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SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF ALAMEDA

CENTER FOR ENVIRONMENTAL HEALTH,)	Case No. RG-13-693015
)	
Plaintiff,)	[PROPOSED] CONSENT JUDGMENT
)	
v.)	
)	
GENERAL MILLS, INC., <i>et al.</i> ;)	
)	
Defendants.)	
)	
)	

1. INTRODUCTION

1.1 The Parties to this Consent Judgment are the Center For Environmental Health, a California non-profit corporation (“CEH”), and the companies identified on Exhibit A (collectively, the “Settling Defendants”). The Parties enter into this Consent Judgment to settle certain claims asserted by CEH against Settling Defendants as set forth in the operative complaint (“Complaint”) in the above-captioned matter. This Consent Judgment covers baking mix products that contain molasses, ginger, or both molasses and ginger (“Covered Products”) sold by Settling Defendants that have been or will be sold or offered for sale to California consumers.

1.2 Beginning on March 1, 2013, CEH served multiple 60-day Notices of Violation under Proposition 65, alleging that Settling Defendants violated Proposition 65 by exposing

1 persons to lead and lead compounds (“Lead”) contained in Covered Products without first
2 providing a clear and reasonable Proposition 65 warning.

3 1.3 Each Settling Defendant is a corporation or other business entity that manufactures,
4 distributes, sells or offers for sale Covered Products that are sold or offered for sale or has done so
5 in the past.

6 1.4 On May 1, 2013, CEH filed the Complaint in the above-captioned matter. The
7 original complaint has since been amended to add additional parties as named defendants.

8 1.5 For purposes of this Consent Judgment only, CEH and Settling Defendants (the
9 “Parties”) stipulate that this Court has jurisdiction over the allegations of violations contained in
10 the Complaint and personal jurisdiction over each Settling Defendant as to the acts alleged in the
11 Complaint, that venue is proper in the County of Alameda, and that this Court has jurisdiction to
12 enter this Consent Judgment as a full and final resolution of all claims which were or could have
13 been raised in the Complaint based on the facts alleged therein with respect to Covered Products
14 manufactured, distributed, offered for sale or sold by Settling Defendants.

15 1.6 Nothing in this Consent Judgment is or shall be construed as an admission by the
16 Parties of any fact, conclusion of law, issue of law or violation of law, nor shall compliance with
17 the Consent Judgment constitute or be construed as an admission by the Parties of any fact,
18 conclusion of law, issue of law, or violation of law. Nothing in this Consent Judgment shall
19 prejudice, waive or impair any right, remedy, argument or defense the Parties may have in any
20 other pending or future legal proceedings. This Consent Judgment is the product of negotiation
21 and compromise and is accepted by the Parties solely for purposes of settling, compromising, and
22 resolving issues disputed in this Action.

23 **2. INJUNCTIVE RELIEF**

24 2.1 **Specification Compliance Date.** To the extent it has not already done so, no more
25 than thirty (30) days after the date of entry of this Consent Judgment, any Settling Defendant that
26 purchases any Covered Products from a third party that is not under common ownership (a
27 “Covered Product Supplier”) shall provide the Reformulation Level set forth in Section 2.2 to each
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1 Covered Product Supplier and shall instruct each such Covered Product Supplier to provide it with
2 Covered Products that comply with the Reformulation Level set forth in Section 2.2. If in the
3 future any Settling Defendant purchases Covered Products from a Covered Product Supplier that it
4 has not previously provided with instructions regarding the Reformulation Level set forth in
5 Section 2.2, such Settling Defendant shall provide the Reformulation Level set forth in Section 2.2
6 to such Covered Product Supplier prior to placing an initial order for Covered Products and
7 instruct the Covered Product Supplier to provide it with Covered Products that comply with the
8 Reformulation Level set forth in Section 2.2. Each Settling Defendant shall retain and make
9 available to CEH upon reasonable written request records of communications sent to and received
10 from Covered Product Suppliers that are related to the requirement of this Section 2.1 for a period
11 of five (5) years from the date of entry of this Consent Judgment (the “Effective Date”).

12 **2.2 Reformulation of Covered Products.** Settling Defendants shall not purchase,
13 manufacture, have manufactured, ship, sell or offer for sale Covered Products that will be sold or
14 offered for sale to California consumers after the Effective Date (the “Reformulation Deadline”)
15 that contain a concentration of more than twenty (20) parts per billion (“ppb”) Lead by weight (the
16 “Reformulation Level”), such concentration to be determined by use of a test performed by an
17 accredited laboratory using inductively coupled plasma mass spectrometry (ICP-MS) equipment
18 with a level of detection of at least ten (10) ppb.

19 **2.3 Testing.** Except as provided in Section 2.5, to ensure compliance with Section 2.2,
20 each Settling Defendant shall conduct random testing of Covered Products and take the follow-up
21 actions described in this section (“Validation Testing”), provided however, that if a Settling
22 Defendant purchases Covered Products from another Settling Defendant, only the Settling
23 Defendant that sold the Covered Products to the other Settling Defendant need perform Validation
24 Testing on those Covered Products.

25 **2.3.1 Covered Products To Be Tested.** The Covered Products to
26 be tested shall be for each type of Covered Product a Settling Defendant manufactures or arranges
27 to be manufactured. Such Validation Testing shall be performed on samples drawn randomly
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1 from each production lot of each type of Covered Product. For purposes of this Consent Judgment
2 a “type” of a Covered Product is either an individual Covered Product as identified by SKU or
3 other product identifier or one which CEH and a Settling Defendant have agreed has materially the
4 same characteristics based on the type, supplier and amount of ginger and/or molasses used in its
5 recipe or formula.

6 2.3.2 Methods of Testing. Prior to a Settling Defendant’s first sale
7 or distribution of a Covered Product that will be sold or offered for sale to California consumers
8 after the Effective Date, each Settling Defendant shall conduct Validation Testing pursuant to one
9 of the following methods: (1) the FDA sample preparation protocol discussed in the method
10 entitled “Elemental Analysis Manual: Section 4.4 Inductively Coupled Plasma-Atomic Emission
11 Spectrometric Determination of Elements in Food Using Microwave Assisted Digestion”¹ or (2) a
12 microwave- or heat-assisted acid digestion method employing high-purity reagents, provided that
13 the laboratory digests at least 0.5 grams of each sample taken from a properly homogenized
14 complete package of Covered Product, analyzes each sample undiluted by ICP-MS, and uses an
15 instrument quantitation limit corresponding to less than three (3) micrograms of Lead in the
16 finished product.

17 2.3.3 Laboratories Conducting Validation Testing. Any
18 Validation Testing shall be performed by a laboratory meeting at least one of the following
19 standards: Environmental Laboratory Certification from the State of California, Department of
20 Health Services, Environmental Laboratory Accreditation Program; NSF International; American
21 Association for Laboratory Accreditation for Chemical Testing; International Standards
22 Organization/IEC via ANSI-ASQ; or an in-house laboratory or other facility experienced in testing
23 for lead levels in foods that complies with the Production and Process Control System;
24 Requirements for Laboratory Operations set forth in 21 C.F.R. Part 111, Subpart J, including but
25 not limited to the requirements for written procedures, requirements for laboratory control

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27 ¹ The referenced FDA test protocol may be found at
<http://www.fda.gov/Food/FoodScienceResearch/LaboratoryMethods/ucm204245.htm>.

1 processes, requirements for laboratory methods and examination, record retention policies, and
2 other laboratory requirements. Laboratories deemed to meet these requirements are listed on
3 Exhibit B.

4 2.3.4 Duration of Testing. In the event that the Validation Testing
5 demonstrates two (2) years of continuous compliance with the Reformulation Level by a Settling
6 Defendant for a Covered Product, the Settling Defendant may send written notice to CEH and
7 thereafter may cease Validation Testing for that type of Covered Product; provided however, if
8 there is a material change in the type or level of ginger or molasses used in a Covered Product that
9 is reasonably likely to affect the Lead levels in the product, then Settling Defendant shall arrange
10 for testing for a minimum of two consecutive years after that change.

11 2.3.5 Covered Products That Exceed Reformulation Level. If a
12 Validation Testing result indicates that a type of a Covered Product exceeds the Reformulation
13 Level, the Settling Defendant shall ensure that all Covered Products from the same production lot
14 as those from which the sample of the Covered Product(s) that exceeded the Reformulation Level
15 were drawn as well as other lots of the same type of Covered Product produced in the same
16 calendar quarter that were not individually subject to Validation Testing (the “Non-Compliant
17 Products”) will not be sold or offered for sale to California consumers. Notwithstanding the
18 foregoing, if the results of Validation Testing of a sample of a type of Covered Product exceeds
19 the Reformulation Level, the Settling Defendant may collect up to three (3) more samples of the
20 Covered Product from the same production lot and have those samples tested in accordance with
21 Section 2.3. If the results of Validation Testing of all of the samples of a type of Covered Product
22 collectively yield an arithmetic mean of no more than twenty (20) ppb Lead by weight, a Settling
23 Defendant may treat that type of Covered Product as meeting the Reformulation Level for that
24 Validation Testing cycle as long as no result for a sample exceeds fifty (50) ppb Lead, subject to
25 the following confirmatory process. If a sample exceeds fifty (50) ppb Lead, a Settling Defendant
26 may collect three (3) more samples of the Covered Product from the same production lot and have
27 those samples tested in accordance with Section 2.3. Provided that none of those additional test

1 results exceed forty (40) ppb, those additional test results shall then be used in place of the sample
2 that exceeded fifty (50) ppb in determining whether the arithmetic mean of Validation Test results
3 for the Covered Product exceeded the Reformulation Level.

4 2.3.6 Records. The testing reports and results of the Validation
5 Testing performed pursuant to this Consent Judgment shall be retained by each Settling Defendant
6 for four (4) years and made available to CEH upon reasonable request.

7 2.4 **Products Not Subject to Testing**. The requirements of Section 2.3 shall not apply
8 to any Covered Product for which CEH and a Settling Defendant agree in writing that such
9 sections shall not apply to a particular Covered Product provided that the Settling Defendant has
10 no test results demonstrating lead levels above twenty (20) ppb on such Covered Product in its
11 possession.

12 **3. ENFORCEMENT**

13 3.1 **General Enforcement Provisions**. CEH may, by motion or application for an
14 order to show cause before this Court, enforce the terms and conditions contained in this Consent
15 Judgment. Any action to enforce alleged violations of Section 2.2 by a Settling Defendant shall be
16 brought exclusively pursuant to this Section 3, and as applicable be subject to the meet and confer
17 requirement of Section 3.2.4.

18 3.2 **Enforcement of Reformulation Commitment**.

19 3.2.1 Notice of Violation. In the event that CEH identifies a
20 Covered Product that was sold or offered for sale to California consumers at any time following
21 the Reformulation Deadline for which CEH has laboratory test results showing that the Covered
22 Product has a Lead level exceeding the Reformulation Level, CEH may issue a Notice of
23 Violation pursuant to this Section. Such Notice of Violation shall be based upon a test result
24 sufficient to establish an exceedance of the Reformulation Level as it is to be evaluated under
25 Section 2.3; the results employed shall also meet the sampling, testing, and laboratory criteria
26 specified under Section 2.3.

1 such data or information to the party. Any test data used to contest a Notice of Violation shall
2 meet the criteria of Section 2.3.

3 3.2.4 Meet and Confer. If a Notice of Violation is contested, CEH
4 and the Settling Defendant shall meet and confer to attempt to resolve their dispute. Within 30
5 days of serving a Notice of Election contesting a Notice of Violation, and if no enforcement action
6 or application has been filed by CEH pursuant to Section 3.1, the Settling Defendant may
7 withdraw the original Notice of Election contesting the violation and serve a new Notice of
8 Election conceding the violation, provided, however, that, in this circumstance, the Settling
9 Defendant shall pay \$2,500 in addition to any payment required under this Consent Judgment. At
10 any time, CEH may withdraw a Notice of Violation, in which case for purposes of this Section 3.2
11 the result shall be as if CEH never issued any such Notice of Violation. If no informal resolution
12 of a Notice of Violation results within 30 days of a Notice of Election to contest, CEH may file an
13 enforcement motion or application pursuant to Section 3.1. In any such proceeding, CEH may
14 seek whatever fines, costs, penalties, attorneys' fees or other remedies are provided by law for
15 failure to comply with the Consent Judgment.

16 3.2.5 Non-Contested Matters. If the Settling Defendant elects not
17 to contest the allegations in a Notice of Violation, it shall identify on a confidential basis to CEH
18 (by proper name, address of principal place of business and telephone number) the person or entity
19 that sold the Covered Products to the Settling Defendant and the manufacturer and other entities in
20 the upstream chain of distribution of the Covered Product, provided that such information is
21 reasonably available. In addition, the Settling Defendant shall undertake corrective action and
22 make payments, if any, as set forth below.

23 3.2.5.1 If the test data provided by CEH in support of
24 the Notice of Violation reports a Lead content in a Covered Product above the Reformulation
25 Level but less than sixty (60) ppb, then the Settling Defendant shall take the following corrective
26 action and make the following payments, if any:
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A. The Settling Defendant shall include in its Notice of Election a detailed description with supporting documentation of the corrective action that it has undertaken or proposes to undertake to address the alleged violation. Any such correction shall, at a minimum, provide reasonable assurance that the Settling Defendant has stopped all Covered Products having the same lot number or lot identifier, such as “best by” or “sell by” date, as that of the Covered Products identified in CEH’s Notice of Violation from being sold or offered for sale in California. The Settling Defendant shall make available to CEH for inspection and/or copying records and correspondence regarding the corrective action. If there is a dispute over the corrective action, the Settling Defendant and CEH shall meet and confer pursuant to Section 3.2.4 before seeking any remedy in court. In no case shall CEH issue more than one NOV per manufacturing lot of a particular Covered Product.

B. If the Notice of Violation is the first Notice of Violation received by a Settling Defendant under Section 3.2.5.1 that was not successfully contested or withdrawn, no payment shall be required by that Settling Defendant. If the Notice of Violation is the second, third or fourth Notice of Violation received by a Settling Defendant under Section 3.2.5.1 that was not successfully contested or withdrawn, that Settling Defendant shall pay \$5,000 for each Notice of Violation. If a Settling Defendant has received more than four Notices of Violation under Section 3.2.5.1 that were not successfully contested or withdrawn, that Settling Defendant shall pay \$10,000 for each subsequent Notice of Violation. If a Settling Defendant produces with its Notice of Election Test Data from the manufacturer or supplier of the Covered Product that: (i) was conducted prior to the date CEH purchased the Covered Product that is the subject of the Notice of Violation; (ii) was conducted on Covered Product that was from the same manufacturing lot as the Covered Product that is the subject of the Notice of Violation; and (iii) consistently demonstrates Lead levels below the Reformulation Level as evaluated under Section 2.3, then any payment under this Section shall be decreased by fifty percent.

3.2.5.2 If the test data provided by CEH in support of the Notice of Violation reports a Lead content in a Covered Product of more than sixty (60) ppb, then

1 the Settling Defendant shall take the following corrective action and make the following
2 payments:

3 A. The Settling Defendant shall include in its Notice of Election
4 a detailed description with supporting documentation of the corrective action that it has
5 undertaken or proposes to undertake to address the alleged violation. Any such correction shall, at
6 a minimum, provide reasonable assurance that all Covered Products having the same lot number
7 or lot identifier, such as “best by” or “sell by” date, as that of the Covered Product identified in
8 CEH’s Notice of Violation (the “Noticed Covered Products”) will not be thereafter sold or offered
9 for sale to California consumers, that the Noticed Covered Products are removed from the
10 California market and that the Settling Defendant has sent instructions to any of its stores and/or
11 customers that offer the Noticed Covered Products for sale to cease offering the Noticed Covered
12 Products for sale to California consumers and to either return all such Noticed Covered Products
13 to the Settling Defendant for destruction, or to directly destroy such Noticed Covered Products.
14 The Settling Defendant shall keep and make available to CEH for inspection and copying records
15 and correspondence regarding the market withdrawal and destruction of the Noticed Covered
16 Products. If there is a dispute over the corrective action, the Settling Defendant and CEH shall
17 meet and confer before seeking any remedy in court. In no case shall CEH issue more than one
18 NOV per manufacturing lot of Covered Product.

19 B. If the Notice of Violation is the first, second, third or fourth
20 Notice of Violation received by a Settling Defendant under Section 3.2.5.2 that was not
21 successfully contested or withdrawn, that Settling Defendant shall pay \$16,000 for each Notice of
22 Violation. If a Settling Defendant has received more than four Notices of Violation under Section
23 3.2.5.2 that were not successfully contested or withdrawn, that Settling Defendant shall pay
24 \$24,000 for each Notice of Violation. If a Settling Defendant produces with its Notice of Election
25 test data on the Covered Product that: (i) was conducted prior to the date CEH purchased the
26 Covered Product that is the subject of the Notice of Violation; (ii) was conducted on the same or
27 same type of Covered Product; and (iii) demonstrates Lead levels below the Reformulation Level

as evaluated under Section 2.3.4, then any payment under this Section shall be decreased by fifty percent.

3.2.6 Payments. Any payments under Section 3.2 shall be made by check payable to the “Lexington Law Group” and shall be paid within 30 days of service of a Notice of Election triggering a payment and which shall be used as reimbursement for costs for investigating, preparing, sending and prosecuting Notices of Violation, and to reimburse attorneys’ fees and costs incurred in connection with these activities.

3.3 **Repeat Violations**. If a Settling Defendant has received four or more Notices of Violation that were not successfully contested or withdrawn in any twelve (12) month period then, at CEH’s option, CEH may seek whatever fines, costs, penalties, attorneys’ fees or other remedies that are provided by law for failure to comply with the Consent Judgment. Prior to seeking such relief, CEH shall meet and confer with the Settling Defendant for at least 30 days to determine if the Settling Defendant and CEH can agree on measures that the Settling Defendant can undertake to prevent future violations.

4. PAYMENTS

4.1 **Payments by Settling Defendant**. Within five (5) days of the entry of this Consent Judgment, each Settling Defendant shall pay amounts specified on Exhibit A for that Settling Defendant.

4.2 **Allocation of Payments**. The total settlement amount for each Settling Defendant shall be paid in four separate checks and delivered as set forth below. Any failure by a Settling Defendant to comply with the payment terms herein shall, at CEH’s discretion, be subject to a stipulated late fee in the amount of \$100 for each day after the delivery date the payment is received. The late fees required under this Section shall be recoverable, together with reasonable attorneys’ fees, in an enforcement proceeding brought pursuant to Section 3 of this Consent Judgment. The funds paid by each Settling Defendant shall be allocated as set forth on Exhibit A for each Settling Defendant between the following categories and made payable as follows:

1 4.2.1 A civil penalty pursuant to Health & Safety Code §
2 25249.7(b). The civil penalty payment shall be apportioned in accordance with Health & Safety
3 Code § 25249.12 (25% to CEH and 75% to the State of California’s Office of Environmental
4 Health Hazard Assessment (“OEHHA”). Accordingly, the OEHHA portion of the civil penalty
5 payment shall be made payable to OEHHA and associated with taxpayer identification number 68-
6 0284486. This payment shall be delivered as follows:

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8 For United States Postal Service Delivery:
9 Attn: Mike Gyurics
10 Fiscal Operations Branch Chief
11 Office of Environmental Health Hazard Assessment
12 P.O. Box 4010, MS #19B
13 Sacramento, CA 95812-4010

14
15 For Non-United States Postal Service Delivery:
16 Attn: Mike Gyurics
17 Fiscal Operations Branch Chief
18 Office of Environmental Health Hazard Assessment
19 1001 I Street, MS #19B
20 Sacramento, CA 95814

21 The CEH portion of the civil penalty payment shall be made payable to the Center For
22 Environmental Health and associated with taxpayer identification number 94-3251981. This
23 payment shall be delivered to Lexington Law Group, 503 Divisadero Street, San Francisco, CA
24 94117.

25 4.2.2 A payment in lieu of civil penalty to CEH pursuant to Health
26 & Safety Code § 25249.7(b), and California Code of Regulations, Title 11, § 3203(b). CEH shall
27 use such funds to continue its work educating and protecting people from exposures to toxic
28 chemicals, including heavy metals. In addition, as part of its Community Environmental Action
and Justice Fund, CEH will use four (4) percent of such funds to award grants to grassroots
environmental justice groups working to educate and protect people from exposures to toxic
chemicals. The method of selection of such groups can be found at the CEH web site at
www.ceh.org/justicefund. The payment pursuant to this Section shall be made payable to the
Center For Environmental Health and associated with taxpayer identification number 94-3251981.

1 4.2.3 A reimbursement of a portion of CEH's reasonable
2 attorneys' fees and costs. The attorneys' fees and cost reimbursement check shall be made
3 payable to the Lexington Law Group and associated with taxpayer identification number 94-
4 3317175. This payment shall be delivered to Lexington Law Group, 503 Divisadero Street, San
5 Francisco, CA 94117.

6 **5. MODIFICATION AND DISPUTE RESOLUTION**

7 5.1 **Modification.** This Consent Judgment may be modified from time to time by
8 express written agreement of the Parties, with the approval of the Court, or by an order of this
9 Court upon motion and in accordance with law.

10 5.2 **Notice; Meet and Confer.** Any Party seeking to modify this Consent Judgment
11 shall attempt in good faith to meet and confer with all affected Parties prior to filing a motion to
12 modify the Consent Judgment.

13 **6. CLAIMS COVERED AND RELEASE**

14 6.1 This Consent Judgment is a full, final and binding resolution between CEH on
15 behalf of itself and the public interest and each Settling Defendant and each Settling Defendant's
16 parents, subsidiaries, affiliated entities that are under common ownership, directors, officers,
17 employees, agents, shareholders, successors, assigns, and attorneys ("Defendant Releasees"), and
18 all entities to which a Settling Defendant distributes or sells Covered Products, including but not
19 limited to distributors, wholesalers, customers, retailers, franchisees, licensors and licensees
20 ("Downstream Defendant Releasees"), of any violation of Proposition 65 based on failure to warn
21 about alleged exposure to Lead contained in Covered Products that were sold, distributed or
22 offered for sale by a Settling Defendant prior to the Effective Date.

23 6.2 CEH, for itself, its agents, successors and assigns, releases, waives, and forever
24 discharges any and all claims against Settling Defendant, Defendant Releasees, and Downstream
25 Defendant Releasees arising from any violation of Proposition 65 or any other statutory or
26 common law claims that have been or could have been asserted by CEH individually or in the
27 public interest regarding the failure to warn about exposure to Lead arising in connection with
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1 Covered Products manufactured, distributed or sold by a Settling Defendant prior to the Effective
2 Date.

3 6.3 Compliance with the terms of this Consent Judgment by a Settling Defendant shall
4 constitute compliance with Proposition 65 by such Settling Defendant, its Defendant Releasees
5 and its Downstream Defendant Releasees with respect to any alleged failure to warn about Lead in
6 Covered Products manufactured, distributed or sold by such Settling Defendant after the Effective
7 Date.

8 **7. PROVISION OF NOTICE**

9 7.1 When CEH is entitled to receive any notice under this Consent Judgment, the
10 notice shall be sent by first class and electronic mail to:

11 Eric S. Somers
12 Lexington Law Group
13 503 Divisadero Street
San Francisco, CA 94117
esomers@lexlawgroup.com

14 7.2 When a Settling Defendant is entitled to receive any notice under this Consent
15 Judgment, the notice shall be sent by first class and electronic mail to the person(s) identified in
16 Exhibit A for each such Settling Defendant.

17 7.3 Any Party may modify the person and address to whom the notice is to be sent by
18 sending the other Party notice by first class and electronic mail.

19 **8. COURT APPROVAL**

20 8.1 This Consent Judgment shall become effective as a contract upon the date signed
21 by CEH and Settling Defendant, whichever is later, provided however, that CEH shall also prepare
22 and file a Motion for Approval of this Consent Judgment and each Settling Defendant shall
23 support approval of such Motion.

24 8.2 If this Consent Judgment is not entered by the Court, it shall be of no force or effect
25 and shall not be introduced into evidence or otherwise used in any proceeding for any purpose.
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1 **9. GOVERNING LAW AND CONSTRUCTION**

2 9.1 The terms of this Consent Judgment shall be governed by the laws of the State of
3 California.

4 **10. ATTORNEYS' FEES**

5 10.1 A Party who unsuccessfully brings or contests an action arising out of this Consent
6 Judgment shall be required to pay the prevailing Party's reasonable attorneys' fees and costs
7 unless the unsuccessful Party has acted with substantial justification. For purposes of this Consent
8 Judgment, the term substantial justification shall carry the same meaning as used in the Civil
9 Discovery Act of 1986, Code of Civil Procedure §§2016.010, et seq.

10 10.2 Notwithstanding Section 10.1, a Party who prevails in a contested enforcement
11 action brought pursuant to Section 3 may seek an award of attorneys' fees pursuant to Code of
12 Civil Procedure §1021.5 against a Party that acted with substantial justification. The Party
13 seeking such an award shall bear the burden of meeting all of the elements of §1021.5, and this
14 provision shall not be construed as altering any procedural or substantive requirements for
15 obtaining such an award.

16 10.3 Nothing in this Section 10 shall preclude a party from seeking an award of
17 sanctions pursuant to law.

18 **11. ENTIRE AGREEMENT**

19 11.1 This Consent Judgment contains the sole and entire agreement and understanding
20 of the Parties with respect to the entire subject matter hereof, and any and all prior discussions,
21 negotiations, commitments, or understandings related thereto, if any, are hereby merged herein
22 and therein. There are no warranties, representations, or other agreements between the Parties
23 except as expressly set forth herein. No representations, oral or otherwise, express or implied,
24 other than those specifically referred to in this Consent Judgment have been made by any Party
25 hereto. No other agreements not specifically contained or referenced herein, oral or otherwise,
26 shall be deemed to exist or to bind any of the Parties hereto. Any agreements specifically
27 contained or referenced herein, oral or otherwise, shall be deemed to exist or to bind any of the
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Parties hereto only to the extent that they are expressly incorporated herein. No supplementation, modification, waiver, or termination of this Consent Judgment shall be binding unless executed in writing by the Party to be bound thereby. No waiver of any of the provisions of this Consent Judgment shall be deemed or shall constitute a waiver of any of the other provisions hereof whether or not similar, nor shall such waiver constitute a continuing waiver.

12. SUBMISSION OF REPORTS AND DATA TO CEH

12.1 For any report or information that a Settling Defendant submits to CEH pursuant to this Consent Judgment, a Settling Defendant may make such a submission subject to the terms of the protective order previously entered in this action and the protective order's terms shall apply to the report or information as if it were still in effect.

13. RETENTION OF JURISDICTION

13.1 This Court shall retain jurisdiction of this matter to implement or modify the Consent Judgment.

14. AUTHORITY TO STIPULATE TO CONSENT JUDGMENT

14.1 Each signatory to this Consent Judgment certifies that he or she is fully authorized by the Party he or she represents to stipulate to this Consent Judgment and to enter into and execute the Consent Judgment on behalf of the Party represented and legally to bind that Party.

15. NO EFFECT ON OTHER SETTLEMENTS

15.1 Nothing in this Consent Judgment shall preclude CEH from resolving any claim against an entity that is not a Settling Defendant on terms that are different than those contained in this Consent Judgment.

16. EXECUTION IN COUNTERPARTS

16.1 The stipulations to this Consent Judgment may be executed in counterparts and by means of facsimile or portable document format (pdf), which taken together shall be deemed to constitute one document.

1 **IT IS SO ORDERED**

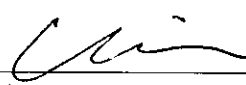
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3 Dated: _____, 2015

Judge of the Superior Court

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6 **IT IS SO STIPULATED:**

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8 Dated: April 22, 2015

CENTER FOR ENVIRONMENTAL HEALTH

9
10
11 
Signature

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13 CHARLES PIZZANO
Printed Name

14
15 ASSOCIATE DIRECTOR
Title

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19 Dated: _____, 2015

HODGSON MILL, INC.

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22 _____
Signature

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24 _____
Printed Signatory Name

25
26 Robert J. Goldstein, President
Title

1 **IT IS SO ORDERED**

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3 Dated: _____, 2015

Judge of the Superior Court

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6 **IT IS SO STIPULATED:**

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8 Dated: _____, 2015

CENTER FOR ENVIRONMENTAL HEALTH

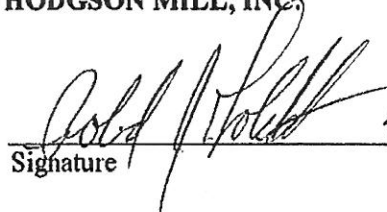
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HODGSON MILL, INC.

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21  4/20/2015
Signature

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23 Robert J Goldstein
Printed Signatory Name

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25 Robert J. Goldstein, President
Title

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EXHIBIT A
Settling Defendant

Settling Defendant: Hodgson Mill, Inc.

Defendant's Settlement Payment and Allocation:

Total Settlement Payment	\$29,000
Civil Penalty OEHHA Portion	\$ 2,850
Civil Penalty CEH Portion	\$ 950
Payment in Lieu of Civil Penalty	\$ 5,700
Attorneys' Fees and Costs	\$19,500

Person(s) to Receive Notices Pursuant to Section 7:

George Gigounas
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San Francisco, CA 94105
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John Kilo, Esq.
5840 Oakland Ave.
St. Louis, MO 63110

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EXHIBIT B

Laboratories Deemed To Comply with the Requirements of Section 2.3.2

Curtis & Tompkins Laboratories

Covance Laboratories

Exova, Inc.

K Prime, Inc.

National Food Laboratory, Inc.

Silliker, Inc.