, bringing this matter to Morinda's attention, litigating and negotiating this settlement in the public interest.

4.5 \$19,312.00 payable to Michael Freund and \$6,000.00 payable to Karen Evans as reimbursement of ERC's attorneys' fees.

5. MODIFICATION OF CONSENT JUDGMENT

This Consent Judgment may be modified only by written agreement and stipulation of the Parties, or upon noticed motion filed by any Party, followed by entry of a modified consent judgment by the Court.

6. RETENTION OF JURISDICTION, ENFORCEMENT OF CONSENT JUDGMENT

6.1 This Court shall retain jurisdiction of this matter to enforce, modify or terminate this Consent Judgment.

6.2 Only after it complies with Section 10 below, any Party may, by motion or application for an order to show cause filed with this Court, enforce the terms and conditions contained in this Consent Judgment. The prevailing party may request that the Court award its

reasonable attorneys' fees and costs associated with such motion or application.

7. APPLICATION OF CONSENT JUDGMENT

This Consent Judgment shall apply to, be binding upon and benefit the Parties, and their respective officers, directors, shareholders, employees, agents, parent companies, subsidiaries, divisions, affiliates, suppliers, franchisees, licensees, customers, distributors, wholesalers, retailers, and all other entities in the distribution chain of any Covered Product, the predecessors, successors and assigns of any of them, and ERC on its own behalf and the public interest as set forth in Paragraph 8.

8. BINDING EFFECT, CLAIMS COVERED AND RELEASED

8.1 This Consent Judgment is a full, final, and binding resolution between ERC, on behalf of itself, and in the public interest, and Morinda, of any alleged violation of Proposition 65 or its implementing regulations, and fully and finally resolves all claims that have been or could have been asserted in this action against Morinda for failure to provide Proposition 65 warnings for the Covered Products regarding lead. ERC, on behalf of itself, and in the public interest, hereby releases and discharges Morinda and its respective officers, directors, shareholders, employees, agents, parent companies, subsidiaries, divisions, affiliates, suppliers, franchisees, licensees, customers, distributors, wholesalers, retailers, and all other entities in the distribution chain of any Covered Product, and the predecessors, successors and assigns of any of them (collectively, "Released Parties"), from any and all claims asserted, or that could have been asserted, in this action arising from or related to the alleged failure to provide Proposition 65 warnings for the Covered Products regarding lead.

8.2 ERC, on behalf of itself only, hereby releases and discharges the Released Parties from any and all known and unknown past, present, and future rights, claims, causes of action, suits, damages, penalties, liabilities, injunctive relief, declaratory relief, and attorneys' fees, costs, and expenses arising from or related to the claims asserted, or that could have been asserted, under state or federal law, regarding the presence of lead in the Covered Products or the facts alleged in the Notice of Violation or the Complaint and Amended Complaint, including

without limitation any and all claims concerning exposure of any person to lead in the Covered Products.

8.3 Compliance with the terms of this Consent Judgment shall constitute compliance by the Released Parties with Proposition 65 with respect to alleged exposures to lead contained in the Covered Products.

8.4 Unknown Claims. It is possible that other injuries, damages, liability, or claims not now known to the Parties arising out of the facts alleged in the Notice of Violation or the Complaint and relating to the Covered Products will develop or be discovered. ERC, on behalf of itself only, acknowledges that this Consent Judgment is expressly intended to cover and include all such injuries, damages, liability, and claims, including all rights of action. ERC has full knowledge of the contents of California Civil Code section 1542. ERC, on behalf of itself only, acknowledges that the claims released in Sections 8.1 and 8.2 above may include unknown claims, and nevertheless waives 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 WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR.”

ERC, on behalf of itself only, acknowledges and understands the significance and consequences of this specific waiver of California Civil Code section 1542.

8.5 ERC, on the one hand, and Morinda, on the other hand, release and waive all claims they may have against each other for any statements or actions made or undertaken by them in connection with the Notices of Violation or this action.

9. CONSTRUCTION OF CONSENT JUDGMENT, SEVERABILITY

9.1 The terms and conditions of this Consent Judgment have been reviewed by the respective counsel for the Parties prior to its signing, and each Party has had an opportunity to fully discuss the terms and conditions with its counsel. In any subsequent interpretation or

construction of this Consent Judgment, the terms and conditions shall not be construed against any Party.

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

10. NOTICE AND CURE

10.1 No motion to enforce this Consent Judgment or application to show cause may be filed by ERC, unless ERC notifies Morinda of the specific acts alleged to breach this Consent Judgment at least forty-five (45) days before filing and serving any such motion or application. Any notice to Morinda must contain (1) the name of the product; (2) the lead content of the product, with a copy of the analytical results and description of the testing methodology; (3) specific dates when the product was sold in California; (4) the store or other place at which the product was available for sale to California consumers; and (5) any other evidence or other support for the allegations in the notice.

10.2 Within thirty (30) days of receiving the notice described in Section 10.1, Morinda shall either (1) withdraw the product from sale in California, (2) provide the warning described in Section 3.2 for the product, or (3) refute the information provided under Section 10.1. Should the Parties be unable to resolve the dispute, any Party may seek relief under Section 6 of this Consent Judgment.

11. GOVERNING LAW

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

12. PROVISION OF NOTICE

All notices required by this Consent Judgment shall be sent by first-class, registered, or certified mail, or overnight delivery, to the following:

For Environmental Research Center:

Chris Heptinstall, Executive Director
Environmental Research Center
3111 Camino del Rio North, Suite 400
San Diego, CA 92108

Michael Bruce Freund
Law Offices of Michael Freund
1919 Addison Street, Suite 105
Berkeley, CA 94704

Karen Evans
Coordinating Counsel
4218 Biona Place
San Diego, CA 92116

For Morinda:

Irwin Feinberg
Feinberg, Mindel, Brandt & Klein LLP
12424 Wilshire Blvd., 9th Floor
Los Angeles, CA 90025
Telephone: (310) 447-8675
Facsimile: (310) 447-8678

Richard C. Rife
Office of General Counsel
Morinda Holdings, Inc.
333 River Park Drive
Provo, UT 84604

13. COURT APPROVAL

13.1 If this Stipulated Consent Judgment is not approved by the Court, it shall be void and have no force or effect.

13.2 ERC shall comply with California Health & Safety Code section 25249.7(f) and with Title 11 of the California Code Regulations, section 3003.

14. EXECUTION AND COUNTERPARTS

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

15. ENTIRE AGREEMENT, AUTHORIZATION

15.1 This Consent Judgment 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 and understandings related hereto. No representations, oral or otherwise, express or implied, other than those contained herein have been made by any Party. No other agreements not specifically referred to herein, oral or otherwise, shall be deemed to exist or to bind any of the Parties.

15.2 Each signatory to this Consent Judgment certifies that he or she is fully authorized by the Party he or she represents to stipulate to the terms and conditions of this Consent Judgment, to enter into and execute this Consent Judgment on behalf of the Party represented, and legally to bind that Party to this Consent Judgment. The undersigned have read, understand and agree to all of the terms and conditions of this Consent Judgment. Except as explicitly provided herein, each Party shall bear its own fees and costs.

IT IS SO STIPULATED:

ENVIRONMENTAL RESEARCH CENTER

Chris Heptinstall, Executive Director

Dated: _____


MORINDA HOLDINGS, INC.


Richard C. Rife, General Counsel

Dated: 9 APRIL 2012

APPROVED AS TO FORM:

LAW OFFICE OF MICHAEL FREUND



Michael Freund, Counsel for ERC

Dated: April 9, 2012

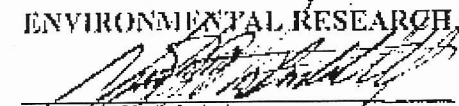
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IT IS SO STIPULATED:

ENVIRONMENTAL RESEARCH CENTER


Chris Hepinstall, Executive Director

Dated: 4/6/12

MORINDA HOLIDNGS, INC.

Richard C. Rife, General Counsel

Dated: _____

APPROVED AS TO FORM:

LAW OFFICE OF MICHAEL FREUND

Michael Freund, Counsel for ERC

Dated: _____

Dated: _____, 2012

Judge, Superior Court of the State
of California

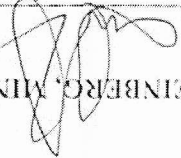
IT IS SO ORDERED, ADJUDGED AND DECREED.

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

JUDGMENT

Irwin Feinberg, Counsel for Morinda

FEINBERG, MINDEL, BRANDT & KLEIN, LLP



Dated: _____

April 9, 2012

FEINBERG, MINDEL, BRANDT & KLEIN, LLP

Irwin Feinberg, Counsel for Morinda

Dated: _____

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: _____, 2012

Judge, Superior Court of the State
of California

Addendum

The grants to third party California non-profit organizations referenced in Section 4.3 shall be made to the following:

Environmental Working Group (www.ewg.org)

The Breast Cancer Fund (www.breastcancerfund.org)

These funds shall be used only for the purposes of “helping safeguard the public from health hazards by bringing about a reduction in the use and misuse of hazardous and toxic chemicals, facilitating a safe environment for consumers and employees, and encouraging corporate responsibility.” ERC shall ensure that all funds will be disbursed and used in accordance with Proposition 65’s statutory purposes and ERC’s mission statement, articles of incorporation, and by laws within six months of receipt.