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15 Attorney for Defendants NAVITAS  
16 NATURALS, INC. and NAVITAS LLC

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SUPERIOR COURT OF CALIFORNIA  
COUNTY OF ORANGE, CENTRAL JUSTICE CENTER

ENVIRONMENTAL RESEARCH )  
CENTER, a California non-profit )  
corporation, )

Plaintiffs, )

vs. )

NAVITAS NATURALS, INC., NAVITAS )  
LLC, and DOES 1-25, Inclusive, )

Defendants. )

**Case No.: 30-2013-00650409-CU-MC-CJC**

Judge: Hon. Gregory Munoz

**[PROPOSED] STIPULATED CONSENT  
JUDGMENT; [PROPOSED] ORDER**

**[Health & Safety Code § 25249.5, et seq.]**

Action Filed: May 20, 2013

Trial Date: None

**1. INTRODUCTION**

**1.1** This Action arises out of the alleged violations of California's Safe Drinking Water and Toxic Enforcement Act of 1986, California Health and Safety Code Section 25249.5 *et seq.* (also known as and hereinafter referred to as "Proposition 65") regarding the following products (hereinafter collectively the "Covered Products" or "Covered Product" to refer to a

1 single product):

- 2 1. Navitas Naturals Organic Raw Maca Powder
- 3 2. Navitas Naturals Raw Nori Sheets Certified Organic Sea Superfood (hereinafter
- 4 referred to as "**Nori Sheets**").
- 5 3. Navitas Naturals Hemp-Cacao-Maca Superfood Blend Certified Organic Protein
- 6 Smoothie Mix (hereinafter referred to as "**Superfood Blend**").
- 7 4. Navitas Naturals Lucuma Powder Lucuma Powder Certified Organic Incan
- 8 Superfood (hereinafter referred to as "**Lucuma Powder**").

9 **1.2** Plaintiff Environmental Research Center (“ERC”) is a California non-profit  
10 corporation and is acting as a private enforcer of Proposition 65. ERC brings this Action in the  
11 public interest pursuant to California Health and Safety Code Section 25249. ERC asserts that it  
12 is dedicated to, among other causes, helping safeguard the public from health hazards by  
13 reducing the use and misuse of hazardous and toxic chemicals, facilitating a safe environment for  
14 consumers and employees, and encouraging corporate responsibility.

15 **1.3** Defendant NAVITAS NATURALS, INC. is a California Corporation.

16 **1.4** Defendant NAVITAS LLC is a California Limited Liability Company.

17 **1.5** Defendants NAVITAS NATURALS, INC. and NAVITAS LLC are collectively  
18 referred to hereinafter as “NAVITAS”.

19 **1.6** NAVITAS manufactures, distributes and sells the Covered Products.

20 **1.7** ERC and NAVITAS are hereinafter sometimes referred to individually as a  
21 “Party” or collectively as the “Parties.”

22 **1.8** On September 17, 2012, pursuant to California Health and Safety Code Section  
23 25249.7(d)(1), ERC served a Notice of Violations of Proposition 65 (“Notice of Violations”) on  
24 the California Attorney General, other public enforcers, and NAVITAS. A true and correct copy  
25 of the Notice of Violations is attached hereto as Exhibit A.

26 **1.9** After more than sixty (60) days passed since service of the Notice of Violations,  
27 and no designated governmental agency filed a complaint against NAVITAS with regard to the  
28 Covered Products or the alleged violations, ERC filed the Complaint in this Action (the

1 “Complaint”) for injunctive relief and civil penalties. The Complaint is based on the allegations  
2 in the Notice of Violations.

3 **1.10** The Complaint and the Notice of Violations each allege that NAVITAS  
4 manufactured, distributed, and/or sold in California the Covered Products, which contain lead, a  
5 chemical listed under Proposition 65 as a carcinogen and reproductive toxin, and expose  
6 consumers at a level requiring a Proposition 65 warning. Further, the Complaint and Notice of  
7 Violations allege that use of the Covered Products exposes persons in California to lead without  
8 first providing clear and reasonable warnings, in violation of California Health and Safety Code  
9 Section 25249.6. NAVITAS denies all material and factual allegations of the Notice of Violation  
10 and the Complaint, shall file an answer asserting various affirmative defenses, and specifically  
11 denies that the Covered Products require a Proposition 65 warning or cause harm to any person.  
12 NAVITAS and ERC each reserve all rights to allege additional facts, claims, and affirmative  
13 defenses if the Court does not approve this Consent Judgment.

14 **1.11** The Parties enter into this Consent Judgment in order to settle, compromise and  
15 resolve disputed claims and avoid prolonged and costly litigation. Nothing in this Consent  
16 Judgment, nor compliance with its terms, shall constitute or be construed as an admission by any  
17 of the Parties, or by any of their respective officers, directors, shareholders, employees, agents,  
18 parent companies, subsidiaries, divisions, affiliates, suppliers, franchisees, licensees, distributors,  
19 wholesalers, or retailers, of any fact, conclusion of law, issue of law, violation of law, fault,  
20 wrongdoing, or liability, including without limitation, any admission concerning any alleged  
21 violation of Proposition 65. Except as expressly set forth herein, nothing in this Consent  
22 Judgment shall prejudice, waive, or impair any right, remedy, argument, or defense the Parties  
23 may have in any other or future legal proceeding. Provided, however, nothing in this Section  
24 shall affect the enforceability of this Consent Judgment.

25 **1.12** The “Effective Date” of this Consent Judgment shall be the date this Consent  
26 Judgment is entered as a Judgment.

## 27 **2. JURISDICTION AND VENUE**

28 For purposes of this Consent Judgment only, the Parties stipulate that this Court has

1 jurisdiction over the subject matter of this Action and personal jurisdiction over the Parties, that  
2 venue is proper in this Court, and that this Court has jurisdiction to enter this Consent Judgment  
3 pursuant to the terms set forth herein.

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

5 **3.1** Beginning on the Effective Date, NAVITAS shall be permanently enjoined from  
6 manufacturing for sale to a consumer in California, directly selling to a consumer in California,  
7 or "Distributing into California" any of the Covered Products for which the maximum daily dose  
8 recommended on the label contains more than 0.5 micrograms of lead, unless such Covered  
9 Product complies with the warning requirements in Section 3.4 or qualifies as a "Reformulated  
10 Covered Product" pursuant to Section 3.5. "Distributing into California" means to ship any of the  
11 Covered Products to California for sale or to sell any of the Covered Products to a distributor that  
12 NAVITAS knows or has reason to know will sell the Covered Product in California. Provided,  
13 however, that NAVITAS may manufacture or package Covered Products for which the  
14 maximum daily dose recommended on the label contains more than 0.5 micrograms of lead  
15 without complying with Sections 3.4 or 3.5 as long as such products are only for sale to  
16 consumers located outside of California and Navitas does not Distribute them into California.

17 **3.2** All Covered Products that have been or will have been distributed, shipped, or  
18 sold, or otherwise placed in the stream of commerce through and including the Effective Date of  
19 this Consent Judgment are exempt from the provisions of Sections 3.1, and 3.3 through 3.6 and  
20 are included within the release in Section 8.1. To be in compliance with the terms of this  
21 Consent Judgment, NAVITAS is not required to undertake any efforts or conduct to remove such  
22 Covered Products from the stream of commerce. On the Effective Date, NAVITAS shall  
23 provide ERC with the last lot number and expiration date for each of the Covered Products in the  
24 stream of commerce through the Effective Date.

25 **3.3 Calculation of Lead Levels**

26 As used in this Consent Judgment, lead levels are calculated pursuant to the testing  
27 protocol described in Section 3.6. For purposes of measuring the lead, the second highest lead  
28 detection result of the five Randomly Selected Samples (as that phrase is defined in Section 3.6,

1 below) of the Covered Product will be controlling. The highest result will be discarded and not  
2 counted for purposes of this Consent Judgment.

3 **3.4 Clear and Reasonable Warnings**

4 For those Covered Products that are subject to the warning requirement of Section 3.1,  
5 NAVITAS shall provide the following warning ("Warning") as specified below:

6  
7 **[California Proposition 65] WARNING:** This product contains [lead,] a chemical  
8 known [to the State of California] to cause [cancer and] birth defects or other  
9 reproductive harm.

10  
11 The text in brackets in the warnings above is optional, except that the term "cancer" must be  
12 included only if the maximum daily dose recommended on the label contains more than 15  
13 micrograms of lead.

14 The Warning shall be permanently affixed to or printed on (at the point of manufacture,  
15 prior to shipment to California, or prior to distribution within California) the outside packaging  
16 or container of each unit of the Covered Product. The Warning shall be displayed with such  
17 conspicuousness, as compared with other words, statements designs or devices on the outside  
18 packaging or labeling, as to render it likely to be read and understood by an ordinary individual  
19 prior to use. If the Warning is displayed on the product container or labeling, the Warning shall  
20 be at least the same size as the largest of any other health or safety warnings on the product  
21 container or labeling, and the word "**WARNING**" shall be in all capital letters and in bold print.  
22 If printed on the labeling itself, the Warning shall be contained in the same section of the  
23 labeling that states other safety warnings concerning the use of the Covered Product. No other  
24 statements regarding Proposition 65 or lead will accompany the warning.

25 The Warning that is in each of Exhibits B-C hereto is deemed to be clear and reasonable  
26 and to be likely to be read and understood by an ordinary individual prior to use.

27 **3.5 Reformulated Covered Products**

28 A Reformulated Covered Product is one for which the maximum recommended daily

1 serving on the label contains no more than 0.5 micrograms of lead per day.

2 **3.6 Testing and Quality Control Methodology**

3 (a) Beginning within one year of the Effective Date, NAVITAS shall test five (5)  
4 Randomly Selected Samples of each Covered Product (in the form intended for sale to the end-  
5 user) for lead content. The testing requirement does not apply to any of the Covered Products for  
6 which NAVITAS has provided the Warning specified in Section 3.4. (A "Randomly Selected  
7 Sample" means one that is selected without definite aim or direction.)

8 (b) Testing for lead shall be performed using Inductively Coupled Plasma-Mass  
9 Spectrometry ("ICP-MS") or any other testing method subsequently agreed to in writing by the  
10 Parties.

11 (c) All testing pursuant to this Consent Judgment shall be performed by an  
12 independent third-party laboratory certified by the California Environmental Laboratory  
13 Accreditation Program or a laboratory that is registered with the United States Food & Drug  
14 Administration for the analysis of heavy metals. NAVITAS may use, but is not required to use,  
15 Exova, located in Santa Fe Springs, CA, for its testing.

16 (d) NAVITAS shall retain all test results and documentation for a period of four (4)  
17 years from the date of the test. NAVITAS shall provide copies of the test results to ERC within  
18 10 days of NAVITAS's receipt of the test results.

19 (e) NAVITAS shall test five (5) Randomly Selected Samples each year for each of  
20 the Covered Products for a minimum of four (4) consecutive years for each Covered Product that  
21 NAVITAS is manufacturing for sale to a consumer in California, directly selling to a consumer  
22 in California, or "Distributing into California" for which it is not providing a warning pursuant to  
23 Section 3.4, above. NAVITAS may test the five samples per year either at the same time or at  
24 different times during the year. The second highest lead detection result of the five Randomly  
25 Selected Samples of each Covered Product will be controlling. If tests conducted pursuant to  
26 this Section demonstrate that no warning is required for a Covered Product during each of four  
27 (4) consecutive years, then the testing requirements of this Section will no longer be required as  
28 to that Covered Product. However, if during or after the four (4) year period, NAVITAS changes

1 ingredient suppliers for any of the Covered Products and/or reformulates any of the Covered  
2 Products, NAVITAS shall test that Covered Product annually for at least four (4) consecutive  
3 years after such change is made.

4 (f) If a controlling test for Covered Products in 3.5(e), above, shows that the  
5 recommended serving size would result in a maximum daily dose of more than 0.5 micrograms  
6 of lead then, within 30 days of receiving such controlling test result, NAVITAS shall cease  
7 distributing, shipping, selling or otherwise placing the disputed Covered Product in the stream of  
8 commerce, unless, within 30 days NAVITAS complies with the warning requirements in Section  
9 3.4 or it reformulates the Covered Product so that it qualifies as a "Reformulated Covered  
10 Product" pursuant to Section 3.5.

11 (g) For purposes of this Consent Judgment, daily lead exposure levels shall be  
12 measured in micrograms and shall be calculated using the following formula: Micrograms of  
13 lead per gram of product, multiplied by grams per serving of the product (using the largest  
14 serving size appearing on the product label), multiplied by servings of the product per day (using  
15 the largest number of servings in the recommended dosage appearing on the product label),  
16 which equals micrograms of lead exposure per day.

### 17 **3.7 Serving Size**

18 NAVITAS will take the following actions regarding the serving size or daily serving  
19 recommendations:

20 (a) NAVITAS will reduce the serving size of the Superfood Blend and Lucuma  
21 Powder to no more than 5 grams and will make a daily serving recommendation of one serving  
22 per day. NAVITAS will use a serving size of one sheet for the Nori Sheets and will make a daily  
23 serving recommendation of one serving per day. Based on ERC's test results that form the basis  
24 of the Notice of Violation, these measures will make these products Reformulated Covered  
25 Product pursuant to Section 3.5. ERC is not currently aware of any test results that would  
26 require any of these products to contain warnings pursuant to Section 3.4 as long as the above  
27 serving size and daily serving recommendations are followed.

28 (b) Nothing in this Section 3.7 shall modify NAVITAS' obligations pursuant to this

1 Consent Judgment for future tests it conducts pursuant to Section 3.6, or prevent NAVITAS from  
2 modifying a Covered Product serving size or daily serving recommendation.

3 **4. SETTLEMENT PAYMENT**

4 **4.1** NAVITAS shall make a total payment of \$90,000.00 within 10 business days of  
5 the Effective Date, which shall be in full and final satisfaction of any and all civil penalties,  
6 payment in lieu of civil penalties, and attorney's fees and costs.

7 **4.2** The payment will be in the form of separate checks sent to counsel for ERC,  
8 William F. Wraith, Wraith Law, 16485 Laguna Canyon Road, Suite 250, Irvine, California,  
9 92618. The checks shall be payable to the following parties and the payment shall be apportioned  
10 as follows:

11 **4.3** \$12,500.00 (twelve thousand five hundred dollars) as civil penalties pursuant to  
12 California Health and Safety Code Section 25249.7(b)(1). Of this amount, \$9,375.00 (nine  
13 thousand three hundred seventy-five dollars) shall be payable to the Office of Environmental  
14 Health Hazard Assessment ("OEHHA"), and \$3,125.00 (three thousand one hundred twenty-five  
15 dollars) shall be payable to ERC. (Cal. Health & Safety Code § 25249.12(c)(1) & (d)). ERC's  
16 counsel will forward the civil penalty to OEHHA.

17 **4.4** \$22,000.00 (twenty-two thousand dollars) payable to ERC as reimbursement to  
18 ERC for reasonable costs associated with the enforcement of Proposition 65 and other costs  
19 incurred as a result of work in bringing this Action.

20 **4.5** \$37,790.00 (thirty-seven thousand seven hundred ninety dollars) payable to ERC  
21 in lieu of further civil penalties, for the day-to-day business activities such as (1) continued  
22 enforcement of Proposition 65, which includes work, analysis and testing of consumer products  
23 that may contain Proposition 65 chemicals, focusing on the same or similar type of ingestible  
24 products that are the subject matter of this Action; (2) the continued monitoring of past consent  
25 judgments and settlements to ensure companies are complying with Proposition 65; and (3) ERC  
26 giving a donation of \$2,000.00 of the \$37,790.00 to the Center for Environmental Health  
27 ("CEH") to address reducing toxic chemical exposures in California.

28 **4.6** \$17,710.00 (seventeen thousand, seven hundred and ten dollars) payable to



1 William F. Wraith as reimbursement of ERC's attorney's fees and attorney's costs.

2       **4.7** NAVITAS's failure to remit payment before its due date shall be deemed a  
3 material breach of this Agreement.

4 **5. MODIFICATION OF CONSENT JUDGMENT**

5       This Consent Judgment may be modified only by: (i) Written agreement and stipulation  
6 of the Parties and upon having such stipulation entered as a modified Consent Judgment by the  
7 Court; or (ii) Upon entry of a modified Judgment by the Court pursuant to a motion by one of the  
8 Parties after exhausting the meet and confer process set forth as follows. If either Party requests  
9 or initiates a modification, then it shall meet and confer with the other Party in good faith before  
10 filing a motion with the Court seeking to modify it. ERC is entitled to reimbursement of all  
11 reasonable attorneys' fees and costs regarding the Parties' meet and confer efforts for any  
12 modification requested or initiated by NAVITAS. If, despite their meet and confer efforts,  
13 NAVITAS and ERC are unable to reach agreement on any modification proposed by NAVITAS,  
14 then once NAVITAS files a motion seeking modification, it shall not be required to further  
15 reimburse ERC's reasonable attorney's fees and costs unless ERC is the prevailing party on such  
16 motion. If ERC is the prevailing party in any such motion initiated by NAVITAS, then it shall  
17 be entitled to recover its reasonable attorneys' fees and costs associated with such motion; if  
18 NAVITAS is the prevailing party in any such motion initiated by NAVITAS then it may request  
19 that the Court award its attorney's fees and costs and the Court shall have discretion to determine  
20 whether to do so.

21 **6. RETENTION OF JURISDICTION, ENFORCEMENT OF CONSENT JUDGMENT**

22       **6.1** This Court shall retain jurisdiction of this matter to enforce, modify or terminate  
23 this Consent Judgment.

24       **6.2** Any Party may, by motion or application for an order to show cause filed with  
25 this Court, enforce the terms and conditions contained in this Consent Judgment. The prevailing  
26 party in any such motion or application may request that the Court award its reasonable  
27 attorneys' fees and costs associated with such motion or application.

28       **6.3** Before filing a motion or application for an order to show cause, ERC shall

1 provide NAVITAS with 30 (thirty) days written notice of any alleged violations of the terms and  
2 conditions contained in this Consent Judgment.

### 3 **7. APPLICATION OF CONSENT JUDGMENT**

4 This Consent Judgment shall apply to and be binding upon the Parties and their  
5 respective officers, directors, successors and assigns, and it shall benefit the Parties and their  
6 respective officers, directors, shareholders, employees, agents, parent companies, subsidiaries,  
7 divisions, affiliates, franchisees, licensees, customers (including "Co-Brand" customers;  
8 excluding only "Private Labeler" customers), distributors, wholesalers, retailers, predecessors,  
9 successors, and assigns. "Private Labelers" excluded from the benefits of this Consent Judgment  
10 are companies who rebrand and offer NAVITAS manufactured or distributed products under  
11 their own brand, not under the NAVITAS brand. "Co-Brand" customers who shall benefit from  
12 this Consent Judgment are companies who offer NAVITAS manufactured or distributed products  
13 with their own brand and the NAVITAS brand both displayed on the product packaging.

### 14 **8. BINDING EFFECT, CLAIMS COVERED AND RELEASED**

15 **8.1** This Consent Judgment is a full, final, and binding resolution between ERC, on  
16 behalf of itself and in the public interest, and NAVITAS, of all direct and derivative violations of  
17 Proposition 65 or its implementing regulations for failure to provide Proposition 65 warnings of  
18 exposure to lead from the handling, use, or consumption of the Covered Products and fully  
19 resolves all claims that have been or could have been asserted in this Action up to and including  
20 the Effective Date for failure to provide Proposition 65 warnings for the Covered Products  
21 regarding lead. ERC, on behalf of itself and in the public interest, hereby forever releases and  
22 discharges, NAVITAS and its past and present officers, directors, owners, shareholders,  
23 employees, agents, attorneys, parent companies, subsidiaries, divisions, affiliates, suppliers,  
24 franchisees, licensees, customers (including "Co-Brand" customers; excluding only "Private  
25 Labeler" customers), distributors, wholesalers, retailers, and all other upstream and downstream  
26 entities and persons in the distribution chain of any Covered Product, and the predecessors,  
27 successors and assigns of any of them (collectively, "Released Parties"), from all claims and  
28 causes of action and obligations to pay damages, restitution, fines, civil penalties, payment in

1 lieu of civil penalties and expenses (including but not limited to expert analysis fees, expert fees,  
2 attorney's fees and costs) (collectively, "Claims") arising under or derived from Proposition 65  
3 up through the Effective Date based on exposure to lead from the Covered Products as set forth  
4 in the Notice of Violations and the Complaint.

5 **8.2** Compliance with the terms of this Consent Judgment shall be deemed to  
6 constitute compliance by any Released Party with Proposition 65 regarding alleged exposures to  
7 lead from the Covered Products as set forth in the Notice of Violations and the Complaint.

8 **8.3** ERC, on behalf of itself only, hereby forever releases and discharges the Released  
9 Parties from all known and unknown Claims for direct or derivative violations of Proposition 65,  
10 arising from or relating to alleged exposures to lead from the Covered Products as set forth in the  
11 Notice of Violations and the Complaint.

12 **8.4 Unknown Claims**

13 It is possible that other Claims not known to ERC arising out of the facts alleged in the  
14 Notice of Violations or the Complaint and relating to lead in the Covered Products that were  
15 manufactured, sold or Distributed into California before the Effective Date will develop or be  
16 discovered. ERC, on behalf of itself only, acknowledges that the Claims released herein include  
17 all known and unknown Claims described in section 8.3, above, and waives California Civil  
18 Code Section 1542 as to any such unknown Claims. California Civil Code Section 1542 reads as  
19 follows:

20 **“A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE**  
21 **CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER**  
22 **FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN**  
23 **BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS OR HER**  
24 **SETTLEMENT WITH THE DEBTOR.”**

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

27 **8.5** ERC, on one hand, and NAVITAS, on the other hand, each release and waive all  
28 Claims they may have against each other for any statements or actions made or undertaken by

1 them in connection with the Notice of Violations or the Complaint. However, this shall not affect  
2 or limit any Party's right to seek to enforce the terms of this Consent Judgment.

3 **9. CONSTRUCTION AND SEVERABILITY**

4 **9.1** The terms and conditions of this Consent Judgment have been reviewed by the  
5 respective counsel for the Parties prior to its signing, and each Party has had an opportunity to  
6 fully discuss the terms and conditions with its counsel. In any subsequent interpretation or  
7 construction of this Consent Judgment, the terms and conditions shall not be construed against  
8 any Party.

9 **9.2** In the event that any of the provisions of this Consent Judgment is held by a court  
10 to be unenforceable, the validity of the remaining enforceable provisions shall not be adversely  
11 affected.

12 **9.3** The terms and conditions of this Consent Judgment shall be governed by and  
13 construed in accordance with the laws of the State of California.

14 **10. PROVISION OF NOTICE**

15 All notices required to be given to either Party to this Consent Judgment by the other  
16 shall be in writing and sent to the following agents listed below by: (a) first-class, registered, (b)  
17 certified mail, (b) overnight courier, or (c) personal delivery to the following:

18 **For Environmental Research Center**  
19 Chris Heptinstall, Executive Director  
20 Environmental Research Center  
3111 Camino Del Rio North, Suite 400  
San Diego, CA 92108

21 **With a copy to:**

22 William F. Wraith, Esq.  
23 Wraith Law  
16485 Laguna Canyon Road, Suite 250  
24 Irvine, CA 92618

25 **For NAVITAS NATURALS, INC. and NAVITAS LLC**  
26 Zach Adelman, CEO  
27 Navitas Naturals  
15 Pamaron Way, Suite A  
28 Novato, CA 94949

**With a copy to:**

1 Howard A. Slavitt, SBN 172840  
2 Coblenz Patch Duffy & Bass LLP  
3 One Ferry Building, Suite 200  
4 San Francisco, CA 94111-4213

## 5 **11. COURT APPROVAL**

6 **11.1** Upon execution of this Consent Judgment by the Parties, ERC shall notice a  
7 Motion for Court Approval. The Parties shall use their best efforts to support entry of this  
8 Consent Judgment.

9 **11.2** If the California Attorney General objects to any term in this Consent Judgment,  
10 the Parties shall use their best efforts to resolve the concern in a timely manner, and if possible  
11 prior to the hearing on the motion.

12 **11.3** If the Court, despite the Parties' best efforts, does not approve this Stipulated  
13 Consent Judgment, it shall be null and void and have no force or effect.

## 14 **12. EXECUTION AND COUNTERPARTS**

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

## 18 **13. ENTIRE AGREEMENT, AUTHORIZATION**

19 **13.1** This Consent Judgment contains the sole and entire agreement and understanding  
20 of the Parties with respect to the entire subject matter herein, and any and all prior discussions,  
21 negotiations, commitments and understandings related hereto. No representations, oral or  
22 otherwise, express or implied, other than those contained herein have been made by any Party.  
23 No other agreements, oral or otherwise, unless specifically referred to herein, shall be deemed to  
24 exist or to bind any Party.

25 **13.2** Each signatory to this Consent Judgment certifies that he or she is fully authorized  
26 by the Party he or she represents to stipulate to this Consent Judgment. Except as explicitly  
27 provided herein, each Party shall bear its own fees and costs.

## 28 **14. REQUEST FOR FINDINGS AND FOR APPROVAL**

**14.1** This Consent Judgment has come before the Court upon the request of the Parties.


1 The Parties request the Court to fully review this Consent Judgment and, being fully informed  
2 regarding the matters which are the subject of this action, to:

3 (a) Find that the terms and provisions of this Consent Judgment represent a good  
4 faith settlement of all matters raised by the allegations of the Complaint, that the matter has been  
5 diligently prosecuted, and that the public interest is served by such settlement; and

6 (b) Make the findings pursuant to California Health and Safety Code Section  
7 25249.7(f)(4), and approve the Settlement, and this Consent Judgment.

8  
9 **IT IS SO STIPULATED:**

10  
11 **ENVIRONMENTAL RESEARCH CENTER**

12  
13   
14 \_\_\_\_\_  
Chris Heptinstall, Executive Director

Dated: 8/27/2013

15  
16 **NAVITAS NATURALS, INC.**

17  
18 \_\_\_\_\_  
19 Name: \_\_\_\_\_  
20 Title: \_\_\_\_\_  
21

Dated: \_\_\_\_\_

22 **NAVITAS LLC**

23  
24 \_\_\_\_\_  
25 Name: \_\_\_\_\_  
26 Title: \_\_\_\_\_  
27  
28

Dated: \_\_\_\_\_

1 The Parties request the Court to fully review this Consent Judgment and, being fully informed  
2 regarding the matters which are the subject of this action, to:

3 (a) Find that the terms and provisions of this Consent Judgment represent a good  
4 faith settlement of all matters raised by the allegations of the Complaint, that the matter has been  
5 diligently prosecuted, and that the public interest is served by such settlement; and

6 (b) Make the findings pursuant to California Health and Safety Code Section  
7 25249.7(f)(4), and approve the Settlement, and this Consent Judgment.

8

9 **IT IS SO STIPULATED:**

10

11 **ENVIRONMENTAL RESEARCH CENTER**

12

13 \_\_\_\_\_ Dated: \_\_\_\_\_  
14 Chris Heptinstall, Executive Director

15

16 **NAVITAS NATURALS, INC.**

17

18  \_\_\_\_\_ Dated: 8/29/13

19 Name: ZACH AVELMAN

20 Title: MANAGING PARTNER

21

22 **NAVITAS LLC**

23

24  \_\_\_\_\_ Dated: 8/29/13

25 Name: ZACH AVELMAN

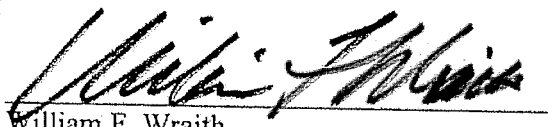
26 Title: CEO

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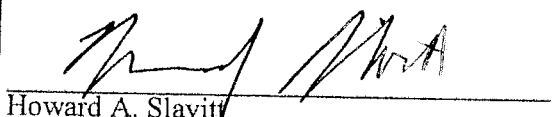
WRAITH LAW



William F. Wraith  
Counsel for Environmental Research Center

Dated: 8/30/2013

COBLENTZ PATCH DUFFY & BASS LLP



Howard A. Slavitt  
Counsel for Navitas Naturals, Inc. and Navitas LLC

Dated: 8/30/2013



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**ORDER AND JUDGMENT**

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

IT IS SO ORDERED, ADJUDGED AND DECREED.

Dated: \_\_\_\_\_

\_\_\_\_\_  
Judge, Superior Court of the State of California

# **EXHIBIT “A”**

**WRAITH LAW**  
16485 LAGUNA CANYON ROAD  
SUITE 250  
IRVINE, CALIFORNIA 92618  
Tel (949) 251-9977  
Fax (949) 251-9978

September 17, 2012

**NOTICE OF VIOLATIONS OF  
CALIFORNIA HEALTH & SAFETY CODE SECTION 25249.5 ET SEQ.  
(PROPOSITION 65)**

Dear Alleged Violator and the Appropriate Public Enforcement Agencies:

I represent Environmental Research Center ("ERC"), 3111 Camino Del Rio North, San Diego, CA 92108; Tel. (619) 500-3090. ERC's Executive Director is Chris Heptinstall. 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 identified violations of California's Safe Drinking Water and Toxic Enforcement Act of 1986 ("Proposition 65"), which is codified at California Health & Safety Code §25249.5 *et seq.*, with respect to the products identified below. These violations have occurred and continue to occur because the alleged Violator identified below failed to provide required clear and reasonable warnings with these products. This letter serves as a notice of these violations to the alleged Violator and the appropriate public enforcement agencies. Pursuant to Section 25249.7(d) of the statute, ERC intends to file a private enforcement action in the public interest 60 days after effective service of this notice unless the public enforcement agencies have commenced and are diligently prosecuting an action to rectify these violations.

**General Information about Proposition 65.** A copy of a summary of Proposition 65, prepared by the Office of Environmental Health Hazard Assessment, is an attachment with the copy of this letter served to the alleged Violator identified below.

**Alleged Violator.** The name of the company covered by this notice that violated Proposition 65 (hereinafter "the Violator") is:

**Navitas Naturals, Inc.**

**Consumer Products and Listed Chemicals.** The products that are the subject of this notice and the chemical in those products identified as exceeding allowable levels are:

**Navitas Naturals Organic Raw Maca Powder - Lead**

**Navitas Naturals Raw Nori Sheets Certified Organic Sea Superfood - Lead**

**Navitas Naturals Hemp-Cacao-Maca Superfood Blend Certified Organic Protein Smoothie Mix - Lead**

**Navitas Naturals Lucuma Powder Lucuma Powder Certified Organic Incan Superfood - Lead**

On February 27, 1987, the State of California officially listed lead as a chemical known to cause developmental toxicity, and male and female reproductive toxicity. On October 1, 1992, the State of California officially listed lead and lead compounds as chemicals known to cause cancer.

It should be noted that ERC may continue to investigate other products that may reveal further violations and result in subsequent notices of violations.

**Route of Exposure.** The consumer exposures that are the subject of this notice result from the purchase, acquisition, handling and recommended use of these products. Consequently, the primary route of exposure to these chemicals has been and continues to be through ingestion, but may have also occurred and may continue to occur through inhalation and/or dermal contact.


**Approximate Time Period of Violations.** Ongoing violations have occurred every day since at least September 17, 2009, as well as every day since the products were introduced into the California marketplace, and will continue every day until clear and reasonable warnings are provided to product purchasers and users or until these known toxic chemicals are either removed from or reduced to allowable levels in the products. Proposition 65 requires that a clear and reasonable warning be provided prior to exposure to the identified chemicals. The method of warning should be a warning that appears on the product label. The Violator violated Proposition 65 because it failed to provide persons handling and/or using these products with appropriate warnings that they are being exposed to these chemicals.

Consistent with the public interest goals of Proposition 65 and a desire to have these ongoing violations of California law quickly rectified, ERC is interested in seeking a constructive resolution of this matter that includes an enforceable written agreement by the Violator to: (1) reformulate the identified products so as to eliminate further exposures to the identified chemicals, or provide appropriate warnings on the labels of these products; and (2) pay an appropriate civil penalty. Such a resolution will prevent further unwarned consumer exposures to the identified chemicals, as well as an expensive and time consuming litigation.

Notice of Violations of California Health & Safety Code §25249.5 *et seq.*  
September 17, 2012  
Page 3

ERC has retained me as legal counsel in connection with this matter. **Please direct all communications regarding this Notice of Violations to my attention at the law office address and telephone number indicated on the letterhead.**

Sincerely,



---

William F. Wraith

**Attachments**

Certificate of Merit  
Certificate of Service  
OEHHA Summary (to Navitas Naturals, Inc. and its Registered Agent for Service of Process only)  
Additional Supporting Information for Certificate of Merit (to AG only)

**CERTIFICATE OF MERIT**

**Re: Environmental Research Center's Notice of Proposition 65 Violations by Navitas  
Naturals, Inc.**

I, William F. Wraith, declare:

1. This Certificate of Merit accompanies the attached 60-day notice in which it is alleged the parties identified in the notice violated California Health & Safety Code Section 25249.6 by failing to provide clear and reasonable warnings.

2. I am an attorney for the noticing party.

3. I have consulted with one or more persons with relevant and appropriate experience or expertise who have reviewed facts, studies, or other data regarding the exposure to the listed chemicals that are the subject of the notice.

4. Based on the information obtained through those consultants, and on other information in my possession, I believe there is a reasonable and meritorious case for the private action. I understand that "reasonable and meritorious case for the private action" means that the information provides a credible basis that all elements of the plaintiff's case can be established and that the information did not prove that the alleged Violators will be able to establish any of the affirmative defenses set forth in the statute.

5. Along with the copy of this Certificate of Merit served on the Attorney General is attached additional factual information sufficient to establish the basis for this certificate, including the information identified in California Health & Safety Code §25249.7(h)(2), i.e., (1) the identity of the persons consulted with and relied on by the certifier, and (2) the facts, studies, or other data reviewed by those persons.

Dated: September 17, 2012



---

William F. Wraith

**CERTIFICATE OF SERVICE**

I, the undersigned, declare under penalty of perjury under the laws of the State of California that the following is true and correct:

I am a citizen of the United States, over the age of 18 years of age, and am not a party to the within entitled action. My business address is 306 Joy Street, Fort Oglethorpe, Georgia 30742. I am a resident or employed in the county where the mailing occurred. The envelope or package was placed in the mail at Fort Oglethorpe, Georgia.

On September 17, 2012, I served the following documents: **NOTICE OF VIOLATIONS OF CALIFORNIA HEALTH & SAFETY CODE §25249.5 ET SEQ.; CERTIFICATE OF MERIT; "THE SAFE DRINKING WATER AND TOXIC ENFORCEMENT ACT OF 1986 (PROPOSITION 65): A SUMMARY"** on the following parties by placing a true and correct copy thereof in a sealed envelope, addressed to the party listed below and depositing it in a US Postal Service Office with the postage fully prepaid for delivery by Certified Mail:

Navitas Naturals, Inc. 9 Pamaron Way Novato, CA 94949	President or CEO Navitas Naturals, Inc. 9 Pamaron Way Novato, CA 94949	Mary Louise Hurabiell (Registered Agent for Navitas Naturals, Inc.) 2633 Turk Boulevard San Francisco, CA 94118
---	---	--

On September 17, 2012, I served the following documents: **NOTICE OF VIOLATION, CALIFORNIA HEALTH & SAFETY CODE §25249.5 ET SEQ.; CERTIFICATE OF MERIT; ADDITIONAL SUPPORTING INFORMATION FOR CERTIFICATE OF MERIT AS REQUIRED BY CALIFORNIA HEALTH & SAFETY CODE §25249.7(d)(1)** on the following parties by placing a true and correct copy thereof in a sealed envelope, addressed to the party listed below and depositing it in a US Postal Service Office with the postage fully prepaid for delivery by Certified Mail:

Office of the California Attorney General  
Prop 65 Enforcement Reporting  
1515 Clay Street, Suite 2000  
Post Office Box 70550  
Oakland, CA 94612-0550

On September 17, 2012, I served the following documents: **NOTICE OF VIOLATION, CALIFORNIA HEALTH & SAFETY CODE §25249.5 ET SEQ.; CERTIFICATE OF MERIT** on each of the parties on the Service List attached hereto by placing a true and correct copy thereof in a sealed envelope, addressed to each of the parties on the Service List attached hereto, and depositing it with the U.S. Postal Service with the postage fully prepaid for delivery by Priority Mail.

Executed on September 17, 2012, in Fort Oglethorpe, Georgia.



Amber Schaub

Notice of Violations of California Health & Safety Code §25249.5 *et seq.*  
September 17, 2012

Page 6

Service List

District Attorney, Alameda County 1225 Fallon Street, Suite 900 Oakland, CA 94612	District Attorney, Los Angeles County 210 West Temple Street, Suite 18000 Los Angeles, CA 90012	District Attorney, San Diego County 330 West Broadway, Suite 1300 San Diego, CA 92101	District Attorney, Tuolumne County 423 N. Washington Street Sonora, CA 95370
District Attorney, Alpine County P.O. Box 248 Markleeville, CA 96120	District Attorney, Madera County 209 West Yosemite Avenue Madera, CA 93637	District Attorney, San Francisco County 850 Bryant Street, Suite 322 San Francisco, CA 94103	District Attorney, Ventura County 800 South Victoria Ave, Suite 314 Ventura, CA 93009
District Attorney, Amador County 708 Court Street, Suite 202 Jackson, CA 95642	District Attorney, Marin County 3501 Civic Center Drive, Room 130 San Rafael, CA 94903	District Attorney, San Joaquin County 222 E. Weber Ave. Rm. 202 Stockton, CA 95202	District Attorney, Yolo County 301 2 <sup>nd</sup> Street Woodland, CA 95695
District Attorney, Butte County 25 County Center Drive, Suite 245 Oroville, CA 95965	District Attorney, Mariposa County Post Office Box 730 Mariposa, CA 95338	District Attorney, San Luis Obispo County 1035 Palm St, Room 450 San Luis Obispo, CA 93408	District Attorney, Yuba County 215 Fifth Street, Suite 152 Marysville, CA 95901
District Attorney, Calaveras County 891 Mountain Ranch Road San Andreas, CA 95249	District Attorney, Mendocino County Post Office Box 1000 Ukiah, CA 95482	District Attorney, San Mateo County 400 County Ctr., 3 <sup>rd</sup> Floor Redwood City, CA 94063	Los Angeles City Attorney's Office City Hall East 200 N. Main Street, Suite 800 Los Angeles, CA 90012
District Attorney, Colusa County 346 Fifth Street Suite 101 Colusa, CA 95932	District Attorney, Merced County 550 W. Main Street Merced, CA 95340	District Attorney, Santa Barbara County 1112 Santa Barbara Street Santa Barbara, CA 93101	San Diego City Attorney's Office 1200 3rd Avenue, Ste 1620 San Diego, CA 92101
District Attorney, Contra Costa County 900 Ward Street Martinez, CA 94553	District Attorney, Modoc County 204 S Court Street, Room 202 Aituras, CA 96101-4020	District Attorney, Santa Clara County 70 West Hedding Street San Jose, CA 95110	San Francisco, City Attorney City Hall, Room 234 1 Dr Carlton B Goodlett PL San Francisco, CA 94102
District Attorney, Del Norte County 450 H Street, Room 171 Crescent City, CA 95531	District Attorney, Mono County Post Office Box 617 Bridgeport, CA 93517	District Attorney, Santa Cruz County 701 Ocean Street, Room 200 Santa Cruz, CA 95060	San Jose City Attorney's Office 200 East Santa Clara Street, 16 <sup>th</sup> Floor San Jose, CA 95113
District Attorney, El Dorado County 515 Main Street Placerville, CA 95667	District Attorney, Monterey County Post Office Box 1131 Salinas, CA 93902	District Attorney, Shasta County 1355 West Street Redding, CA 96001	
District Attorney, Fresno County 2220 Tulare Street, Suite 1000 Fresno, CA 93721	District Attorney, Napa County 931 Parkway Mall Napa, CA 94559	District Attorney, Sierra County PO Box 457 Downieville, CA 95936	
District Attorney, Glenn County Post Office Box 430 Willows, CA 95988	District Attorney, Nevada County 110 Union Street Nevada City, CA 95959	District Attorney, Siskiyou County Post Office Box 986 Yreka, CA 96097	
District Attorney, Humboldt County 825 5th Street 4 <sup>th</sup> Floor Eureka, CA 95501	District Attorney, Orange County 401 West Civic Center Drive Santa Ana, CA 92701	District Attorney, Solano County 675 Texas Street, Ste 4500 Fairfield, CA 94533	
District Attorney, Imperial County 940 West Main Street, Ste 102 El Centro, CA 92243	District Attorney, Placer County 10810 Justice Center Drive, Ste 240 Roseville, CA 95678	District Attorney, Sonoma County 600 Administration Drive, Room 212J Santa Rosa, CA 95403	
District Attorney, Inyo County 230 W. Line Street Bishop, CA 93514	District Attorney, Plumas County 520 Main Street, Room 404 Quincy, CA 95971	District Attorney, Stanislaus County 832 12 <sup>th</sup> Street, Ste 300 Modesto, CA 95354	
District Attorney, Kern County 1215 Truxtun Avenue Bakersfield, CA 93301	District Attorney, Riverside County 3960 Orange Street Riverside, CA 92501	District Attorney, Sutter County 446 Second Street Yuba City, CA 95991	
District Attorney, Kings County 1400 West Lacey Boulevard Hanford, CA 93230	District Attorney, Sacramento County 901 "G" Street Sacramento, CA 95814	District Attorney, Tehama County Post Office Box 519 Red Bluff, CA 96080	
District Attorney, Lake County 255 N. Forbes Street Lakeport, CA 95453	District Attorney, San Benito County 419 Fourth Street, 2 <sup>nd</sup> Floor Hollister, CA 95023	District Attorney, Trinity County Post Office Box 310 Weaverville, CA 96093	
District Attorney, Lassen County 220 South Lassen Street, Ste. 8 Susanville, CA 96130	District Attorney, San Bernardino County 316 N. Mountain View Avenue San Bernardino, CA 92415-0004	District Attorney, Tulare County 221 S. Mooney Blvd., Room 224 Visalia, CA 93291	



# **EXHIBIT “B”**

PULL TAB: RESEALABLE PACKAGE

## THE POWER OF SUPERFOODS

FOR MORE INFORMATION AND RECIPES VISIT: [WWW.NAVITASNATURALS.COM](http://WWW.NAVITASNATURALS.COM)

## ORGANIC RAW MACA POWDER

Maca root has been used by indigenous Andean societies as a source of nourishment and healing for thousands of years. This bag contains 100% pure maca powder that is certified organic, kosher, non-gmo, gluten-free and raw.

Studies have identified four alkaloids present in maca known to nourish the endocrine system. Maca root has been used as a stress-fighting adaptogen to increase stamina, boost libido and combat fatigue. Maca is a nutrient-dense whole food packed with vitamins, plant sterols as well as many essential minerals, fatty and amino acids. Our raw maca is low temperature processed and cultivated on the Junin Plateau of the Peruvian Andes.

The mission of Navitas Naturals is to provide premium organic superfoods that increase energy and enhance health. Our products are of the highest quality, sourced directly from farmers, cultivated sustainably and in accordance with fair trade practices.



CERTIFIED ORGANIC BY CONTROL UNION  
CERTIFICATIONS CU 802080

THE NATIONAL ORGANIC PROGRAM STANDARDS  
OF THE UNITED STATES DEPARTMENT OF AGRICULTURE

### SUGGESTED USES:

SMOOTHIES, SHAKES  
AND TEA

GRANOLA, CEREAL  
AND YOGURT

ENERGY BARS

### BENEFITS:

ADAPTOGEN

AMINO ACIDS

ESSENTIAL MINERALS



DISTRIBUTED BY  
NAVITAS NATURALS  
NOVATO, CA 94945

## Nutrition Facts

Serving Size: 1 tsp (5g)  
Servings Per Container:  
about 90

Calories 20  
Calories from Fat 0

Amount/Serving	% Daily Value*	Amount/Serving	% Daily Value*
<b>Total Fat</b> 0g	0%	<b>Total Carbohydrate</b> 4g	1%
Saturated Fat 0g	0%	Dietary Fiber 1g	4%
Trans Fat 0g		Sugars 1g	
<b>Cholesterol</b> 0mg	0%	<b>Protein</b> 1g	
<b>Sodium</b> 0mg	0%		
Vitamin A 0%	Vitamin C 2%	Calcium 2%	Iron 2%

**INGREDIENTS:** CERTIFIED ORGANIC MACA (LEPIDIUM MEYENII, WALPERS) · PRODUCT OF PERU  
**ALLERGEN INFORMATION:** PACKAGED IN A FACILITY THAT ALSO HANDLES TREE NUTS.  
**STORAGE INFORMATION:** REFRIGERATION NOT REQUIRED. STORE IN A COOL, DARK, DRY PLACE.  
**SERVING SUGGESTION:** 1 SERVING PER DAY

\*PERCENTAGE DAILY VALUES BASED ON A  
2,000 CALORIE DIET. YOUR DAILY VALUES  
MAY BE HIGHER OR LOWER DEPENDING ON  
YOUR CALORIE NEEDS.

**WARNING:** THIS PRODUCT CONTAINS A CHEMICAL  
KNOWN TO THE STATE OF CALIFORNIA TO CAUSE BIRTH  
DEFECTS OR OTHER REPRODUCTIVE HARM.



SCAN THIS QR CODE TO FIND  
OUT MORE ABOUT MACA.

NAVITAS  
NATURALS

THE  
SUPERFOOD  
COMPANY

EAT YOUR WAY  
TO HEALTH!



# **EXHIBIT “C”**



PULL TAB: RESEALABLE PACKAGE

## THE POWER OF SUPERFOODS

FOR MORE INFORMATION AND RECIPES VISIT: [WWW.NAVITASNATURALS.COM](http://WWW.NAVITASNATURALS.COM)

### ORGANIC RAW MACA POWDER

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The mission of Navitas Naturals is to provide premium organic superfoods that increase energy and enhance health. Our products are of the highest quality, sourced directly from farmers, cultivated sustainably and in accordance with fair trade practices.

**SUGGESTED USES:**

- SMOOTHIES, SHAKES AND TEA
- GRANOLA, CEREAL AND YOGURT
- ENERGY BARS

**BENEFITS:**

- ADAPTOGEN
- AMINO ACIDS
- ESSENTIAL MINERALS



CERTIFIED ORGANIC BY CONTROL UNION CERTIFICATIONS CU 802080  
THE NATIONAL ORGANIC PROGRAM STANDARDS OF THE UNITED STATES DEPARTMENT OF AGRICULTURE



DISTRIBUTED BY NAVITAS NATURALS NOVATO, CA 94945

<b>Nutrition Facts</b>		Amount/Serving	% Daily Value*	Amount/Serving	% Daily Value*
Serving Size: 1 tsp (5g) Servings Per Container: about 90		<b>Total Fat</b> 0g	0%	<b>Total Carbohydrate</b> 4g	1%
Calories 20 Calories from Fat 0		Saturated Fat 0g	0%	Dietary Fiber 1g	4%
		Trans Fat 0g		Sugars 1g	
		<b>Cholesterol</b> 0mg	0%	<b>Protein</b> 1g	
		<b>Sodium</b> 0mg	0%		
		Vitamin A 0%	Vitamin C 2%	Calcium 2%	Iron 2%

**INGREDIENTS:** CERTIFIED ORGANIC MACA (LEPIDIUM MEYENII, WALPERS) · PRODUCT OF PERU  
**ALLERGEN INFORMATION:** PACKAGED IN A FACILITY THAT ALSO HANDLES TREE NUTS.  
**STORAGE INFORMATION:** REFRIGERATION NOT REQUIRED. STORE IN A COOL, DARK, DRY PLACE.  
**SERVING SUGGESTION:** 1 SERVING PER DAY

\*PERCENTAGE DAILY VALUES BASED ON A 2,000 CALORIE DIET. YOUR DAILY VALUES MAY BE HIGHER OR LOWER DEPENDING ON YOUR CALORIE NEEDS.



SCAN THIS QR CODE TO FIND OUT MORE ABOUT MACA.

**WARNING:** THIS PRODUCT CONTAINS A CHEMICAL KNOWN TO THE STATE OF CALIFORNIA TO CAUSE BIRTH DEFECTS OR OTHER REPRODUCTIVE HARM.



EAT YOUR WAY TO HEALTH!

