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6 Attorneys for Defendants ANDERSON'S
MAPLE SYRUP, INC., B&G FOODS,
7 INC., BASCOM FAMILY FARMS, INC.,
CITADELLE MAPLE SYRUP
8 PRODUCERS CO-OPERATIVE, DUTCH
GOLD HONEY, INC., GREAT
9 NORTHERN MAPLE PRODUCTS, INC.,
L B MAPLE TREAT CORPORATION,
10 LES INDUSTRIES BERNARD & FILES
LTEE, SPECIALTY BRANDS OF
11 AMERICA, INC, and VERMONT MAPLE
SUGAR COMPANY, INC.

12 SUPERIOR COURT OF THE STATE OF CALIFORNIA
13 COUNTY OF HUMBOLDT
14 (Unlimited Jurisdiction)

15 MATEEL ENVIRONMENTAL JUSTICE
16 FOUNDATION,

Case No. DR140469

17 Plaintiff,

**[PROPOSED] STIPULATED
CONSENT JUDGMENT**

18
19 v.

20 ANDERSON'S MAPLE SYRUP, INC.;
B&G FOODS, INC.; BASCOM FAMILY
21 FARMS, INC.; CITADELLE MAPLE
SYRUP PRODUCERS CO-OPERATIVE;
22 DUTCH GOLD HONEY, INC.; GREAT
NORTHERN MAPLE PRODUCTS, INC.;
23 L B MAPLE TREAT CORPORATION;
LES INDUSTRIES BERNARD & FILES
24 LTEE; SPECIALTY BRANDS OF
AMERICA, INC; VERMONT MAPLE
25 SUGAR COMPANY, INC.; and DOES 1-
150, inclusive,

Date: October 1, 2014
Time: 1:45 p.m.
Courtroom: 8

26 Defendants.
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WHEREAS Plaintiff Mateel Environmental Justice Foundation (“Plaintiff”) has alleged that ANDERSON’S MAPLE SYRUP, INC., B&G FOODS, INC., BASCOM FAMILY FARMS, INC., CITADELLE MAPLE SYRUP PRODUCERS CO-OPERATIVE, DUTCH GOLD HONEY, INC., GREAT NORTHERN MAPLE PRODUCTS, INC., L B MAPLE TREAT CORPORATION, LES INDUSTRIES BERNARD & FILES LTÉE, SPECIALTY BRANDS OF AMERICA, INC, and VERMONT MAPLE SUGAR COMPANY, INC. (“Settling Defendants”) (collectively, “the Parties”) violated The California Safe Drinking Water and Toxic Enforcement Act (“Proposition 65”) by failing to provide warnings that the 100% maple syrup that Settling Defendants manufacture, distribute, offer for sale, sell, and/or pack for sale in California (“Covered Products”) contains a chemical, lead, known to the State of California to cause cancer and reproductive toxicity; and

WHEREAS Settling Defendants deny the allegation and assert that, to the extent any lead is present in the Covered Products, it is: 1) naturally occurring, as defined in California Code of Regulations (“CCR”) section 25501 and, 2) regardless of source, is present at levels below the warning threshold set forth at CCR sections 25705 and 25805; and

WHEREAS Settling Defendants assert that when exposure to lead in the Covered Products is determined in accordance with the trial court ruling in *Environmental Law Foundation v. Beech-Nut et al.*, Superior Court of California, County of Alameda, Case No. RG11597384 (“ELF”) such exposure is clearly below the warning threshold, although Plaintiff disputes that the ELF decision is correctly decided and that, in any event, the ELF decision cannot be read to be clearly applicable to what the warning threshold should be in this case; and

NOW, THEREFORE, Plaintiff and Defendants enter into this Stipulated Consent Judgment (“Consent Judgment”) as follows:

1. INTRODUCTION

1.1. On or around June 6, 2013, Plaintiff sent a 60-day notice of violation of Proposition 65 (“60-day Notice”) to Settling Defendants, the California Attorney General, the District Attorneys of every County in the State of California, and the City Attorneys for every City in the State of California with a population greater than 750,000.

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1.2. The 60-day Notices alleged violations of Proposition 65’s warning provision set out at California Health and Safety Code section 25249.6. Plaintiff alleged that Settling Defendants’ 100% maple syrup products contain lead, a chemical known by the state of California to cause birth defects and other reproductive harm.

1.3. On October 14, 2014, Plaintiff filed its Complaint against Settling Defendants in the present action.

1.4. Each Settling Defendant is a company that employs ten (10) or more persons and that manufactures, distributes, offers for sale, sells and/or packs for sale Covered Products in California.

1.5. For purposes of this Consent Judgment only, Plaintiff and Settling Defendants stipulate that: 1) this Court has jurisdiction over the allegations of violation contained in the Complaint and personal jurisdiction over Defendants as to the acts alleged in the Complaint; 2) venue is proper in the County of Humboldt; and 3) this Court has jurisdiction to enter this Consent Judgment as a full and final resolution of all claims which were or could have been raised in the Complaint and of all claims which were or could have been raised by any person or entity based in whole or in part, directly or indirectly, on the facts alleged in the 60-day Notice, in the present action, or arising therefrom or related thereto, with respect to the Covered Products.

1.6. The Parties enter into this Consent Judgment as a full and final settlement of the disputed claims as alleged in the 60-day Notice and the Complaint, for the purpose of avoiding prolonged and costly litigation and of resolving the issues raised therein. By execution of this Consent Judgment, the Parties do not admit any fact, conclusion of law, or violation of law, nor shall Settling Defendants’ compliance with the Consent Judgment constitute or be construed as an admission by Settling Defendants of any fact, conclusion of law, or violation of law. Settling Defendants deny the material, factual and legal allegations in the 60-day Notice and the Complaint and expressly deny any wrongdoing whatsoever.

2. DEFINITIONS

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- 2.1. "Compliance Documentation" shall mean such reports as are prepared to describe the results of any testing of Covered Products performed pursuant to this Consent Judgment.
- 2.2. "Covered Products" shall mean the 100% maple syrup products that Settling Defendants manufacture, distribute, offer for sale, sell, and/or pack for sale in California.
- 2.3. "Effective Date" shall mean, with respect to this Consent Judgment, the date which falls six months after this Court enters the Consent Judgment.
- 2.4. "Lead Free" as applied to processing and production equipment means that the equipment is made of stainless steel or other food-grade materials, as set forth in food equipment materials standard NSF/ANSI 51-2012, Section 4.1.2.
- 2.5. "Lead Limit" is a concentration of lead and lead compounds (expressed in parts per billion, or "ppb") in Covered Products at or below which said Covered Products are in compliance with this Consent Judgment. For purposes of this Consent Judgment, the Lead Limit is 11 ppb, unless it is later modified in accordance with Section 10.1.
- 2.6. "Maple Syrup" shall mean 100% maple syrup prior to packaging for sale to consumers in California.
- 2.7. "Lead Reduction Measures" collectively shall mean those measures specified in Sections 3.1.2, 3.2.2, 3.3.2, 3.4.2 and 3.5.2.
- 2.8. "Producer Confirmation" shall mean written and dated confirmation by Settling Defendants, or agents thereof, of the completion of Lead Reduction Measures by Producers, or written and dated verification by Producers to Settling Defendants, or agents thereof, of the completion of Lead Reduction Measures. Written and dated verification provided by Producers shall be sufficient to demonstrate a good-faith attempt by Settling Defendants to verify Producers' completion of Lead Reduction Measures.
- 2.9. "Producers" shall mean suppliers of Maple Syrup to Settling Defendants for manufacture, packing, distribution, and/or sale in California as Covered Products by Settling Defendants.
 - 2.9.1. "Large Producer" shall mean those Producers that operate in excess of 20,000 taps on maple trees for collection of Maple Syrup.

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2.9.2. "Medium Producer" shall mean those Producers that operate between 10,000 and 20,000 taps on maple trees for collection of Maple Syrup.

2.9.3. "Small Producer" shall mean those Producers that operate less than 10,000 taps on maple trees for collection of Maple Syrup.

2.10. "Qualified Laboratory" shall mean an accredited third-party laboratory or internal laboratory of a Settling Defendant capable of measuring lead in the Covered Products to a minimum limit of quantification of 10 ppb.

3. INJUNCTIVE RELIEF

3.1. **Year One:** No Settling Defendant shall ship, distribute, or offer for sale any Covered Product without providing a warning message in the manner set forth in **Attachment 1**, unless such Settling Defendant within six months of the Effective Date has complied with one of the following two provisions and provided Plaintiff with a notice, to be kept confidential between such Settling Defendant and Plaintiff, identifying which one of the following two provisions the Settling Defendant is complying with ("Compliance Notice"):

3.1.1. Settling Defendant's Covered Products have been shown to contain lead in quantities not exceeding the Lead Limit, according to the testing protocols in Section 3.10; OR

3.1.2. Settling Defendant has, as to Covered Products for which such showing is not made, undertaken the following Lead Reduction Measures:

3.1.2.1. Settling Defendant has informed in writing its Large Producers that, one year from the date of such writing, Settling Defendant will not accept Maple Syrup from said Large Producers and Settling Defendant will discontinue purchasing Maple Syrup from said Large Producer unless Settling Defendant has obtained confirmation and verified through Producer Confirmation that said Large Producers have undertaken the following Lead Reduction Measures.

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3.1.2.1.1. Discontinued processing of Maple Syrup inside rooms where Maple Syrup or processing and production items may be exposed to lead from lead-based paint.

3.1.2.1.2. Filtered Maple Syrup at or above 180 degrees Fahrenheit.

3.1.2.1.3. Ensured that Maple Syrup processing and production items identified in **Exhibit A** are Lead Free.

3.1.2.2. Within six months of the Effective Date, 20% of the volume of Settling Defendant's Covered Products is stored in Lead Free containers, and 20% of the volume of Maple Syrup received from Producers is stored in Lead Free drums.

3.2. **Year Two:** No Settling Defendant shall ship, distribute, or offer for sale any Covered Product without providing a warning message in the manner set forth in **Attachment 1**, unless such Settling Defendant has within 18 months of the Effective Date complied with one of the following two provisions and provided Plaintiff with a Compliance Notice:

3.2.1. Settling Defendant's Covered Products have been shown to contain lead in quantities not exceeding the Lead Limit, according to the testing protocols in Section 3.10; OR

3.2.2. Settling Defendant has, as to Covered Products for which such showing is not made, undertaken the following Lead Reduction Measures:

3.2.2.1. If Settling Defendant's Covered Product did not exceed the Lead Limit pursuant to Section 3.1.1, the Parties shall meet and confer for 60 days, beginning on the date of service of the Compliance Notice, regarding what Lead Reduction Measures such Settling Defendant should act upon, which shall be at a minimum the Lead Reduction Measures specified in Section 3.1.2. If the Parties do not reach agreement regarding Lead Reduction Measures within 60 days, Plaintiff may petition the Court to resolve the disagreement.

3.2.2.2. If Settling Defendant has performed the Lead Reduction Measures specified in Section 3.1.2, then, in addition, Settling Defendant shall:

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3.2.2.2.1. Inform in writing its Large Producers, that one year from the date of such writing, Settling Defendant will not accept Maple Syrup from said Large Producers and Settling Defendant will discontinue purchasing Maple Syrup from said Large Producer unless Settling Defendant has obtained confirmation that the Large Producers' Maple Syrup processing and production items identified in **Exhibit B** are made of Lead Free materials.

3.2.2.2.2. Inform in writing its Medium Producers, that one year from the date of such writing, Settling Defendant will not accept Maple Syrup from such Medium Producers and Settling Defendant will discontinue purchasing Maple Syrup from said Medium Producers unless Settling Defendant has obtained confirmation and verified through Producer Confirmation that the Medium Producers have undertaken the following Lead Reduction Measures.

3.2.2.2.2.1. Discontinued processing of Maple Syrup inside rooms where Maple Syrup or processing and production items may be exposed to lead from lead-based paint.

3.2.2.2.2.2. Filtered Maple Syrup at or above 180 degrees Fahrenheit.

3.2.2.2.2.3. Ensured that Maple Syrup processing and production items identified in **Exhibit A** are Lead Free.

3.2.2.3. Within 18 months of the Effective Date, 40% of the volume of Settling Defendant's Covered Products is stored in Lead Free containers, and 40% of the volume of Maple Syrup received from Producers is stored in Lead Free drums.

3.3. **Year Three:** No Settling Defendant shall ship, distribute, or offer for sale any Covered Product without providing a warning message in the manner set forth in **Attachment 1**, unless such Settling Defendant has within 30 months of the Effective Date complied with one of the following two provisions and provided Plaintiff with a Compliance Notice:

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3.3.1. Settling Defendant's Covered Products have been shown to contain lead in quantities not exceeding the Lead Limit, according to the testing protocols in Section 3.10; OR

3.3.2. Settling Defendant has, as to Covered Products for which such showing is not made, undertaken the following Lead Reduction Measures:

3.3.2.1. If Settling Defendant's Covered Products did not exceed the Lead Limit pursuant to Section 3.1 and Section 3.2, the Parties shall meet and confer for 60 days, beginning on the date of service of the Compliance Notice, regarding what Lead Reduction Measures such Settling Defendant should act upon, which shall be at a minimum the Lead Reduction Measures specified in Section 3.1.2. If the Parties do not reach agreement regarding Lead Reduction Measures within 60 days, Plaintiff may petition the Court to resolve the disagreement.

3.3.2.2. If Settling Defendant has already undertaken the Lead Reduction Measures in Section 3.1.2, but has not undertaken the Lead Reduction Measures in Section 3.2.2, the Parties shall meet and confer for 60 days, beginning on the date of service of the Compliance Notice, regarding what Lead Reduction Measures such Settling Defendant should act upon, which shall be at a minimum the Lead Reduction Measures specified in Section 3.2.2. If the Parties do not reach agreement regarding Lead Reduction Measures within 60 days, Plaintiff may petition the Court to resolve the disagreement.

3.3.2.3. If Settling Defendant has already undertaken the Lead Reduction Measures in Section 3.1.2 and Section 3.2.2, then, in addition, Settling Defendant shall:

3.3.2.3.1. Inform in writing its Large Producers, that one year from the date of such writing, Settling Defendant will not accept Maple Syrup from said Large Producers and Settling Defendant will discontinue purchasing Maple Syrup from said Large Producer unless Settling Defendant has obtained confirmation and verified through Producer Confirmation that the

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Large Producers' Maple Syrup processing and production items identified in **Exhibit C** are made of Lead Free materials.

3.3.2.3.2. Inform in writing its Medium Producers, that one year from the date of such writing, Settling Defendant will not accept Maple Syrup from said Medium Producers and Settling Defendant will discontinue purchasing Maple Syrup from said Medium Producer unless Settling Defendant has obtained confirmation and verified through Producer Confirmation that the Medium Producers' Maple Syrup processing and production items identified in **Exhibit B** are made of Lead Free materials.

3.3.2.3.3. Inform in writing its Small Producers, that one year from the date of such writing, Settling Defendant will not accept Maple Syrup from such Small Producers and Settling Defendant will discontinue purchasing Maple Syrup from said Small Producers unless Settling Defendant has obtained confirmation and verified through Producer Confirmation that the Small Producers have undertaken the following Lead Reduction Measures.

3.3.2.3.3.1. Discontinued processing of Maple Syrup inside rooms where Maple Syrup or processing and production items may be exposed to lead from lead-based paint.

3.3.2.3.3.2. Filtered Maple Syrup at or above 180 degrees Fahrenheit.

3.3.2.3.3.3. Ensured that Maple Syrup processing and production items identified in **Exhibit A** are Lead Free.

3.3.2.3.4. Within 30 months of the Effective Date, 60% of the volume of Settling Defendant's Covered Products is stored in Lead Free containers, and 60% of the volume of Maple Syrup received from Producers is stored in Lead Free drums.

3.4. **Year Four**: No Settling Defendant shall ship, distribute, or offer for sale any Covered Product without providing a warning message in the manner set forth in **Attachment 1**,

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unless such Settling Defendant within 42 months of the Effective Date has complied with one of the following two provisions and provided Plaintiff with a Compliance Notice:

3.4.1. Settling Defendant's Covered Products have been shown to contain lead in quantities not exceeding the Lead Limit, according to the testing protocols in Section 3.1; OR

3.4.2. Settling Defendant has, as to Covered Products for which such showing is not made, undertaken the following Lead Reduction Measures:

3.4.2.1. If Settling Defendant's Covered Products did not exceed the Lead Limit pursuant to Section 3.1, Section 3.2, and Section 3.3 the Parties shall meet and confer for 60 days, beginning on the date of service of the Compliance Notice, regarding what Lead Reduction Measures such Settling Defendant should act upon, which shall be at a minimum the Lead Reduction Measures specified in Section 3.1.2. If the Parties do not reach agreement regarding Lead Reduction Measures within 60 days, Plaintiff may petition the Court to resolve the disagreement.

3.4.2.2. If Settling Defendant has already undertaken the Lead Reduction Measures in Section 3.1.2, but has not undertaken the Lead Reduction Measures in Section 3.2.2 or Section 3.3.2, the Parties shall meet and confer for 60 days, beginning on the date of service of the Compliance Notice, regarding what Lead Reduction Measures such Settling Defendant should act upon, which shall be at a minimum the Lead Reduction Measures specified in Section 3.2.2. If the Parties do not reach agreement regarding Lead Reduction Measures within 60 days, Plaintiff may petition the Court to resolve the disagreement.

3.4.2.3. If Settling Defendant has already undertaken the Lead Reduction Measures in Section 3.1.2 and Section 3.2.2, but has not performed the Lead Reduction Measures in Section 3.3.2, the Parties shall meet and confer for 60 days, beginning on the date of service of the Compliance Notice, regarding what Lead Reduction Measures such Settling Defendant should act upon, which shall

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be at a minimum the Lead Reduction Measures specified in Section 3.3.2. If the Parties do not reach agreement regarding Lead Reduction Measures within 60 days, Plaintiff may petition the Court to resolve the disagreement.

3.4.2.4. If Defendant has already undertaken the Lead Reduction Measures in Section 3.1.2, Section 3.2.2, and Section 3.3.2, it shall, in addition:

3.4.2.4.1. Inform in writing its Medium Producers, that one year from the date of such writing, Settling Defendant will not accept Maple Syrup from said Medium Producers and Settling Defendant will discontinue purchasing Maple Syrup from said Medium Producer unless Settling Defendant has obtained confirmation and verified through Producer Confirmation that the Medium Producers' Maple Syrup processing and production items identified in **Exhibit C** are made of Lead Free materials.

3.4.2.4.2. Inform in writing its Small Producers, that one year from the date of such writing, Settling Defendant will not accept Maple Syrup from said Small Producers and Settling Defendant will discontinue purchasing Maple Syrup from said Small Producer unless Settling Defendant has obtained confirmation and verified through Producer Confirmation that the Small Producers' Maple Syrup processing and production items identified in **Exhibit B** are made of Lead Free materials.

3.4.2.4.3. Within 42 months of the Effective Date, 80% of the volume of Settling Defendant's Covered Products is stored in Lead Free containers, and 80% of the volume of Maple Syrup received from Producers is stored in Lead Free drums.

3.5. **Year Five:** No Settling Defendant shall ship, distribute, or offer for sale any Covered Product without providing a warning message in the manner set forth in **Attachment 1**, unless such Settling Defendant within 54 months of the Effective Date has complied with one of the following two provisions and provided Plaintiff with a Compliance Notice:

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3.5.1. Settling Defendant's Covered Products have been shown to contain lead in quantities not exceeding the Lead Limit, according to the testing protocols in Section 3.10; OR

3.5.2. Settling Defendant has, as to Covered Products for which such showing is not made, undertaken the following Lead Reduction Measures:

3.5.2.1. If Settling Defendant's Covered Products did not exceed the Lead Limit pursuant to Section 3.1, Section 3.2, Section 3.3, and Section 3.4 the Parties shall meet and confer for 60 days, beginning on the date of service of the Compliance Notice, regarding what Lead Reduction Measures such Settling Defendant should act upon, which shall be at a minimum the Lead Reduction Measures specified in Section 3.1.2. If the Parties do not reach agreement regarding Lead Reduction Measures within 60 days, Plaintiff may petition the Court to resolve the disagreement.

3.5.2.2. If Settling Defendant has already undertaken the Lead Reduction Measures in Section 3.1.2, but has not undertaken the Lead Reduction Measures in Section 3.2.2, Section 3.3.2, or Section 3.4.2, the Parties shall meet and confer for 60 days, beginning on the date of service of the Compliance Notice, regarding what Lead Reduction Measures such Settling Defendant should act upon, which shall be at a minimum the Lead Reduction Measures specified in Section 3.2.2. If the Parties do not reach agreement regarding Lead Reduction Measures within 60 days, Plaintiff may petition the Court to resolve the disagreement.

3.5.2.3. If Settling Defendant has already undertaken the Lead Reduction Measures in Section 3.1.2 and Section 3.2.2, but has not undertaken the Lead Reduction Measures in Section 3.3.2 or Section 3.4.2, the Parties shall meet and confer for 60 days, beginning on the date of service of the Compliance Notice, regarding what Lead Reduction Measures such Settling Defendant should act upon, which shall be at a minimum the Lead Reduction Measures specified in Section 3.3.2.

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If the Parties do not reach agreement regarding Lead Reduction Measures within 60 days, Plaintiff may petition the Court to resolve the disagreement.

3.5.2.4. If Settling Defendant has already undertaken the Lead Reduction Measures in Section 3.1.2, Section 3.2.2, and Section 3.3.2 but has not undertaken the Lead Reduction Measures in Section 3.4.2, the Parties shall meet and confer for 60 days, beginning on the date of service of the Compliance Notice, regarding what Lead Reduction Measures such Settling Defendant should act upon, which shall be at a minimum the Lead Reduction Measures specified in Section 3.4.2. If the Parties do not reach agreement regarding Lead Reduction Measures within 60 days, Plaintiff may petition the Court to resolve the disagreement.

3.5.2.5. If Defendant has already undertaken the Lead Reduction Measures in Section 3.1.2, Section 3.2.2, Section 3.3.2, and Section 3.4.2, it shall, in addition:

3.5.2.5.1. Inform in writing its Small Producers, that one year from the date of such writing, Settling Defendant will not accept Maple Syrup from said Small Producers and Settling Defendant will discontinue purchasing Maple Syrup from said Small Producer unless Settling Defendant has obtained confirmation and verified through Producer Confirmation that the Small Producers' Maple Syrup processing and production items identified in Exhibit C are made of Lead Free materials.

3.5.2.5.2. Within 52 months of the Effective Date, 100% of the volume of Settling Defendant's Covered Products is stored in Lead Free containers, and 100% of the volume of Maple Syrup received from Producers is stored in Lead Free drums.

3.5.2.5.3. All food contact surfaces for any equipment used to bottle or package a Settling Defendant's Covered Products must be made from Lead Free materials.

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3.6. Settling Defendants shall, upon Plaintiff's written request, provide Plaintiff with a written declaration demonstrating compliance with the Lead Reduction Measures specified in Section 3.1.2, Section 3.2.2, Section 3.3.2, Section 3.4.2, and Section 3.5.2. Such written declarations shall explain the measures that have been taken to comply with these sections, the nature of the demonstrations Settling Defendants have obtained from their Producers, and the conclusions from Producer Confirmations. Such declarations may be comprised of, but are not limited to:

3.6.1. Written certifications from a Settling Defendant's Producers of the replacement of processing and production items with Lead Free items;

3.6.2. Written inspection reports from a Settling Defendant or a third-party inspector certifying that Producers have complied with the Lead Reduction Measures specified in Section 3.1.2, Section 3.2.2, Section 3.3.2, Section 3.4.2, and Section 3.5.2.

3.7. The Lead Reduction Measures in Section 3.1.2, Section 3.2.2, Section 3.3.2, Section 3.4.2 and Section 3.5.2 are to be implemented sequentially in one year increments unless there is an intervening year in which a Settling Defendant's Covered Products are shown to contain lead in concentrations not exceeding the Lead Limit according to the testing protocols in Section 3.10. If, in an intervening year or years a Settling Defendant's Covered Products are shown to contain lead in concentrations that do not exceed the Lead Limit according to the testing protocols in Section 3.10, then no additional Lead Reduction Measures in the sequence need be implemented unless or until in a subsequent year (regardless of the year or the time that has elapsed since the Effective Date) a Settling Defendant's Covered Products cannot be shown to contain lead in concentrations not exceeding the lead limit according to the testing protocols in Section 3.10, in which case, the Settling Defendant must resume the sequential implementation of the Lead Reduction Measures by implementing, at the very least, the Lead Reduction Measure in the next sequential step from the last sequential Lead Reduction Step that Settling Defendant had previously implemented.

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3.8. If pursuant to Sections 3.1.2, 3.2.2, 3.3.2, 3.4.2, 3.5.2 or 3.7 a Settling Defendant is required to inform Producers about required Lead Reduction Measures, and is required to discontinue purchasing Maple Syrup from them unless the Producers implement the required Lead Reduction Measures, then that Settling Defendant shall also inform any subsequent or new Producer that it must comply with the same Lead Reduction Measures as are required of any similarly sized Producer. In the event the subsequent or new Producer fails to implement the required Lead Reduction Measures, then the Settling Defendant shall discontinue purchasing Maple Syrup from that Producer.

3.9. Settling Defendants shall, if applicable, demonstrate compliance with the Lead Limit pursuant to Section 3.1.1, Section 3.2.1, Section 3.3.1, Section 3.4.1, and Section 3.5.1 once for each applicable deadline by submitting to Plaintiff Compliance Documentation.

3.10. Where a Settling Defendant tests Covered Products against the Lead Limit pursuant to Section 3.1.1, Section 3.2.1, Section 3.3.1, Section 3.4.1, and/or Section 3.5.1, it must use the following protocols, or ones that are substantially equivalent in that it would be expected to produce the same results:

3.10.1. Prior to the final step of bottling of Maple Syrup by Settling Defendants if bottling equipment is Lead Free, or otherwise after bottling by Settling Defendants of Maple Syrup, three (3) or more samples shall be collected, at random, of each of Settling Defendants' Covered Products.

3.10.2. Said samples shall be sent to a Qualified Laboratory within seven (7) days of collection.

3.10.3. Said samples shall be homogenized and acid digested to reduce lead variability prior to testing.

3.10.4. The average of the test results from the three (3) or more samples shall be compared to the Lead Limit to determine compliance.

3.11. Settling Defendants shall maintain the results of testing in accordance with Section 3.10 for no less than three (3) years.

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3.12. Plaintiff may independently perform sampling and testing of Covered Products (“Confirmatory Testing”) manufactured after one (1) year after the Effective Date. Confirmatory Testing shall take place at a Qualified Laboratory. In the event Confirmatory Testing indicates the presence of lead in excess of the Lead Limit whereas the affected Settling Defendant’s testing indicates that the Covered Product is at or below the Lead Limit, Plaintiff shall promptly notify the affected Settling Defendant in writing and provide such Settling Defendant with copies of said testing results, a description of the sampling and testing protocol used during the Confirmatory Testing, associated Confirmatory Testing documentation, and written notice that the Covered Product is above the Lead Limit.

3.12.1. Plaintiff and the affected Settling Defendants shall meet and confer regarding the discrepancy in test results within thirty (30) days of Plaintiff’s notice.

3.12.2. In the event that no resolution of the discrepancy is reached during the meet and confer, the affected Settling Defendant shall, within twelve (12) months of Plaintiff’s notice, implement the following Lead Reduction Measures:

3.12.2.1. If the affected Settling Defendant’s Covered Products has not undertaken any Lead Reduction Measures pursuant to this Consent Judgment, it shall undertake the Lead Reduction Measures specified in Section 3.1.2.

3.12.2.2. If affected Settling Defendant has already undertaken the Lead Reduction Measures in Section 3.1.2, but has not undertaken the Lead Reduction Measures in Section 3.2.2, Section 3.3.2, Section 3.4.2, or Section 3.5.2, it shall undertake the Lead Reduction Measures specified in Section 3.2.2.

3.12.2.3. If affected Settling Defendant has already undertaken the Lead Reduction Measures in Section 3.1.2 and Section 3.2.2, but has not undertaken the Lead Reduction Measures in Section 3.3.2, Section 3.4.2, or Section 3.5.2, it shall undertake the Lead Reduction Measures specified in Section 3.3.2.

3.12.2.4. If affected Settling Defendant has already undertaken the Lead Reduction Measures in Section 3.1.2, Section 3.2.2, and Section 3.3.2 but has not

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undertaken the Lead Reduction Measures in Section 3.4.2 or Section 3.5.2, it shall undertake the Lead Reduction Measures specified in Section 3.4.2.

3.12.2.5. If affected Settling Defendant has already undertaken the Lead Reduction Measures in Section 3.1.2, Section 3.2.2, Section 3.3.2, and Section 3.4.2, but has not undertaken the Lead Reduction Measures in Section 3.5.2, it shall undertake the Lead Reduction Measures specified in Section 3.5.2.

3.12.3. In the event that no resolution of the discrepancy is reached during the meet and confer, the affected Settling Defendant shall also reimburse Plaintiff's fees and costs associated with the Confirmatory Testing, including attorney's fees, up to a limit of \$3,000.

4. PENALTIES AND PAYMENT

4.1. In settlement of all of the claims referred to in this Consent Judgment, Settling Defendants shall collectively pay an aggregate of \$235,000 (two hundred thirty-five thousand dollars) in total monetary relief, inclusive of paragraph 4.2 below. Of the foregoing, a total of \$5,000 (five thousand dollars) shall be paid in civil penalties. Mateel waives its right to receive twenty-five (25%) of this payment, and, accordingly, the entire \$5,000 shall be paid to the Office of Environmental Health Hazard Assessment (OEHHA). A total of \$30,000 (thirty thousand dollars) shall be paid by Settling Defendants in lieu of Mateel seeking full compensation (including a potential multiplier) for the attorney's fees and costs Mateel incurred in bringing this action. Of this \$30,000 amount, \$20,000 shall be paid to the Ecological Rights Foundation and \$10,000 to Californians for Alternatives to Toxics.

4.2. A total amount of \$200,000 (two-hundred thousand dollars) shall be paid by the Settling Defendants to the Klamath Environmental Law Center ("KELC") as reimbursement for attorney's fees and costs incurred by KELC on behalf of Plaintiff in investigating and prosecuting this matter and in negotiating this Consent Judgment on behalf of itself and in the public interest. The payments described in Paragraphs 4.1 and 4.2 shall be delivered by October 2, 2014 to William Verick, Klamath Environmental Law Center,

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2 424 First Street, Eureka, CA 95501. The payments specified in Sections 4.1 and 4.2 shall
3 be made by checks payable to each of the entities named as recipients of the respective
4 funds.

5 **5. CLAIMS COVERED AND RELEASE**

6 5.1. This Consent Judgment is a full, final, and binding resolution between Plaintiff, on the
7 one hand, and on the other hand, Settling Defendants, and their parents, shareholders,
8 members, divisions, subdivisions, subsidiaries, partners, affiliated companies,
9 distributors, and retailers, and each of their successors and assigns (“Releasees”) of any
10 violation of Proposition 65 that has been or could have been asserted in the public interest
11 against the Releasees regarding the failure to warn about exposure to lead arising in
12 connection with the Covered Products, through the effective date of this Consent
13 Judgment.

14 5.2. Plaintiff, acting on its own behalf and in the public interest pursuant to Cal. Health &
15 Safety Code § 25249.7(d), releases, waives, and forever discharges any and all claims
16 against the Releasees arising from any violation of Proposition 65 that has been or could
17 have been asserted in the public interest regarding the failure to warn about exposure to
18 lead arising in connection with the Covered Products, through the effective date of this
19 Consent Judgment.

20 5.3. To the extent that the foregoing release is one to which Cal. Civ. Code § 1542 (or similar
21 provisions of law) applies, it is the intention of the Parties that the release Mateel
22 provides on its own behalf shall be effective as a bar to any and all actions, fees,
23 damages, losses, claims, liabilities and demands of whatsoever character, nature and kind,
24 known or unknown, suspected or unsuspected specified herein. In furtherance of this
25 intention, Mateel on its own behalf expressly waives any and all rights and benefits
26 conferred upon it by the provisions of Cal. Civ. Code § 1542 (or similar provisions of
27 law), which read as follows: “A general release does not extend to claims which the
28 creditor does not know or suspect to exist in his or her favor at the time of executing the

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release, which if known by him or her must have materially affected his or her settlement with the debtor.”

5.4. Compliance with the terms of this Consent Judgment by Settling Defendants shall constitute compliance with Proposition 65 with respect to lead in Covered Products.

6. PROVISION OF NOTICE

6.1. When any Party is entitled to receive any notice under this Consent Judgment, the notice shall be sent by first class and electronic mail as follows:

6.1.1. Notices to Settling Defendants. The persons for Settling Defendants to receive notices pursuant to this Consent Judgment shall be:

With a copy to:

Dave Chapeskie
International Maple Syrup Institute
5072 Rock Street, RR#4
Spencerville, ON
Canada KOE 1X0

Michèle Corash
Morrison & Foerster LLP
425 Market St.
San Francisco, CA 94105

6.1.2. Notices to Plaintiff. The person for Plaintiff to receive notices pursuant to this Consent Judgment shall be:

William Verick
Klamath Environmental Law Center
424 First Street
Eureka, CA 95501

6.2. Any Party may modify the person and address to whom the notice is to be sent by

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sending the other Party notice by first class and electronic mail.

7. COURT APPROVAL

7.1. This Consent Judgment shall become effective on the date that it is entered by the Court, provided however, that Plaintiff shall prepare and file a Motion for Approval of this Consent Judgment and Settling Defendants shall support approval of such Motion.

7.2. If this Consent Judgment is not entered by the Court, it shall be of no force or effect and shall not be introduced into evidence or otherwise used in any proceeding for any purpose.

8. GOVERNING LAW AND CONSTRUCTION

8.1. The terms of this Consent Judgment shall be governed by the laws of the State of California.

9. ENTIRE AGREEMENT

9.1. This Consent Judgment contains the sole and entire agreement and understanding of the Parties with respect to the entire subject matter hereof, and any and all prior discussions, negotiations, commitments, or understandings related thereto, if any, are hereby merged herein and therein.

9.2. There are no warranties, representations, or other agreements between the Parties except as expressly set forth herein. No representations, oral or otherwise, express or implied, other than those specifically referred to in this Consent Judgment have been made by any Party hereto.

9.3. No other agreements not specifically contained or referenced herein, oral or otherwise, shall be deemed to exist or to bind any of the Parties hereto. Any agreements specifically contained or referenced herein, oral or otherwise, shall be deemed to exist or to bind any of the Parties hereto only to the extent that they are expressly incorporated herein.

9.4. No supplementation, modification, waiver, or termination of this Consent Judgment shall be binding unless executed in writing by the Party to be bound thereby.

9.5. 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

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such waiver constitute a continuing waiver.

10. MODIFICATION OF THE JUDGMENT

10.1. If there is a material change in the law applicable to this Consent Judgment – by a published appellate court opinion, a change in the Proposition 65 implementing regulations, or by an amendment of Proposition 65, then any party may petition the court to modify this Consent Judgment to conform to the change in the law.

11. RETENTION OF JURISDICTION

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

12. NO EFFECT ON OTHER SETTLEMENTS

12.1. Nothing in this Consent Judgment shall preclude Plaintiff from resolving any claim against another entity on terms that are different than those contained in this Consent Judgment.

13. EXECUTION IN COUNTERPARTS

13.1. The stipulations to this Consent Judgment may be executed in counterparts and by means of facsimile, which taken together shall be deemed to constitute one document.

14. AUTHORIZATION

14.1. The undersigned are authorized to stipulate to, enter into, and execute this Consent Judgment on behalf of their respective parties and have read, understood, and agree to all of the terms and conditions of this Consent Judgment.

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AGREED TO:

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DATE: _____

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