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RALCORP HOLDINGS, INC.

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF ALAMEDA

CENTER FOR ENVIRONMENTAL HEALTH, a non-profit corporation,

Plaintiff,

v.

MONDELEZ INTERNATIONAL, INC., *et al.*,

Defendants.

Case No. RG-13-677800

[PROPOSED] CONSENT JUDGMENT

1. INTRODUCTION

1.1 The Parties to this Consent Judgment are the Center for Environmental Health, a California non-profit corporation ("CEH") and Ralcorp Holdings, Inc. ("Settling Defendant"). The Parties enter into this Consent Judgment to settle certain claims asserted by CEH against Settling Defendant and Defendant Lovin Oven, LLC as set forth in the operative complaint ("Complaint") in the above-captioned matter. This Consent Judgment covers cookies containing molasses, ginger, or both molasses and ginger sold by Settling Defendant and its wholly owned subsidiaries that have been or will be sold or offered for sale to California consumers ("Covered Products"). The prior and current subsidiaries that have manufactured Covered Products and are covered by this Consent Judgment are identified in Exhibit A ("Subsidiaries").

1.2 On May 16, 2014, CEH served a 60-day Notice of Violation under Proposition 65, alleging that Settling Defendant violated Proposition 65 by exposing persons to lead and lead compounds ("Lead") contained in Covered Products without first providing a clear and reasonable Proposition 65 warning. On August 8, 2014, CEH served a 60-day Notice of Violation under Proposition 65, alleging that Lovin Oven, LLC, a prior subsidiary of Settling Defendant, violated Proposition 65 by exposing persons to lead and lead compounds ("Lead") contained in Covered Products without first providing a clear and reasonable Proposition 65 warning.

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

1.4 On May 1, 2013, CEH filed the Complaint in the above-captioned matter. On December 16, 2014, CEH added Settling Defendant and Lovin Oven, LLC as defendants to the First Amended Complaint ("Complaint") in the above-captioned matter.

1.5 For purposes of this Consent Judgment only, CEH and Settling Defendant (the "Parties") stipulate that this Court has jurisdiction over the allegations of violations contained in the Complaint and personal jurisdiction over Settling Defendant as to the acts alleged in the Complaint, that venue is proper in the County of Alameda, and that this Court has jurisdiction to enter this Consent Judgment as a full and final resolution of all claims which were or could have been raised

in the Complaint based on the facts alleged therein with respect to Covered Products manufactured, distributed, offered for sale or sold by Settling Defendant and its Subsidiaries.

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

2. INJUNCTIVE RELIEF

2.1 **Specification Compliance Date.** The date of entry of this Consent Judgment is referred to herein as the "Effective Date." To the extent it has not already done so, no more than thirty (30) days after the date of entry of this Consent Judgment, if Settling Defendant or a Subsidiary purchases any Covered Products from a third party that is not under common ownership (a "Covered Product Supplier"), Settling Defendant shall provide the Reformulation Level set forth in Section 2.2 to each Covered Product Supplier and shall instruct each such Covered Product Supplier to provide it with Covered Products that comply with the Reformulation Level set forth in Section 2.2. If in the future Settling Defendant or a Subsidiary purchases Covered Products from a Covered Product Supplier that it has not previously provided with instructions regarding the Reformulation Level set forth in Section 2.2, Settling Defendant shall provide the Reformulation Level set forth in Section 2.2 to such Covered Product Supplier prior to the placement of an initial order for Covered Products and instruct the Covered Product Supplier to provide it with Covered Products that comply with the Reformulation Level set forth in Section 2.2. Settling Defendant shall retain and make available to CEH upon reasonable written request records of communications sent to and received from Covered Product Suppliers that are related to the requirement of this Section 2.1 for a period of five (5) years from the Effective Date.

2.2 **Reformulation of Covered Products**. Settling Defendant and its Subsidiaries shall not sell or offer for sale a Covered Product that will be sold or offered for sale to California consumers that was manufactured on or after the Effective Date if that Covered Product contains more than thirty (30) parts per billion ("ppb") Lead by weight (the "Reformulation Level"), such concentration to be determined by use of a test performed by an accredited laboratory using inductively coupled plasma mass spectrometry (ICP-MS) equipment with a level of detection of at least ten (10) ppb. Upon inquiry by CEH concerning a Covered Product's best-by or sell-by (or equivalent) date or other code, Settling Defendant shall promptly provide CEH with such Covered Product's date of manufacture. Settling Defendant has provided CEH with shelf life expiration dates for each Covered Product that sold by Settling Defendant and its Subsidiaries and Settling Defendant represents and warrants that such information was true and accurate on the date provided to CEH.

2.3 **Testing.** Except as provided in Section 2.5, to ensure compliance with Section 2.2, Settling Defendant shall conduct random testing of Covered Products and take the follow-up actions described in this section ("Validation Testing"). However, if Settling Defendant or a Subsidiary purchases Covered Products from a defendant in this action with which CEH has entered into a Consent Judgment that requires Validation Testing, only the Settling Defendant that sold the Covered Products needs to perform Validation Testing on those Covered Products.

2.3.1 Covered Products To Be Tested. Validation Testing shall be performed on a quarterly basis for each "type" of Covered Product that Settling Defendant and its Subsidiaries manufacture or arrange to be manufactured on or after the Effective Date; such Validation Testing shall be performed on samples drawn randomly from single production lots of each "type" of Covered Product manufactured during that quarter. For purposes of this Consent Judgment a "type" of a Covered Product is either each individual SKU of Covered Products or a group of Covered Products which CEH and Settling Defendant have agreed in writing has materially the same characteristics based on the type, supplier and amount of ginger or molasses used in its recipe or formula.

2.3.2 Methods of Testing. Settling Defendant shall conduct Validation Testing pursuant to one of the following methods: (1) the FDA sample preparation protocol discussed in the method entitled "Elemental Analysis Manual: Section 4.4 Inductively Coupled Plasma-Atomic Emission Spectrometric Determination of Elements in Food Using Microwave Assisted Digestion"[1] or (2) a microwave- or heat-assisted acid digestion method employing high-purity reagents. In either event, the laboratory shall digest at least 0.5 grams of each sample taken from a properly homogenized random selection of a complete package of a Covered Product from a particular production lot, and shall analyze each such sample without further dilution using ICP-MS.

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

2.3.4 Duration of Testing. In the event that the Validation Testing demonstrates compliance with the Reformulation Level for six (6) continuous quarters in which production of a type of Covered Product has occurred, Settling Defendant may send written notice to CEH and thereafter may cease Validation Testing for that type of Covered Product; provided however, if there is a material change in the type or level of ginger or molasses used in a Covered Product that is reasonably likely to affect the Lead levels in the product, then Settling Defendant shall arrange for testing for a minimum of three consecutive production quarters after that change.

[1] The referenced FDA test protocol may be found at which can be found at http://www.fda.gov/Food/FoodScienceResearch/LaboratoryMethods/ucm204245.htm.

2.3.5 Covered Products That Exceed Reformulation Level. If a Validation Testing result indicates that a type of a Covered Product exceeds the Reformulation Level, Settling Defendant shall ensure that all Covered Products from the same production lot as those from which the sample of the Covered Product(s) that exceeded the Reformulation Level were drawn as well as other lots of the same type of Covered Product produced in the same calendar quarter that were not directly subject to Validation Testing (the "Non-Compliant Products") will not be sold or offered for sale to California consumers.

2.3.5.1 Notwithstanding the foregoing, if the results of Validation Testing of a sample of a type of Covered Product exceeds the Reformulation Level, Settling Defendant may collect up to three (3) more samples of the Covered Product from the same production lot and have those samples tested in accordance with Section 2.3. If the results of Validation Testing of all of the additional samples of a type of Covered Product collectively yield an arithmetic mean of no more than thirty (30) ppb Lead by weight, Settling Defendant may treat that type of Covered Product as meeting the Reformulation Level for that Validation Testing cycle as long as no result for a sample exceeds fifty (50) ppb Lead. If a sample result exceeds fifty (50) ppb Lead, Settling Defendant may collect three (3) more samples of the Covered Product from the same production lot and have those samples tested in accordance with Section 2.3. Provided that none of those additional test results exceed forty (40) ppb, those additional test results shall then be used in place of the sample that exceeded fifty (50) ppb in determining whether the arithmetic mean of Validation Test results for the Covered Product exceeded the Reformulation Level.

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

2.4 **Good Faith Commitment to Pursue Further Lead Reduction.** Except as provided in Section 2.5, Settling Defendant shall continue to take, or cause to be taken, good faith and commercially reasonable efforts to further reduce the Lead content of the Covered Products with a goal of Covered Products having a consistent Lead content of seventeen (17) ppb or less. These efforts shall include, at a minimum, efforts to further adjust recipes and formulas that will

reduce Lead content in Covered Products and attempts to secure Covered Product ingredients such as molasses and ginger with lower Lead content. Within fifteen (15) days of the Effective Date, and annually thereafter for two (2) more years, Settling Defendant shall submit to CEH a written report of the activities it has undertaken to effectuate its good faith commitment under this paragraph. If Settling Defendant has test results demonstrating that all of the Covered Products have a consistent Lead content of seventeen (17) ppb or less and it provides such documentation to CEH, or if CEH and Settling Defendant otherwise agree in writing, then Settling Defendant need not submit any subsequent annual report to CEH pursuant to this paragraph.

2.5 **Products Not Subject to Testing.** The requirements of Sections 2.3 and 2.4 shall not apply to any type of Covered Product for which CEH and Settling Defendant agree in writing that such sections shall not apply.

3. ENFORCEMENT

3.1 **General Enforcement Provisions**. CEH may, by motion or application for an order to show cause before this Court, enforce the terms and conditions contained in this Consent Judgment. For purposes of this Consent Judgment, Settling Defendant agrees that to the extent that a Covered Product is manufactured by a Subsidiary, CEH may enforce the terms and conditions contained in this Consent Judgment as to Settling Defendant and Settling Defendant shall be responsible for compliance with this Consent Judgment and all of its requirements for the Subsidiaries. Any action against Settling Defendant to enforce alleged violations of Section 2.2 shall be brought exclusively pursuant to this Section 3, and as applicable be subject to the meet and confer requirement of Section 3.2.4.

3.2 **Enforcement of Reformulation Commitment.**

3.2.1 Notice of Violation. In the event that CEH identifies a Covered Product that was sold or offered for sale to California consumers with a best-by or sell-by (or equivalent) date or other code that reflects that the Covered Product was manufactured on or after the Effective Date (based on either the information provided to CEH by Settling Defendant or after first giving Settling Defendant an opportunity to identify the manufacture date as provided in Section 2.2), and for which CEH has laboratory test results showing that the Covered Product has a Lead level

exceeding the Reformulation Level, CEH may issue a Notice of Violation pursuant to this Section. Such Notice of Violation shall be based upon a test result sufficient to establish an exceedance of the Reformulation Level as it is to be evaluated under Section 2.3; the results employed shall also meet the sampling, preparation, testing, and laboratory criteria specified under Section 2.3.

3.2.2 Service of Notice of Violation and Supporting Documentation.

3.2.2.1 Subject to Section 3.2.1, the Notice of Violation shall be sent to the person(s) identified in Exhibit A to receive notices for Settling Defendant, and must be served within 45 days of the date the Covered Products at issue were purchased or otherwise acquired by CEH, provided, however, that CEH may have up to an additional 45 days to send the Notice of Violation if, notwithstanding CEH's good faith efforts, the test data required by Section 3.2.2.2 below cannot be obtained by CEH from its laboratory before expiration of the initial 45 day period.

3.2.2.2 The Notice of Violation shall, at a minimum, set forth: (a) the date the alleged violation was observed; (b) the location at which the Covered Products were offered for sale; (c) a description of the Covered Products giving rise to the alleged violation, including the name and address of the retail entity from which the sample was obtained and if available information that identifies the product lot; and (d) all test data obtained by CEH regarding the Covered Products and supporting documentation sufficient for validation of the test results, including any laboratory reports, quality assurance reports and quality control reports associated with testing of the Covered Products.

3.2.3 Notice of Election of Response. No more than 30 days after effectuation of service of a Notice of Violation, Settling Defendant shall provide written notice to CEH whether it elects to contest the allegations contained in a Notice of Violation ("Notice of Election"). Failure to provide a Notice of Election within 30 days of effectuation of service of a Notice of Violation shall be deemed an election to contest the Notice of Violation.

3.2.3.1 If a Notice of Violation is contested, the Notice of Election shall include all then-available documentary evidence regarding the alleged violation, including all test data, if any. If Settling Defendant or CEH later acquires additional test or other data regarding the

alleged violation, it shall notify the other party and promptly provide all such data or information to the party. Any test data used to contest a Notice of Violation shall meet the criteria of Section 2.3.

3.2.4 Meet and Confer. If a Notice of Violation is contested, CEH and Settling Defendant shall meet and confer to attempt to resolve their dispute. Within 30 days of serving a Notice of Election contesting a Notice of Violation, and if no enforcement action or application has been filed by CEH pursuant to Section 3.1, Settling Defendant may withdraw the original Notice of Election contesting the violation and serve a new Notice of Election to not contest the violation, provided, however, that, in this circumstance, Settling Defendant shall pay $2,500 in addition to any payment required under this Consent Judgment. At any time, CEH may withdraw a Notice of Violation, in which case for purposes of this Section 3.2 the result shall be as if CEH never issued any such Notice of Violation. If no informal resolution of a Notice of Violation results within 30 days of a Notice of Election to contest, CEH may file an enforcement motion or application pursuant to Section 3.1. In any such proceeding, CEH may seek whatever fines, costs, penalties, attorneys' fees or other remedies are provided by law for failure to comply with the Consent Judgment.

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

3.2.5.1 If the test data provided by CEH in support of the Notice of Violation shows that Lead content in a Covered Product is above the Reformulation Level but less than sixty (60) ppb, then Settling Defendant shall take the following corrective action and make the following payments, if any:

(a) 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 Settling Defendant has stopped selling or offering for sale in California all Covered Products from the same lot as that of the Covered Products identified in CEH's Notice of Violation. 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, 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 type of Covered Product.

(b) If the Notice of Violation is the first Notice of Violation received by 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 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 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 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 the same Covered Product from the same production lot as the Covered Product that is the subject of the Notice of Violation; and (iii) demonstrates Lead levels below the Reformulation Level as evaluated under Section 2.3, then any payment under this Section shall be reduced 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 Settling Defendant shall take the following corrective action and make the following payments:

(a) 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 all Covered Products having the same lot number as that of the Covered Product identified in CEH's Notice of Violation (the "Noticed Covered Products") will not be thereafter sold or offered for sale to California consumers, that the Noticed Covered Products are removed from the California market and that the Setting Defendant has sent instructions to any of its stores and/or customers that offer the Noticed Covered Products for sale to cease offering the Noticed Covered Products for sale to California consumers and to either return all such Noticed Covered Products to Settling Defendant for destruction, or to directly destroy such Noticed Covered Products. Settling Defendant shall keep and make available to CEH for inspection and copying records and correspondence regarding the market withdrawal and destruction of the Noticed Covered Products. If there is a dispute over the corrective action, Settling Defendant and CEH shall meet and confer before seeking any remedy in court. In no case shall CEH issue more than one NOV per manufacturing lot of a type of Covered Product.

(b) If the Notice of Violation is the first, second, third or fourth Notice of Violation received by Settling Defendant under Section 3.2.5.2 that was not successfully contested or withdrawn, that Settling Defendant shall pay $16,000 for each Notice of Violation. If Settling Defendant has received more than four Notices of Violation under Section 3.2.5.2 that were not successfully contested or withdrawn, that Settling Defendant shall pay $24,000 for each Notice of Violation. If Settling Defendant produces with its Notice of Election test data on 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 the same or 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 reduced 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 Settling Defendant has received four or more Notices of Violation concerning the same type of Covered Product 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 Settling Defendant for at least 30 days to determine if Settling Defendant and CEH can agree on measures that 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, Settling Defendant shall pay the amounts specified on Exhibit A.

4.2 **Allocation of Payments**. The total settlement amount for Settling Defendant shall be paid in four (4) separate checks and delivered as set forth below. Any failure by 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 Settling Defendant shall be allocated as set forth on Exhibit A for Settling Defendant between the following categories and made payable as follows:

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

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

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

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

4.2.2 A payment in lieu of civil penalty to CEH pursuant to Health & Safety Code § 25249.7(b), and California Code of Regulations, Title 11, § 3203(b). CEH shall use such funds to continue its work educating and protecting people from exposures to toxic 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. This payment shall be delivered to Lexington Law Group, 503 Divisadero Street, San Francisco, CA 94117.

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

5. MODIFICATION AND DISPUTE RESOLUTION

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

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

6. CLAIMS COVERED AND RELEASE

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

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

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

7. PROVISION OF NOTICE

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

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

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

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

8. COURT APPROVAL AND DISMISSAL OF LOVIN OVEN, LLC

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

8.2 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.

8.3 Settling Defendant represents and warrants that on May 11, 2015, Lovin Oven, LLC was merged into Settling Defendant and as a result of that transaction, Lovin Oven, LLC no longer exists. Accordingly, Settling Defendant waives any costs associated with any dismissal of Lovin Oven, LLC and CEH shall dismiss Lovin Oven, LLC from this action without prejudice promptly upon entry of this Consent Judgment.

9. GOVERNING LAW AND CONSTRUCTION

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

10. ATTORNEYS' FEES

10.1 A Party who unsuccessfully brings or contests an action arising out of this Consent Judgment shall be required to pay the prevailing Party's reasonable attorneys' fees and costs unless the unsuccessful Party has acted with substantial justification. For purposes of this Consent

Judgment, the term substantial justification shall carry the same meaning as used in the Civil Discovery Act of 1986, Code of Civil Procedure §§2016.010, et seq.

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

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

11. ENTIRE AGREEMENT

11.1 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. 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. 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. 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 Settling Defendant submits to CEH pursuant to this Consent Judgment, 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 Settling Defendant on terms that are different than those contained in this Consent Judgment. Provided however, nothing in this Consent Judgment shall limit or otherwise affect the scope of the release to the Subsidiaries in Section 6.

16. BINDING EFFECT

16.1 This Consent Judgment shall be binding upon and inure to the benefit of Settling Defendant's successors and/or assigns.

17. EXECUTION IN COUNTERPARTS

17.1 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.

IT IS SO ORDERED, ADJUDGED, AND DECREED:

Dated: _____, 2015

_____
Judge of the Superior Court of the State of California

IT IS SO STIPULATED:

Dated: Oct 2, 2015

CENTER FOR ENVIRONMENTAL HEALTH

Signature

Printed Name

Title

Dated: _____, 2015

RALCORP HOLDINGS, INC.

Signature

Printed Name

Title

IT IS SO STIPULATED:

Dated: _____, 2015

CENTER FOR ENVIRONMENTAL HEALTH

_____
Signature

_____
Printed Name

_____
Title

Dated: 9/29/15, 2015

RALCORP HOLDINGS, INC.

_____
Signature

Leo A. Knowles
Printed Name

President
Title

EXHIBIT A

1. Defendant's Settlement Payment and Allocation:

Total Settlement Payment	$ 177,250
Civil Penalty OEHHA Portion	$ 17,212.50
Civil Penalty CEH Portion	$ 5,737.50
Payment in Lieu of Civil Penalty	$ 34,450
Attorneys' Fees and Costs	$ 119,850

2. Person(s) to Receive Notices Pursuant to Section 8:

Trenton H. Norris
Sarah Esmaili
Arnold & Porter LLP
Three Embarcadero Center, 10th Floor
San Francisco, CA 94111
trent.norris@aporter.com
sarah.esmaili@aporter.com

3. Subsidiaries of Ralcorp Holdings, Inc:

Lovin Oven, LLC (merged into Ralcorp Holdings, Inc. on May 11, 2015)

Petri Baking Products, Inc, which merged into Bremner Food Group, Inc. (merged into Ralcorp Holdings, Inc. on April 19, 2015)

Ralcorp Frozen Bakery Products, Inc.

BFG Canada, Ltd.

EXHIBIT B

Laboratories Deemed To Comply with the Requirements of Section 2.3.2

Curtis & Tompkins Laboratories

Covance Laboratories

Eurofins

Exova, Inc.

K Prime, Inc.

National Food Laboratory, Inc.

Silliker, Inc.