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Attorneys for Defendant
NAVITAS LLC

SUPERIOR COURT OF CALIFORNIA
COUNTY OF ALAMEDA

ERIKA MCCARTNEY, in the public interest,

Plaintiff,

v.

NAVITAS LLC, a Delaware limited liability
company; and DOES 1 through 500, inclusive,

Defendants.

CIVIL ACTION NO. RG16833056

**[PROPOSED] STIPULATED CONSENT
JUDGMENT**

[Cal. Health and Safety Code
Sec. 25249.6, *et seq.*]

1 **1. INTRODUCTION**

2 **1.1** This Action arises out of the alleged violations of California’s Safe Drinking Water
3 and Toxic Enforcement Act of 1986, California Health and Safety Code Section 25249.5 et seq.
4 (also known as and hereinafter referred to as “Proposition 65”) regarding the following product
5 (hereinafter collectively the “Covered Product”: Navitas Naturals Goji Berries.
6

7 **1.2** Plaintiff ERIKA MCCARTNEY (“MCCARTNEY”) is a California resident acting
8 as a private enforcer of Proposition 65. MCCARTNEY brings this Action in the public interest
9 pursuant to California Health and Safety Code Section 25249. MCCARTNEY asserts that she is
10 dedicated to, among other causes, helping safeguard the public from health hazards by reducing the
11 use and misuse of hazardous and toxic chemicals, facilitating a safe environment for consumers and
12 employees, and encouraging corporate responsibility.
13

14 **1.3** Defendant Navitas, LLC is a Delaware limited liability company, and is referred to
15 hereinafter as “NAVITAS.”

16 **1.4** NAVITAS distributes and sells the Covered Product.

17 **1.5** MCCARTNEY and NAVITAS are hereinafter sometimes referred to individually as
18 a “Party” or collectively as the “Parties.” □
19

20 **1.6** On or about May 11, 2016, pursuant to California Health and Safety Code Section
21 25249.7(d)(1), MCCARTNEY served a 60-Day Notice of Violations of Proposition 65, A.G. No.
22 2016-00440 (“Notice of Violations”) on the California Attorney General, other public enforcers,
23 and NAVITAS. A true and correct copy of the Notice of Violations is attached hereto as Exhibit
24 A.
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1 **1.7** After more than sixty (60) days passed since service of the Notice of Violations, and
2 no designated governmental agency filed a complaint against NAVITAS with regard to the
3 Covered Product or the alleged violations, MCCARTNEY filed a complaint (the "Complaint") for
4 injunctive relief and civil penalties. The Complaint is based on the allegations in the Notice of
5 Violations.
6

7 **1.8** The Complaint and the Notice of Violations each allege that NAVITAS
8 manufactured, distributed, and/or sold in California the Covered Product, which contains lead, a
9 chemical listed under Proposition 65 as a carcinogen and a reproductive or developmental toxin,
10 and exposed consumers at a level requiring a Proposition 65 warning. Further, the Complaint and
11 Notice of Violations allege that use of the Covered Product exposes persons in California to lead
12 without first providing clear and reasonable warnings, in violation of California Health and Safety
13 Code Section 25249.6. NAVITAS denies all material and factual allegations of the Notice of
14 Violation and the Complaint, filed an answer asserting various affirmative defenses, and
15 specifically denies that the Covered Product requires a Proposition 65 warning or causes harm to
16 any person. NAVITAS and MCCARTNEY each reserve all rights to allege additional facts,
17 claims, and affirmative defenses if the Court does not approve this Consent Judgment.
18

19 **1.9** The Parties enter into this Consent Judgment in order to settle, compromise and
20 resolve disputed claims and avoid prolonged and costly litigation. Nothing in this Consent
21 Judgment, nor compliance with its terms, shall constitute or be construed as an admission by any of
22 the Parties, or by any of their respective officers, directors, shareholders, employees, agents, parent
23 companies, subsidiaries, divisions, affiliates, suppliers, franchisees, licensees, distributors,
24 wholesalers, or retailers, of any fact, conclusion of law, issue of law, violation of law, fault,
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1 wrongdoing, or liability, including without limitation, any admission concerning any alleged
2 violation of Proposition 65. Except as expressly set forth herein, nothing in this Consent Judgment
3 shall prejudice, waive, or impair any right, remedy, argument, or defense the Parties may have in
4 any other or future legal proceeding. Provided, however, nothing in this Section shall affect the
5 enforceability of this Consent Judgment.
6

7 **1.10** The "Effective Date" of this Consent Judgment shall be the date this Consent
8 Judgment is entered as a Judgment.

9 **2. JURISDICTION AND VENUE**

10 For purposes of this Consent Judgment only, the Parties stipulate that this Court has
11 jurisdiction over the subject matter of this Action and personal jurisdiction over the Parties, that
12 venue is proper in this Court, and that this Court has jurisdiction to enter this Consent Judgment
13 pursuant to the terms set forth herein.
14

15 **3. INJUNCTIVE RELIEF AND WARNINGS**

16 **3.1** Beginning on the Effective Date, NAVITAS shall be permanently enjoined from
17 offering for sale to a consumer in California, directly selling to a consumer in California, or
18 "Distributing into California" any of the Covered Product for which the total daily serving(s)
19 (either 28 grams or the largest recommended daily serving size appearing on the product label,
20 whichever is greater) contain more than 0.5 micrograms of lead per day unless the label of the
21 Covered Product contains a Proposition 65 compliant warning, consistent with Section 3.4, below.
22 "Distributing into California" means to directly distribute any of the Covered Product into
23 California, or to distribute any of the Covered Product to any third party that NAVITAS knows or
24 has reason to know will redistribute the Covered Product into California. Provided, however, that
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1 NAVITAS may manufacture, package, distribute, and/or sell Covered Product for which the total
2 daily serving(s) contain more than 0.5 micrograms of lead without providing a Proposition 65
3 compliant warning so long as such products are only for sale to consumers located outside of
4 California and NAVITAS does not Distribute Them Into California.

5
6 **3.2** All Covered Product that have been or will have been distributed, shipped, or sold,
7 or otherwise placed in the stream of commerce through and including the Effective Date of this
8 Consent Judgment are exempt from the provisions of Sections 3.1, and 3.3 through 3.4 and are
9 included within the release in Sections 8.1 through 8.4. On the Effective Date, NAVITAS shall
10 provide Plaintiff with the last lot number and expiration date for the Covered Product in the stream
11 of commerce through the Effective Date.

12
13 **3.3** For a period of three (3) years from the Effective Date, any batch or lot number of
14 the Covered Product offered for sale to any consumer in California without a Proposition 65-
15 compliant warning as provided in Section 3.4 shall be tested for lead contamination utilizing
16 inductively coupled plasma-mass spectrometry. All tests shall be conducted at the expense of
17 NAVITAS. NAVITAS shall provide the verified results of all tests to counsel for MCCARTNEY,
18 via regular U.S. Mail, within five (5) days of receipt of such results by NAVITAS. All test results
19 shall be provided to counsel for MCCARTNEY prior to the Covered Product being offered for sale
20 to any consumer in California. For purposes of this Consent Judgment, daily lead exposure levels
21 shall be measured in micrograms and shall be calculated using the following formula: Micrograms
22 of lead per gram of product, multiplied by grams per serving of the product, multiplied by servings
23 of the product per day (if no number of servings per day is provided, then one serving per day will
24 be assumed), which equals micrograms of lead exposure per day. NAVITAS will determine grams
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1 per serving of the product based on the largest serving size appearing on the product label.
2 Provided, however, that, if the total daily serving(s) are reduced to less than 28 grams, exposure
3 will be based on a 28 gram total daily serving size, unless NAVITAS first seeks Court modification
4 of this Consent Judgment.
5

6 **3.4 Clear and Reasonable Warnings**

7 For the Covered Product that is subject to the warning requirement of Section 3.1,
8 NAVITAS shall provide the following warning ("Warning") as specified below:

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

11 The text in brackets in the warnings above is optional.

12 The Warning shall be permanently affixed to or printed on (at the point of manufacture,
13 prior to shipment to California, or prior to distribution within California) the outside packaging or
14 container of each unit of the Covered Product. The Warning shall be displayed with such
15 conspicuousness, as compared with other words, statements designs or devices on the outside
16 packaging or labeling, as to render it likely to be read and understood by an ordinary individual
17 prior to use. The word **"WARNING"** shall be in all capital letters and in bold print.

18 The Warning currently appearing on the packaging of the Covered Product, a true and
19 correct exemplar of which is attached hereto as Exhibit B, and the alternate forms of Warning
20 attached hereto as Exhibit C, are each deemed to be a clear and reasonable warning under, and to
21 fully comply with, Health & Safety Section 25249.6 and the implementing regulations at Title 27
22 California Code of Regulations Sections 25601 through 25605.2. NAVITAS may comply with this
23 Section 3.4 by either using a Warning that is in Exhibits B or C or another form of Warning that
24 complies with the requirements of this Section 3.4.
25

26 **4. SETTLEMENT PAYMENT**

1 **4.1** NAVITAS shall make a total payment of \$62,500 within ten days of the Effective
2 Date, which shall be in full and final satisfaction of any and all civil penalties, payments in lieu of
3 civil penalties, and attorneys' fees and costs.

4 **4.2** The payment will be in the form of separate checks sent to counsel for
5 MCCARTNEY, Robert B. Hancock, Pacific Justice Center, 50 California Street, San Francisco,
6 California 94111. The checks shall be payable to the following parties and the payment shall be
7 apportioned as follows:
8

9 **4.3** \$17,500 (seventeen thousand five hundred dollars) as civil penalties pursuant to
10 California Health and Safety Code Section 25249.7(b)(1). Of this amount, \$13,125 (thirteen
11 thousand five hundred dollars) shall be payable to the Office of Environmental Health Hazard
12 Assessment ("OEHHA"), \$3,000 (three thousand dollars) shall be payable to MCCARTNEY, and
13 \$1,375 shall be payable to the California chapter of the March of Dimes, a qualified charitable
14 organization dedicated to the prevention of birth defects. (Cal. Health & Safety Code §
15 25249.12(c)(1) & (d)). MCCARTNEY hereby waives any statutory right to any penalties in excess
16 of \$3,000. MCCARTNEY's counsel will forward all sums to their respective payees.
17

18 **4.4** \$45,000 (sixty thousand dollars) payable to Pacific Justice Center as reimbursement
19 of MCCARTNEY's attorneys' fees, costs, investigation and litigation expenses.
20

21 **4.5** Any failure by NAVITAS to remit payment on or before its due date shall be
22 deemed a material breach of this Agreement.

23 **5. MODIFICATION OF CONSENT JUDGMENT**

24 This Consent Judgment may be modified only by: (i) Written agreement and stipulation of
25 the Parties and upon having such stipulation entered as a modified Consent Judgment by the Court;
26

1 or (ii) Upon entry of a modified Judgment by the Court pursuant to a motion by one of the Parties
2 after exhausting the meet and confer process set forth as follows. If either Party requests or
3 initiates a modification, then it shall meet and confer with the other Party in good faith before filing
4 a motion with the Court seeking to modify it. MCCARTNEY is entitled to reimbursement of all
5 reasonable attorneys' fees and costs regarding the Parties' meet and confer efforts for any
6 modification requested or initiated by NAVITAS. Similarly, NAVITAS is entitled to
7 reimbursement of all reasonable attorney's fees and costs regarding the Parties' meet and confer
8 efforts for any modification requested or initiated by MCCARTNEY. If, despite their meet and
9 confer efforts, the Parties are unable to reach agreement on any proposed modification the party
10 seeking the modification may file the appropriate motion and the prevailing party on such motion
11 shall be entitled recover its reasonable fees and costs associated with such motion. One basis, but
12 not the exclusive basis, for NAVITAS to seek a modification of this Consent Judgment is if
13 Proposition 65 is changed, narrowed, limited, or otherwise rendered inapplicable in whole or in part
14 to the Covered Product or lead due to legislative change, a change in the implementing regulations,
15 court decisions, or other legal basis.

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

19 **6.1** This Court shall retain jurisdiction of this matter to enforce, modify or terminate this
20 Consent Judgment.

22 **6.2** Subject to section 6.3, any Party may, by motion or application for an order to show
23 cause filed with this Court, enforce the terms and conditions contained in this Consent Judgment.
24 The prevailing party in any such motion or application may request that the Court award its
25 reasonable attorneys' fees and costs associated with such motion or application.
26

1 **6.3** Before filing a motion or application for an order to show cause, MCCARTNEY
2 shall provide NAVITAS with 30 (thirty) days written notice of any alleged violations of the terms
3 and conditions contained in this Consent Judgment. As long as NAVITAS cures any such alleged
4 violations within the 30 (thirty) day period (or if any such violation cannot practicably be cured
5 within 30 days, it expeditiously initiates a cure within 30 days and completes it as soon as
6 practicable) and NAVITAS provides proof to MCCARTNEY that the alleged violation(s) was the
7 result of good faith mistake or accident, then NAVITAS shall not be in violation of the Consent
8 Judgment. NAVITAS may only avail itself of the benefits of this Section one (1) time per three
9 year period following the Effective Date.

11 **7. APPLICATION OF CONSENT JUDGMENT**

12 This Consent Judgment shall apply to and be binding upon the Parties and their respective
13 officers, directors, successors and assigns, and it shall benefit the Parties and their respective
14 officers, directors, shareholders, employees, agents, parent companies, subsidiaries, divisions,
15 affiliates, franchisees, licensees, customers (including “Co-Brand” customers; excluding only
16 “Private Labeler” customers), distributors, wholesalers, retailers, predecessors, successors, and
17 assigns. “Private Labelers” excluded from the benefits of this Consent Judgment are companies
18 who rebrand and offer NAVITAS manufactured or distributed products under their own brand, not
19 under the NAVITAS brand. “Co-Brand” customers who shall benefit from this Consent Judgment
20 are companies who offer NAVITAS manufactured or distributed products with their own brand and
21 the NAVITAS brand both displayed on the product packaging.

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

1 **8.1** This Consent Judgment is a full, final, and binding resolution between
2 MCCARTNEY, on behalf of herself and in the public interest, and NAVITAS, of any and all direct
3 and/or derivative violations of Proposition 65 or its implementing regulations for failure to provide
4 Proposition 65 warnings of exposure to lead from the handling, use, or consumption of the Covered
5 Product and fully resolves all claims that have been or could have been asserted in this Action up to
6 and including the Effective Date for failure to provide Proposition 65 warnings for the Covered
7 Product regarding lead. MCCARTNEY, on behalf of herself and in the public interest, hereby
8 forever releases and discharges, NAVITAS and its past and present officers, directors, owners,
9 shareholders, employees, agents, attorneys, parent companies, subsidiaries, divisions, affiliates,
10 suppliers, franchisees, licensees, customers (including "Co-Brand" customers; excluding only
11 "Private Labeler" customers), distributors, wholesalers, retailers, and all other upstream and
12 downstream entities and persons in the distribution chain of any Covered Product, and the
13 predecessors, successors and assigns of any of them (collectively, "Released Parties"), from any
14 and all claims, causes of action and obligations (collectively, "Claims") for: (a) violations of
15 Proposition 65, and/or (b) to pay damages, restitution, fines, civil penalties, payment in lieu of civil
16 penalties and expenses (including but not limited to expert analysis fees, expert fees, attorney's fees
17 and costs) arising under or derived from Proposition 65 or its implementing regulations, up through
18 the Effective Date based on exposure to lead from the Covered Product and/or failure to warn about
19 lead as set forth in the Notice of Violations and the Complaint.
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23 **8.2** Compliance with the terms of this Consent Judgment shall be deemed to constitute
24 compliance by any Released Party with Proposition 65 regarding exposures or alleged exposures to
25 lead from the Covered Product as set forth in the Notice of Violations and the Complaint.
26

1 **8.4** It is possible that other Claims not known to MCCARTNEY arising out of the facts
2 alleged in the Notice of Violations or the Complaint and relating to lead in the Covered Product
3 that were manufactured, sold or Distributed into California before the Effective Date will develop
4 or be discovered. MCCARTNEY, on behalf of herself only, acknowledges that the Claims released
5 herein include all known and unknown Claims and waives California Civil Code Section 1542 as to
6 any such unknown Claims. California Civil Code Section 1542 reads as follows:
7

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

13 MCCARTNEY, on behalf of herself only, acknowledges and understands the significance and
14 consequences of this specific waiver of California Civil Code section 1542.

15 **8.5** MCCARTNEY, on one hand, and NAVITAS, on the other hand, each release and
16 waive all Claims they may have against each other for any statements or actions made or
17 undertaken by them in connection with the Notice of Violations or the Complaint. However, this
18 shall not affect or limit any Party’s right to seek to enforce the terms of this Consent Judgment. □

19 **9. CONSTRUCTION AND SEVERABILITY**

20 **9.1** The terms and conditions of this Consent Judgment have been reviewed by the
21 respective counsel for the Parties prior to its signing, and each Party has had an opportunity to fully
22 discuss the terms and conditions with its counsel. In any subsequent interpretation or construction
23 of this Consent Judgment, the terms and conditions shall not be construed against any Party.
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1 **9.2** In the event that any of the provisions of this Consent Judgment is held by a court to
2 be unenforceable, the validity of the remaining enforceable provisions shall not be adversely
3 affected.

4 **9.3** The terms and conditions of this Consent Judgment shall be governed by and
5 construed in accordance with the laws of the State of California.
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10 **10. PROVISION OF NOTICE**

11 All notices required to be given to either Party to this Consent Judgment by the other shall
12 be in writing and sent to the following agents listed below by: (a) first-class, registered, (b) certified
13 mail, (b) overnight courier, or (c) personal delivery to the following:
14

15 **For Erika McCartney:**

16 Melvin B. Pearlston
17 Robert B. Hancock
18 PACIFIC JUSTICE CENTER
19 50 California Street, Suite 1500
20 San Francisco, California 94111

21 **For Navitas, LLC:**

22 Howard Slavitt
23 Coblentz Patch Duffy & Bass LLP
24 One Ferry Building, Suite 200
25 San Francisco, CA 94111-4213
26

11. **COURT APPROVAL ☐**

1 **11.1** Upon execution of this Consent Judgment by the Parties, MCCARTNEY shall
2 notice a Motion for Court Approval. The Parties shall use their best efforts to support entry of this
3 Consent Judgment.

4 **11.2** If the California Attorney General objects to any term in this Consent Judgment, the
5 Parties shall use their best efforts to resolve the concern in a timely manner, and if possible prior to
6 the hearing on the motion.

7 **11.3** If the Court, despite the Parties' best efforts, does not approve this Stipulated
8 Consent Judgment, it shall be null and void and have no force or effect.
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12 **12. EXECUTION AND COUNTERPARTS**

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

17 **13. ENTIRE AGREEMENT, AUTHORIZATION**

18 **13.1** This Consent Judgment contains the sole and entire agreement and understanding of
19 the Parties with respect to the entire subject matter herein, and any and all prior discussions,
20 negotiations, commitments and understandings related hereto. No representations, oral or
21 otherwise, express or implied, other than those contained herein have been made by any Party. No
22 other agreements, oral or otherwise, unless specifically referred to herein, shall be deemed to exist
23 or to bind any Party.
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1 **13.2** Each signatory to this Consent Judgment certifies that he or she is fully authorized
2 by the Party he or she represents to stipulate to this Consent Judgment. Except as explicitly
3 provided herein, each Party shall bear its own fees and costs.

4 **14. REQUEST FOR FINDINGS AND FOR APPROVAL**

5 **14.1** This Consent Judgment has come before the Court upon the request of the Parties.
6
7 The parties request the Court to fully review this Consent Judgment and, being fully informed
8 regarding the matters which are the subject of this action, to:

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

12 (b) Make the findings pursuant to California Health and Safety Code Section
13 25249.7(f)(4), and approve the Settlement, and this Consent Judgment.
14

15 **IT IS SO STIPULATED.**

16
17 Dated: 12/24/16



Erika McCartney

18
19
20 Dated: _____

Navitas LLC

21 Name: _____

22 Title: _____
23
24

25 APPROVED AS TO FORM:
26

1 **13.2** Each signatory to this Consent Judgment certifies that he or she is fully authorized
2 by the Party he or she represents to stipulate to this Consent Judgment. Except as explicitly
3 provided herein, each Party shall bear its own fees and costs.

4 **14. REQUEST FOR FINDINGS AND FOR APPROVAL**

5 **14.1** This Consent Judgment has come before the Court upon the request of the Parties.
6
7 The parties request the Court to fully review this Consent Judgment and, being fully informed
8 regarding the matters which are the subject of this action, to:

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

12 (b) Make the findings pursuant to California Health and Safety Code Section
13 25249.7(f)(4), and approve the Settlement, and this Consent Judgment.

14 **IT IS SO STIPULATED.**

15
16
17 Dated: _____

Erika McCartney

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19
20 Dated: December 27, 2016

Navitas LLC

21 Name: 


22 Title: Chief Operating Officer

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24 APPROVED AS TO FORM:
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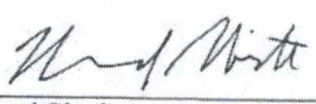
Dated: 12/30, 2016

PACIFIC JUSTICE CENTER

By: 
Robert B. Hancock
Attorneys for Plaintiff
ERIKA MCCARTNEY

Dated: December 28, 2016

COBLENTZ, PATCH, DUFFY & BASS, LLP

By: 
Howard Slavitt
Attorneys for Defendant
NAVITAS, LLC

1 **JUDGMENT**

2 Based upon the Parties' Stipulation, and good cause appearing therefor, this Consent
3 Judgment is approved and judgment is hereby entered according to its terms.
4

5 IT IS SO ORDERED, ADJUDGED AND DECREED.

6
7 Dated: _____, 2016.

Judge of the Superior Court

EXHIBIT A

Melvin B. Pearlston
Senior Counsel



Of Counsel
Robert B. Hancock

May 11, 2016

**60-DAY 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 Erika McCartney in this matter. Ms. McCartney 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 the identified 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, Ms. McCartney intends to file a private enforcement action in the public interest 60 days after effective service of this notice unless the public enforcement agencies have commenced and are diligently prosecuting an action to rectify these violations.

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

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

Navitas LLC

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

Navitas Naturals Organic Goji Berries -- 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 Ms. McCartney 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, and recommended use of these products. Consequently, the primary route of exposure to these chemicals has been and continues to be through ingestion.

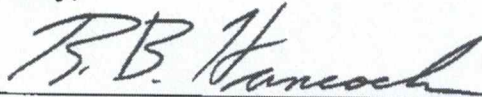
Approximate Time Period of Violations. Ongoing violations have occurred every day since at least May 11, 2015, as well as every day since the products were introduced into the

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 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, Ms. McCartney is interested in seeking a constructive resolution of this matter that includes an enforceable written agreement by the Violator to: (1) recall any products already sold, or undertake best efforts to ensure that the requisite health hazard warnings are provided to those who have received such products; (2) 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 (3) pay an appropriate civil penalty. Such a resolution will prevent further unwarned consumer exposures to the identified chemicals, as well as expensive and time-consuming litigation. It should be noted that counsel cannot (1) finalize any settlement until after the 60-day notice period has expired; or (2) speak for the California Attorney General or any District or City Attorney who has received this notice. Therefore, while reaching an agreement may satisfy the claims alleged herein, such agreement may not be satisfactory to public prosecutors.

Ms. McCartney has retained me as legal counsel in connection with this matter. Her address is 1341 58th Ave. #11, Oakland, California, 94621. Her telephone number is 707.502.8635. **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,



Robert B. Hancock

Attachments

- Certificate of Merit
- Certificate of Service
- OEHHA Summary (to Violators only)
- Additional Supporting Information for Certificate of Merit (to AG only)

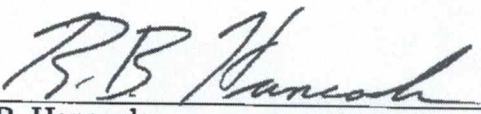
CERTIFICATE OF MERIT

Re: Notice of Proposition 65 Violations

Robert B. Hancock declares:

1. This Certificate of Merit accompanies the attached sixty-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 exposures to the listed chemicals that are the subject of the action.
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: May 11, 2016



Robert B. Hancock

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 action.

On May 11, 2016, I served the following documents: **NOTICE OF VIOLATIONS OF CALIFORNIA HEALTH & SAFETY CODE §25249.5 ET. SEQ.; CERTIFICATE OF MERIT; "THE SAFE DRINKING WATER AND TOXIC ENFORCEMENT ACT OF 1986 (PROPOSITION 65): A SUMMARY"** on the following parties by placing a true and correct copy thereof in a sealed envelope, addressed to the party listed below and depositing it in a US Postal Service Office with the postage fully prepaid for delivery by Certified Mail:


Current Manager or Managing Member
Navitas LLC
15 Pamaron Way, Suite A
Novato, CA 94949

On May 11, 2016, I served the following documents: **NOTICE OF VIOLATION CALIFORNIA HEALTH & SAFETY CODE §25249.5 ET SEQ.; CERTIFICATE OF MERIT; ADDITIONAL SUPPORTING INFORMATION FOR CERTIFICATE OF MERIT AS REQUIRED BY CALIFORNIA HEALTH & SAFETY CODE §25249.7(d)(I)** on the following parties by uploading the foregoing documents at the webpage listed below:

Office of the California Attorney General
Prop 65 Enforcement Reporting
1515 Clay Street, Ste. 2000
P.O. Box 70550
Oakland, CA 94612-0550
<https://oag.ca.gov/prop65/add-60-day-notice>

On May 11, 2016, 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. As to those parties listed by mailing address only, I effected service by placing a true and correct copy thereof in a sealed envelope, addressed to each of the parties **on the Service List attached hereto**, and depositing it with the U.S. Postal Service with the postage fully prepaid for delivery by Priority Mail. As to those parties having an e-mail address listed, I effected service by transmitting the document via electronic transmission to the e-mail address listed.

Executed under penalty of perjury pursuant to the laws of the State of California on May 11, 2016.



Robert B. Hancock

Service List

District Attorney, Alameda County 1225 Fallon St., Rm. 900 Oakland, CA 94612	District Attorney, Lake County 255 N. Forbes St. Lakeport, CA 95453	District Attorney, Riverside County 3072 Orange St. Riverside, CA 92501 Prop65@riv.co.ca.gov	District Attorney, Sonoma County 600 Administration Dr., Rm. 212J Santa Rosa, CA 95403 ibarr@sonoma-county.ca.gov
District Attorney, Alpine County P.O. Box 248 Markleeville, CA 96120	District Attorney, Lassen County 220 S. Lassen St., Ste. 8 Susanville, CA 96130	District Attorney, Sacramento County 901 "G" St. Sacramento, CA 95814	District Attorney, Stanislaus County 832 12th St., Ste. 300 Modesto, CA 95353
District Attorney, Amador County 708 Court St., #202 Jackson, CA 95642	District Attorney, Los Angeles County 210 W. Temple St., Ste. 1800 Los Angeles, CA 90012	District Attorney, San Benito County 419 Fourth St., 2nd Fl. Hollister, CA 95023	District Attorney, Sutter County 446 Second St. Yuba City, CA 95991
District Attorney, Butte County 25 County Center Dr. Oroville, CA 95965	District Attorney, Madera County 209 West Yosemite Ave. Madera, CA 93637	District Attorney, San Bernardino County 316 N. Mountain View Ave. San Bernardino, CA 92415	District Attorney, Tehama County P.O. Box 519 Red Bluff, CA 96080
District Attorney, Calaveras County 891 Mountain Ranch Road San Andreas, CA 95249	District Attorney, Marin County 3501 Civic Center Dr., Rm. 130 San Rafael, CA 94903	District Attorney, San Diego County 330 W. Broadway, Rm. 1300 San Diego, CA 92101	District Attorney, Trinity County P.O. Box 310 Weaverville, CA 96093
District Attorney, Colusa County 346 Fifth St. Ste. 101 Colusa, CA 95932	District Attorney, Mariposa County P.O. Box 730 Mariposa, CA 95338	District Attorney, San Francisco County 850 Bryant St., Rm. 322 San Francisco, CA 94103	District Attorney, Tulare County 221 S. Mooney Ave., Rm. 224 Visalia, CA 93291 Prop65@cn.tulare.ca.us
District Attorney, Contra Costa County 900 Ward St. Martinez, CA 94553 srcssini@countycostata.org	District Attorney, Mendocino County P.O. Box 1000 Ukiah, CA 95482	District Attorney, San Joaquin County P.O. Box 990 Stockton, CA 95201	District Attorney, Tuolumne County 423 N. Washington St. Sonora, CA 95370
District Attorney, Del Norte County 450 H St., Ste. 171 Crescent City, CA 95531	District Attorney, Merced County 2222 M St. Merced, CA 95340	District Attorney, San Luis Obispo County 1035 Palm St. Rm. 450 San Luis Obispo, CA 93408	District Attorney, Ventura County 800 S. Victoria Ave. Ventura, CA 93009 Prop65@co.ventura.ca.us
District Attorney, El Dorado County 515 Main St. Placerville, CA 95667	District Attorney, Modoc County 204 S Court St., Rm. 202 Alturas, CA 96101-4020	District Attorney, Santa Mateo County 400 County Ctr., 3rd Fl. Redwood City, CA 94063	District Attorney, Yolo County 301 2nd St. Woodland, CA 95695 Prop65@yolo-county.ca.us
District Attorney, Fresno County 2220 Tulare St., #1000 Fresno, CA 93721	District Attorney, Mono County P.O. Box 617 Bridgeport, CA 93517	District Attorney, Santa Barbara County 1112 Santa Barbara St. Santa Barbara, CA 93101	District Attorney, Yuba County 215 Fifth St., Ste. 152 Marysville, CA 95901
District Attorney, Glenn County P.O. Box 430 Willows, CA 95988	District Attorney, Monterey County P.O. Box 1131 Salinas, CA 93902 Prop65@co.monterey.ca.us	District Attorney, Santa Clara County 70 West Hedding St. San Jose, CA 95110 Prop65@scgov.org	Los Angeles City Attorney's Office City Hall East 200 N. Main St., Rm. 800 Los Angeles, CA 90012
District Attorney, Humboldt County 825 5th St. Eureka, CA 95501	District Attorney, Napa County 931 Parkway Mall Napa, CA 94559 Prop65@countyofnapa.org	District Attorney, Santa Cruz County 701 Ocean St., Rm. 200 Santa Cruz, CA 95060	Office of the City Attorney City of Sacramento 915 I St., 4th Fl. Sacramento, CA 95814
District Attorney, Imperial County 940 West Main St., Ste. 102 El Centre, CA 92243	District Attorney, Nevada County 201 Commercial St. Nevada City, CA 95959	District Attorney, Shasta County 1355 West St. Redding, CA 96001	San Diego City Attorney's Office 1200 3rd Ave., Ste. 1620 San Diego, CA 92101
District Attorney, Inyo County 230 W. Line St. Bishop, CA 93514	District Attorney, Orange County 401 Civic Center Dr. West Santa Ana, CA 92701	District Attorney, Sierra County PO Box 457 Downieville, CA 95936	San Francisco City Attorney's Office City Hall, Rm. 234 1 Dr. Carlton B Goodlett Place San Francisco, CA 94102
District Attorney, Kern County 1215 Truxtun Ave. Bakersfield, CA 93301	District Attorney, Placer County 10810 Justice Center Dr., Ste. 240 Roseville, CA 95678	District Attorney, Siskiyou County P.O. Box 986 Yreka, CA 96097	San Jose City Attorney's Office 200 E. Santa Clara St., 16th Fl. San Jose, CA 95113
District Attorney, Kings County 1400 West Lacey Boulevard Hanford, CA 93230	District Attorney, Plumas County 520 Main St., Rm. 404 Quincy, CA 95971	District Attorney, Solano County 675 Texas St., Ste. 4500 Fairfield, CA 94533	

EXHIBIT B



CERTIFIED ORGANIC BY SUPERFOOD COMPANY
CERTIFICATIONS CU 802080

Nutrition Facts

Serving Size: 1oz. (28g)

Servings: 4

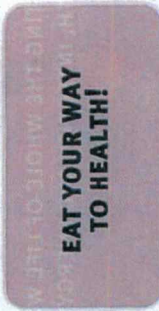
Calories 100

Calories from Fat 0

Amount/Serving	% Daily Value*	Amount/Serving	% Daily Value*
Total Fat 0g	0%	Potassium 312mg	9%
Saturated Fat 0g	0%	Total Carbohydrate 21g	7%
Trans Fat 0g	0%	Dietary Fiber 3g	12%
Cholesterol 0mg	0%	Sugars 13g	
Sodium 75mg	3%	Protein 4g	
Vitamin A 140%		Calcium 4%	
		Iron 10%	

INGREDIENTS: CERTIFIED ORGANIC GOJI BERRIES (LYCIUM BARBARUM) - PRODUCT OF CHINA
ALLERGEN INFORMATION: PACKAGED IN A FACILITY THAT ALSO HANDLES TREE NUTS (CASHEWS).
STORAGE INFORMATION: REFRIGERATION NOT REQUIRED. STORE IN A COOL, DARK, DRY PLACE.

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



WARNING: This product contains a chemical known to the state of California to cause birth defects or other reproductive harm.

EXHIBIT C

SUPERFOOD PROMISE:

Using the most health-boosting plants in the world, we promise our superfoods are organic, nutrient-dense & handled with care at every step.



PLANT
BASED



ANCIENT
TREASURE



NUTRIENT
DENSE

GOJI: AN ANCIENT CHINESE TRADITION



SNACK



BLEND



TOP



EXCELLENT SOURCE OF VIT A

1 SERVING = 110% DV



MILDLY
SWEET

SNACK OR ADD TO:

- SALADS & YOGURT
- TRAIL MIX & OTHER RECIPES

Go after each day with passion and drive.

Super-simple, super-nutritious superfoods give you the energy you need to live each day to the fullest.

In fact, Navitas (Nuh-vee-tus) is Latin for 'energy.' We search the globe for the highest-quality organic superfoods to keep you energized. What's more, we work hard to power the positive in all we do as a company, celebrating healthy foods and supporting sustainable causes.

Navitas. Live Life Positive.™



NAVITAS™
ORGANICS

NAVITASORGANICS.COM



ORGANIC - NON-GMO - KOSHER - GLUTEN-FREE - VEGAN

Distributed by Navitas Organics, Novato, CA, USA 94949.

Certified Organic by Control Union Certifications CU 802080

BPA Free

WARNING: This product contains chemicals known to the state of California to cause birth defects or other reproductive harm.

Nutrition Facts

about 8 servings per container

Serving size 3 tbsp (30g)

Amount per serving

Calories 110

% Daily Value*

Total Fat 0g 0%

Saturated Fat 0g 0%

Trans Fat 0g

Cholesterol 0mg 0%

Sodium 160mg 7%

Total Carbohydrate 23g 8%

Dietary Fiber 4g 14%

Total Sugars 13g

Includes 0g Added Sugars 0%

Protein 4g

Vitamin D 0mcg 0%

Calcium 23mg 2%

Iron 3mg 15%

Potassium 330mg 8%

Vitamin A 961mcg 110%

* The % Daily Value (DV) tells you how much a nutrient in a serving of food contributes to a daily diet. 2,000 calories a day is used for general nutrition advice.

INGREDIENTS: Certified organic goji berries (Lycium barbarum)

Product of China.

STORAGE INFORMATION: Refrigeration not required. Store in a cool, dark, dry place.

SERVING SUGGESTION: 1 serving per day.

Positive Mind — Positive Vibes — Positive Life





DISTRIBUTED BY NAVITAS NATURAL, NOVATO, CA, USA 94949
CERTIFIED ORGANIC BY CONTROL UNION, CERTIFICATIONS CU 802080
WARNING: THIS PRODUCT CONTAINS A CHEMICAL KNOWN TO THE STATE
OF CALIFORNIA TO CAUSE BIRTH DEFECTS OR OTHER REPRODUCTIVE HARM.

Nutrition Facts

Serving Size: 1 oz. (28g)
Servings Per Container: 8
Calories 100
Calories from Fat 0

Amount/Serving	% Daily Value*	Amount/Serving	% Daily Value*
Total Fat 0g	0%	Potassium 312mg	9%
Saturated Fat 0g	0%	Total Carbohydrate 21g	7%
Trans Fat 0g		Dietary Fiber 3g	12%
Cholesterol 0mg	0%	Sugars 13g	
Sodium 75mg	3%	Protein 4g	
Vitamin A 140%		Calcium 4%	
		Vitamin C 20%	Iron 10%

INGREDIENTS: CERTIFIED ORGANIC GOJI BERRIES (LYCIUM BARBARUM) - PRODUCT OF CHINA
ALLERGEN INFORMATION: PACKAGED IN A FACILITY THAT ALSO HANDLES TREE NUTS (CAJUEWS).

*PERCENTAGE DAILY VALUES BASED ON A
2,000 CALORIE DIET. YOUR DAILY VALUES