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5 Attorney for Plaintiff
ENVIRONMENTAL RESEARCH CENTER

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10 Attorneys for Plaintiff
ZIJA INTERNATIONAL, INC.

11
12 SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES
13 CENTRAL DISTRICT, STANLEY MOSK COURTHOUSE

14 ENVIRONMENTAL RESEARCH
CENTER, a California non-profit
15 corporation,

16 Plaintiff,

17 vs.

18 ZIJA INTERNATIONAL, INC. and DOES
19 1-25, Inclusive,

20 Defendants.
21

CASE NO. BC528052

STIPULATED CONSENT JUDGMENT;
[PROPOSED] ORDER

Health & Safety Code § 25249.5 et seq.

Action Filed: November 25, 2013
Trial Date: None set

22
23 1. INTRODUCTION

24 1.1 On November 25, 2013 Plaintiff Environmental Research Center ("ERC"), a
25 non-profit corporation, as a private enforcer, and in the public interest, initiated this action by
26 filing a Complaint for Injunctive and Declaratory Relief and Civil Penalties (the "Complaint")
27 pursuant to the provisions of California Health and Safety Code section 25249.5 et seq.

28 STIPULATED CONSENT JUDGMENT; [PROPOSED] ORDER

CASE NO. BC528052

1 (“Proposition 65”), against Zija International, Inc. and DOES 1-25 (collectively “Zija”). In
2 this action, ERC alleges that the following products referred to hereinafter individually as
3 “Covered Product” or collectively as “Covered Products”, manufactured, distributed or sold by
4 Zija contain lead, a chemical listed under Proposition 65 as a carcinogen and reproductive
5 toxin, and expose consumers at a level requiring a Proposition 65 warning:

- 6 1. Zija International Inc. Moringa SmartMix (now known as SmartMix 2.0)
- 7 2. Zija International Inc. Prlme90 Dutch Chocolate
- 8 3. Zija International Inc. Prlme90 Vanilla Bean
- 9 4. Zija International Inc. XM3
- 10 5. Zija International Inc. XM+
- 11 6. Zija International Inc. Moringa SuperMix.

12 1.2 ERC is a California non-profit corporation dedicated to, among other causes,
13 helping safeguard the public from health hazards by reducing the use and misuse of hazardous
14 and toxic chemicals, facilitating a safe environment for consumers and employees, and
15 encouraging corporate responsibility.

16 1.3 Zija is a Utah corporation, at all relevant times for the purpose of this Consent
17 Judgment, employed ten or more persons and qualified as a “person in the course of business”
18 within the meaning of Proposition 65. Zija manufactures, distributes and/or sells the Covered
19 Products.

20 1.4 ERC and Zija are referred to individually as “Party” or collectively as the
21 “Parties.”

22 1.5 The Complaint is based on allegations contained in ERC’s Notice of Violation,
23 dated September 13, 2013, that was served on the California Attorney General, other public
24 enforcers, and Zija (“Notice”). A true and correct copy of the Notice is attached as Exhibit A
25 and is hereby incorporated by reference. More than 60 days have passed since the Notice was
26 mailed and uploaded onto the Attorney General’s website, and no designated governmental
27 entity has filed a complaint against Zija with regard to the Covered Products or the alleged

violations.

1.6 ERC's Notice and Complaint allege that use of the Covered Products exposes persons in California to lead without first providing clear and reasonable warnings in violation of California Health and Safety Code section 25249.6. Zija denies all material allegations contained in the Notice and Complaint.

1.7 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, suppliers, distributors, wholesalers, or retailers. Except for the representations made above, nothing in this Consent Judgment shall be construed as an admission by the Parties of any fact, issue of law, or violation of law.

1.8 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.

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

2. JURISDICTION AND VENUE

For purposes of this Consent Judgment and for any further court action that may become necessary to enforce this Consent Judgment, the Parties stipulate that this Court has subject matter jurisdiction over the allegations of violations contained in the Complaint, personal jurisdiction over Zija as to the acts alleged in the Complaint, that venue is proper in Los Angeles County, and that this Court has jurisdiction to enter this Consent Judgment as a full and final resolution of all claims up through and including the Effective Date which were or could have been asserted in this action based on the facts alleged in the Notice and Complaint.

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

2 **3.1** Beginning on the Effective Date, Zija shall be permanently enjoined from
3 manufacturing for sale in the State of California, "Distributing into the State of California," or
4 directly selling in the State of California to California consumers, any Covered Product which
5 exposes a consumer to a "Daily Exposure Level" of more than 0.5 micrograms per day when
6 the maximum recommended dose is taken as directed on the Covered Product's label, unless it
7 meets the warning requirements under Section 3.2.

8 **3.1.1** As used in Consent Judgment, the term "Distributing into the State of
9 California" shall mean to directly ship a Covered Product into California for sale to consumers
10 in California or to sell a Covered Product to a distributor that Zija knows will sell the Covered
11 Product to consumers in California.

12 **3.1.2** For all purposes of this Consent Judgment, "Daily Lead Exposure Level"
13 shall be measured in micrograms, and shall be calculated using the following formula:
14 micrograms of lead per gram of product, multiplied by grams of product per serving of the
15 product (using the largest recommended daily serving size appearing on the product label),
16 multiplied by servings of the product per day (using the largest number of servings in a
17 recommended daily dosage appearing on the product label), which equals micrograms of lead
18 exposure per day.

19 **3.2 Clear and Reasonable Warnings**

20 If Zija is required to provide a warning pursuant to Section 3.1, the following warning
21 must be utilized:

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

25 The text in [brackets] is optional in Zija's sole discretion, but Zija shall use the phrase "cancer
26 and" in the warning only if the maximum daily dose recommended on the label contains more
27 than 15 micrograms of lead as determined pursuant to the quality control methodology set forth in

1 Section 3.4.

2 When a warning is required, Zija shall provide the warning in any one of the following
3 manners:

4 1) For Covered Products ordered online, if a California shipping address is identified by
5 the consumer ordering a Covered Product; the warning shall be given prior to completion of
6 checkout and the purchaser shall be required to accept the warning prior to completing checkout.
7 If more than one product is purchased, Zija shall clearly identify the Covered Product or Covered
8 Products for which the warning is being given; or

9 2) on the label of Zija's products.

10 The warning shall be at least the same size as the largest of any other health or safety
11 warnings correspondingly appearing on the label, container, or website, and the word
12 "WARNING" shall be in all capital letters and in bold print. No other statements about
13 Proposition 65 or lead may be made within or near the warning.

14 Zija must display the above warnings with such conspicuousness, as compared with other
15 words, statements, or design of the label or container, as applicable, to render the warning likely to
16 be read and understood by an ordinary individual under customary conditions of purchase or use
17 of the Covered Product.

18 **3.3 Reformulated Covered Products**

19 A Reformulated Covered Product is one for which the Daily Exposure Level when the
20 maximum suggested dose is taken as directed on the Reformulated Covered Product's label,
21 contains no more than 0.5 micrograms of lead per day as determined by the quality control
22 methodology described in Section 3.4.

23 **3.4 Testing and Quality Control Methodology**

24 **3.4.1** All testing for purposes of this Consent Judgment shall be performed
25 using a laboratory method that complies with the performance and quality control factors
26 appropriate for the method used, including limit of detection, qualification, accuracy, and
27 precision that meets the following criteria: Inductively Coupled Plasma-Mass Spectrometry

1 (ICP-MS) achieving a limit of quantification of less than or equal to 0.010 mg/kg or any other
2 testing method subsequently agreed upon in writing by the Parties.

3 **3.4.2** All testing for purposes of this Consent Judgment shall be performed by
4 an independent third-party laboratory certified by the California Environmental Laboratory
5 Accreditation Program or by an otherwise qualified independent third-party laboratory
6 experienced in testing for lead in foods, or an in-house laboratory which can conduct the testing
7 in compliance with Section 3.4.1. Nothing in this Consent Judgment shall limit Zija's ability to
8 conduct, or require that others conduct, additional testing of the Covered Products, including
9 the raw materials used in their manufacture.

10 **3.4.3** Zija shall arrange, for at least three consecutive years and at least once
11 per year, for the lead testing of five randomly selected samples of each Covered Product in the
12 form intended for sale to consumers in California. Zija shall continue testing over the three
13 year term so long as the Covered Products are sold to California consumers or sold to a third
14 party for retail sale in California. If tests conducted pursuant to this Section demonstrate that
15 no warning is required for a Covered Product during each of the three consecutive years, then
16 the testing requirements of this Section will no longer be required as to that Covered Product.
17 However, if after the three-year period, Zija changes any of the Covered Products in a manner
18 such that Zija could reasonably expect a possible change in lead levels in the Covered Product,
19 Zija shall test that Covered Product at least once after such change is made. The testing
20 requirements discussed in Section 3.4 are not applicable to any Covered Product for which Zija
21 has provided the warning as specified in Section 3.2.

22 **3.4.4** Zija shall retain all test results and documentation for a period of three
23 years from the date of each test.

24 **4. SETTLEMENT PAYMENT**

25 **4.1** In full satisfaction of all potential civil penalties, payment in lieu of civil
26 penalties, attorney's fees, and costs, Zija shall make a total payment of \$160,000.00 ("Total
27 Settlement Amount") to ERC within 5 days of the Effective Date. Zija shall make this payment

1 by wire transfer to ERC's escrow account, for which ERC will give Zija the necessary account
2 information. The Total Settlement Amount shall be apportioned as follows:

3 **4.2** \$74,580.00 shall be considered a civil penalty pursuant to California Health and
4 Safety Code §25249.7(b)(1). ERC shall remit 75% (\$55,935.00) of the civil penalty to the
5 Office of Environmental Health Hazard Assessment ("OEHHA") for deposit in the Safe
6 Drinking Water and Toxic Enforcement Fund in accordance with California Health and Safety
7 Code §25249.12(c). ERC will retain the remaining 25% (\$18,645.00) of the civil penalty.

8 **4.3** \$1,955.50 shall be distributed to Environmental Research Center as
9 reimbursement to ERC for reasonable costs as a result of work in bringing this action.

10 **4.4** \$ 56,264.79 shall be distributed to Environmental Research Center in lieu of
11 further civil penalties, for the day-to-day business activities such as (1) continued enforcement
12 of Proposition 65, which includes work, analyzing, researching and testing consumer products
13 that may contain Proposition 65 chemicals, focusing on the same or similar type of ingestible
14 products that are the subject matter of the current action; (2) the continued monitoring of past
15 consent judgments and settlements to ensure companies are in compliance with Proposition 65;
16 and (3) giving a donation of \$2,813.00 to the As You Sow to address reducing toxic chemical
17 exposures in California.

18 **4.5** \$12,390.00 shall be distributed to William F. Wraith as reimbursement of
19 ERC's attorney's fees while \$14,809.71 shall be retained by ERC as reimbursement for its in-
20 house legal fees.

21 **5. MODIFICATION OF CONSENT JUDGMENT**

22 **5.1** This Consent Judgment may be modified only (i) by written stipulation of the
23 Parties or pursuant to Section 5.3 and (ii) upon entry by the Court of a modified consent
24 judgment. The Attorney General shall be served with any such stipulations or motions to
25 modify this Consent Judgment.

26 **5.2** If any Party seeks to modify this Consent Judgment then that Party must provide
27 written notice of its intent ("Notice of Intent"). The Parties shall meet and confer in good faith

1 regarding the proposed modification in the Notice of Intent within thirty (30) days. Should it
2 become necessary, the Parties may agree in writing to different deadlines for the meet and
3 confer period. In the event that Zija initiates or otherwise requests a modification under
4 Section 5.1, and the meet and confer process leads to a joint motion or application of the
5 Consent Judgment, Zija shall reimburse ERC its costs and reasonable attorney's fees for the
6 time spent in the meet-and-confer process and filing and arguing the motion or application.

7 **5.3** Where the meet-and-confer process does not lead to a joint motion or an
8 uncontested application in support of a modification of the Consent Judgment, then either Party
9 may seek judicial relief on its own. In such a situation, the prevailing party may seek to
10 recover costs and reasonable attorney's fees. As used in the preceding sentence, the term
11 "prevailing party" means a party who is successful in obtaining relief more favorable to it than
12 the relief that the other party was amenable to providing during the Parties' good faith attempt
13 to resolve the dispute that is the subject of the modification.

14 **6. RETENTION OF JURISDICTION, ENFORCEMENT OF CONSENT** 15 **JUDGMENT**

16 **6.1** This Court shall retain jurisdiction of this matter to enforce, modify or
17 terminate this Consent Judgment.

18 **6.2** If ERC alleges that any Covered Product fails to qualify as a Reformulated
19 Covered Product as determined under Section 3 and ERC alleges that no warning has been
20 provided, then ERC shall inform Zija in a reasonably prompt manner of its test results,
21 including information sufficient to permit Zija to identify the Covered Products at issue. Zija
22 shall, within thirty days following such notice, provide ERC with testing information meeting
23 the requirements of Sections 3.4.1 and 3.4.2 demonstrating Defendant's compliance with the
24 Consent Judgment, if warranted. The Parties shall first attempt to resolve the matter prior to
25 ERC taking any further legal action.

26 **7. APPLICATION OF CONSENT JUDGMENT**

27 This Consent Judgment may apply to, be binding upon, and benefit the Parties and their

1 respective officers, directors, shareholders, employees, agents, parent companies, subsidiaries,
2 divisions, affiliates, franchisees, licensees, customers (excluding private labelers), distributors,
3 wholesalers, retailers, predecessors, successors, and assigns. This Consent Judgment shall have no
4 application to Covered Products which are distributed or sold outside the State of California and
5 which are not used by California consumers.

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

7 **8.1** This Consent Judgment is a full, final, and binding resolution between ERC, on
8 behalf of itself and in the public interest, and Zija, of any alleged violation of Proposition 65 or
9 its implementing regulations for failure to provide Proposition 65 warnings of exposure to lead
10 from the handling, use, or consumption of the Covered Products and fully resolves all claims
11 that have been or could have been asserted in the Notice and Complaint up to and including the
12 Effective Date for failure to provide Proposition 65 warnings for the Covered Products. ERC,
13 on behalf of itself and in the public interest, hereby releases and discharges Zija and its
14 respective officers, directors, shareholders, employees, agents, parent companies, subsidiaries,
15 divisions, affiliates, suppliers, franchisees, licensees, customers (not including private label
16 customers of Zija), distributors, wholesalers, retailers, and all other upstream and downstream
17 entities in the distribution chain of any Covered Product, and the predecessors, successors and
18 assigns of any of them (collectively, "Released Parties"), from any and all claims, actions,
19 causes of action, suits, demands, liabilities, damages, penalties, fees, costs and expenses
20 asserted, or that could have been asserted in the Notice and Complaint, as to any alleged
21 violation of Proposition 65 arising from the failure to provide Proposition 65 warnings on the
22 Covered Products regarding lead.

23 **8.2** ERC on its own behalf only, on one hand, and Zija on its own behalf only, on
24 the other, further waive and release any and all claims they may have against each other for all
25 actions or statements made or undertaken in the course of seeking or opposing enforcement of
26 Proposition 65 in connection with the Notice or Complaint up through and including the
27 Effective Date, provided, however, that nothing in Section 8 shall affect or limit any Party's

1 right to seek to enforce the terms of this Consent Judgment.

2 **8.3** It is possible that other claims not known to ERC arising out of the facts
3 alleged in the Notice or the Complaint and relating to the Covered Products will develop or be
4 discovered. ERC on behalf of itself only, on one hand, and Zija, on the other hand,
5 acknowledge that this Consent Judgment is expressly intended to cover and include all such
6 claims up through the Effective Date, including all rights of action therefore. ERC and Zija
7 acknowledge that the claims released in Sections 8.1 and 8.2 above may include unknown
8 claims, and nevertheless waive California Civil Code section 1542 as to any such unknown
9 claims. California Civil Code section 1542 reads as follows:

10 A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE
11 CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER
12 FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF
13 KNOWN BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS
14 OR HER SETTLEMENT WITH THE DEBTOR.

15 ERC on behalf of itself only, on the one hand, and Zija, on the other hand, acknowledge and
16 understand the significance and consequences of this specific waiver of California Civil Code
section 1542.

17 **8.4** Compliance with the terms of this Consent Judgment by Defendant shall be
18 deemed to constitute compliance with Proposition 65 by any Released Party regarding alleged
19 exposures to lead in the Covered Products as set forth in the Notice and the Complaint.

20 **8.5** Nothing in this Consent Judgment is intended to apply to any occupational or
21 environmental exposures arising under Proposition 65, nor shall it apply to any of Zija's
22 products other than the Covered Products.

23 **9. SEVERABILITY OF UNENFORCEABLE PROVISIONS**

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

26 **10. GOVERNING LAW**

27 The terms and conditions of this Consent Judgment shall be governed by and construed in

1 accordance with the laws of the State of California.

2 **11. PROVISION OF NOTICE**

3 All notices required to be given to either Party to this Consent Judgment by the other shall
4 be in writing and sent to the following agents listed below by: (a) first-class, registered, or certified
5 mail; (b) overnight courier; or (c) personal delivery. Courtesy copies via email may also be sent.

6 **FOR ENVIRONMENTAL RESEARCH CENTER:**

7 Chris Heptinstall, Executive Director, Environmental Research Center

8 3111 Camino Del Rio North, Suite 400

9 San Diego, CA 92108

10 Tel: (619) 500-3090

11 Email: chris_erc501c3@yahoo.com

12 With a copy to:

13 WILLIAM F. WRAITH SBN 185927

14 WRAITH LAW

15 16485 Laguna Canyon Rd., Suite 250

16 Irvine, California 92618

17 Tel: (949) 251-9977

18 Fax: (949) 251-9978.

19 **FOR ZIJA INTERNATIONAL, INC.**

20 Brent F. Ashworth

21 General Counsel

22 Zija International, Inc.

23 3300 North Ashton Blvd. Suite 100

24 Lehi, UT 84043

25
26 With a copy to:

Judith Praitis (SBN 151303)
Amy P. Lally (SBN 198555)
SIDLEY AUSTIN LLP
555 West Fifth Street, Suite 4000
Los Angeles, California 90013-1010
Telephone: (213)896-6000
Facsimile: (213) 896-6600.

12. COURT APPROVAL

12.1 Upon execution of this Consent Judgment by the Parties, ERC shall notice a Motion for Court Approval. ERC shall comply with the reporting requirements of Proposition 65.

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

13. EXECUTION AND COUNTERPARTS

This 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.

14. DRAFTING

The terms of this Consent Judgment have been reviewed by the respective counsel for each Party prior to its signing, and each Party has had an opportunity to fully discuss the terms with counsel. The Parties agree that, in any subsequent interpretation and construction of this Consent Judgment entered thereon, the terms and provisions shall not be construed against any Party.

15. GOOD FAITH ATTEMPT TO RESOLVE DISPUTES

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

1 filed, however, the prevailing party may seek to recover costs and reasonable attorney's fees. As
2 used in the preceding sentence, the term "prevailing party" means a party who is successful in
3 obtaining relief more favorable to it than the relief that the other party was amenable to providing
4 during the Parties' good faith attempt to resolve the dispute that is the subject of such enforcement
5 action.

6 **16. ENTIRE AGREEMENT, AUTHORIZATION**

7 **16.1** This Consent Judgment contains the sole and entire agreement and
8 understanding of the Parties with respect to the entire subject matter herein, and any and all
9 prior discussions, negotiations, commitments and understandings related hereto. No
10 representations, oral or otherwise, express or implied, other than those contained herein have
11 been made by any Party. No other agreements, oral or otherwise, unless specifically referred to
12 herein, shall be deemed to exist or to bind any Party.

13 **16.2** Each signatory to this Consent Judgment certifies that he or she is fully
14 authorized by the Party he or she represents to stipulate to this Consent Judgment. Except as
15 explicitly provided herein, each Party shall bear its own fees and costs.

16 **IT IS SO STIPULATED:**

17 Dated: 10/31/, 2014

ENVIRONMENTAL RESEARCH
CENTER

18
19 By: 
Chris Heptinstall, Executive Director

20
21 Dated: _____, 2014

ZIJA INTERNATIONAL, INC.

22
23 By: _____
Its: _____

1 filed, however, the prevailing party may seek to recover costs and reasonable attorney's fees. As
2 used in the preceding sentence, the term "prevailing party" means a party who is successful in
3 obtaining relief more favorable to it than the relief that the other party was amenable to providing
4 during the Parties' good faith attempt to resolve the dispute that is the subject of such enforcement
5 action.

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8 understanding of the Parties with respect to the entire subject matter herein, and any and all
9 prior discussions, negotiations, commitments and understandings related hereto. No
10 representations, oral or otherwise, express or implied, other than those contained herein have
11 been made by any Party. No other agreements, oral or otherwise, unless specifically referred to
12 herein, shall be deemed to exist or to bind any Party.

13 **16.2** Each signatory to this Consent Judgment certifies that he or she is fully
14 authorized by the Party he or she represents to stipulate to this Consent Judgment. Except as
15 explicitly provided herein, each Party shall bear its own fees and costs.

16 **IT IS SO STIPULATED:**


17 Dated: _____, 2014

ENVIRONMENTAL RESEARCH
CENTER

19 By: _____
Chris Heptinstall, Executive Director

20 Dated: 30 0 4 3, 2014

21 ZIJA INTERNATIONAL, INC.

22 
23 By: Peder Larsen
24 Its: Pres/CEO

1 APPROVED AS TO FORM:

2 Dated: 10/31, 2014

WRAITH LAW

3 By: 

4 William F. Wraith
5 Attorney for Environmental Research
6 Center

7 Dated: _____, 2014

SIDLEY AUSTIN LLP

8 By: _____

9 Judith Praitis
10 Amy P. Lally
11 Attorneys for Zija International, Inc.

12 **ORDER AND JUDGMENT**

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

15 IT IS SO ORDERED, ADJUDGED AND DECREED.

16 Dated: _____, 2014

17 _____
18 Judge of the Superior Court
19
20
21
22
23
24
25
26
27

1 **APPROVED AS TO FORM:**

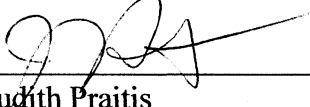
2 Dated: _____, 2014

WRAITH LAW

3 By: _____
4 William F. Wraith
5 Attorney for Environmental Research
6 Center

7 Dated: 10/30/, 2014

SIDLEY AUSTIN LLP

8 By:  _____
9 Judith Praitis
10 Amy P. Lally
11 Attorneys for Zija International, Inc.

12 **ORDER AND JUDGMENT**

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

15 IT IS SO ORDERED, ADJUDGED AND DECREED.

16 Dated: _____, 2014

17 _____
18 Judge of the Superior Court

EXHIBIT “A”

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

September 13, 2013

**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 attached 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:

Zija International, 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:

Zija International Inc. Moringa SmartMix - Lead
Zija International Inc. Pr1me90 Dutch Chocolate - Lead
Zija International Inc. Pr1me90 Vanilla Bean - Lead
Zija International Inc. XM3 - Lead

Zija International Inc. XM+ - Lead

Zija International Inc. Moringa SuperMix - 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 13, 2010, 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.

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 Zija International 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 Zija International, 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.

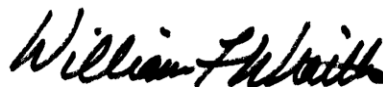
2. I am an attorney for the noticing party.

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 Violator 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 13, 2013



William F. Wraith

September 13, 2013

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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 13, 2013, 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 at a U.S. Postal Service Office with the postage fully prepaid for delivery by Certified Mail:

President or CEO
Zija International, Inc.
3300 N Ashton Blvd
Suite 100
Lehi, Utah 84043

Rodney Larsen
(Registered Agent for Zija International, Inc.)
3300 N Ashton Blvd
Suite 100
Lehi, Utah 84043

President or CEO
Zija International, Inc.
382 S 400
West Linton, Utah 84042

On September 13, 2013, I electronically 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 party by uploading a true and correct copy thereof on the California Attorney General's website, which can be accessed at <https://oag.ca.gov/prop65/add-60-day-notice> :

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

On September 13, 2013, 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 at a U.S. Postal Service Office with the postage fully prepaid for delivery by Priority Mail.

Executed on September 13, 2013, in Fort Oglethorpe, Georgia.



Tiffany Capehart

Notice of Violations of California Health & Safety Code §25249.5 *et seq.*

September 13, 2013

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Service List

District Attorney, Alameda County
1225 Fallon Street, Suite 900
Oakland, CA 94612

District Attorney, Alpine County
P.O. Box 248
Markleeville, CA 96120

District Attorney, Amador County
708 Court Street
Jackson, CA 95642

District Attorney, Butte County
25 County Center Drive, Suite 245
Oroville, CA 95965

District Attorney, Calaveras County
891 Mountain Ranch Road
San Andreas, CA 95249

District Attorney, Colusa County
346 Fifth Street Suite 101
Colusa, CA 95932

District Attorney, Contra Costa County
900 Ward Street
Martinez, CA 94553

District Attorney, Del Norte County
450 H Street, Room 171
Crescent City, CA 95531

District Attorney, El Dorado County
515 Main Street
Placerville, CA 95667

District Attorney, Fresno County
2220 Tulare Street, Suite 1000
Fresno, CA 93721

District Attorney, Glenn County
Post Office Box 430
Willows, CA 95988

District Attorney, Humboldt County
825 5th Street 4th Floor
Eureka, CA 95501

District Attorney, Imperial County
940 West Main Street, Ste 102
El Centro, CA 92243

District Attorney, Inyo County
230 W. Line Street
Bishop, CA 93514

District Attorney, Kern County
1215 Truxtun Avenue
Bakersfield, CA 93301

District Attorney, Kings County
1400 West Lacey Boulevard
Hanford, CA 93230

District Attorney, Lake County
255 N. Forbes Street
Lakeport, CA 95453

District Attorney, Lassen County
220 South Lassen Street, Ste. 8
Susanville, CA 96130

District Attorney, Los Angeles County
210 West Temple Street, Suite 18000
Los Angeles, CA 90012

District Attorney, Madera County
209 West Yosemite Avenue
Madera, CA 93637

District Attorney, Marin County
3501 Civic Center Drive, Room 130
San Rafael, CA 94903

District Attorney, Mariposa County
Post Office Box 730
Mariposa, CA 95338

District Attorney, Mendocino County
Post Office Box 1000
Ukiah, CA 95482

District Attorney, Merced County
550 W. Main Street
Merced, CA 95340

District Attorney, Modoc County
204 S Court Street, Room 202
Alturas, CA 96101-4020

District Attorney, Mono County
Post Office Box 617
Bridgeport, CA 93517

District Attorney, Monterey County
Post Office Box 1131
Salinas, CA 93902

District Attorney, Napa County
931 Parkway Mall
Napa, CA 94559

District Attorney, Nevada County
110 Union Street
Nevada City, CA 95959

District Attorney, Orange County
401 West Civic Center Drive
Santa Ana, CA 92701

District Attorney, Placer County
10810 Justice Center Drive, Ste 240
Roseville, CA 95678

District Attorney, Plumas County
520 Main Street, Room 404
Quincy, CA 95971

District Attorney, Riverside County
3960 Orange Street
Riverside, CA 92501

District Attorney, Sacramento County
901 "G" Street
Sacramento, CA 95814

District Attorney, San Benito County
419 Fourth Street, 2nd Floor
Hollister, CA 95023

District Attorney, San Bernardino County
316 N. Mountain View Avenue
San Bernardino, CA 92415-0004

District Attorney, San Diego County
330 West Broadway, Suite 1300
San Diego, CA 92101

District Attorney, San Francisco County
850 Bryant Street, Suite 322
San Francisco, CA 94103

District Attorney, San Joaquin County
222 E. Weber Ave. Rm. 202
Stockton, CA 95202

District Attorney, San Luis Obispo County
1035 Palm St, Room 450
San Luis Obispo, CA 93408

District Attorney, San Mateo County
400 County Ctr., 3rd Floor
Redwood City, CA 94063

District Attorney, Santa Barbara County
1112 Santa Barbara Street
Santa Barbara, CA 93101

District Attorney, Santa Clara County
70 West Hedding Street
San Jose, CA 95110

District Attorney, Santa Cruz County
701 Ocean Street, Room 200
Santa Cruz, CA 95060

District Attorney, Shasta County
1355 West Street
Redding, CA 96001

District Attorney, Sierra County
PO Box 457
Downieville, CA 95936

District Attorney, Siskiyou County
Post Office Box 986
Yreka, CA 96097

District Attorney, Solano County
675 Texas Street, Ste 4500
Fairfield, CA 94533

District Attorney, Sonoma County
600 Administration Drive,
Room 212J
Santa Rosa, CA 95403

District Attorney, Stanislaus County
832 12th Street, Ste 300
Modesto, CA 95354

District Attorney, Sutter County
446 Second Street
Yuba City, CA 95991

District Attorney, Tehama County
Post Office Box 519
Red Bluff, CA 96080

District Attorney, Trinity County
Post Office Box 310
Weaverville, CA 96093

District Attorney, Tulare County
221 S. Mooney Blvd., Room 224
Visalia, CA 93291

District Attorney, Tuolumne County
423 N. Washington Street
Sonora, CA 95370

District Attorney, Ventura County
800 South Victoria Ave, Suite 314
Ventura, CA 93009

District Attorney, Yolo County
301 2nd Street
Woodland, CA 95695

District Attorney, Yuba County
215 Fifth Street, Suite 152
Marysville, CA 95901

Los Angeles City Attorney's Office
City Hall East
200 N. Main Street, Suite 800
Los Angeles, CA 90012

San Diego City Attorney's Office
1200 3rd Avenue, Ste 1620
San Diego, CA 92101

San Francisco, City Attorney
City Hall, Room 234
1 Dr Carlton B Goodlett PL
San Francisco, CA 94102

San Jose City Attorney's Office
200 East Santa Clara Street,
16th Floor
San Jose, CA 95113