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7 WHITNEY R. LEEMAN, PH.D.

8
9 SUPERIOR COURT OF THE STATE OF CALIFORNIA

10 COUNTY OF SAN FRANCISCO

11 UNLIMITED CIVIL JURISDICTION

12
13 WHITNEY R. LEEMAN, PH.D.,

14 Plaintiff,

15 v.

16 STARBUCKS CORPORATION, *et al.*,

17 Defendants.
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Case No. CGC-16-555322

**[PROPOSED] CONSENT JUDGMENT
AS TO DEFENDANT NUMI, INC.**

(Health & Safety Code § 25249.6 *et seq.* and
Code Civ. Proc. § 664.6)

1 **1. INTRODUCTION**

2 **1.1 Parties**

3 This Consent Judgment is entered into by and between plaintiff Whitney R. Leeman, Ph.D.
4 (“Leeman”), and defendant Numi, Inc. (“Numi”), with Leeman and Numi each individually referred
5 to as a “Party” and collectively as the “Parties.”

6 **1.2 Plaintiff**

7 Leeman is an individual residing in California who seeks to promote awareness of exposures
8 to toxic chemicals, and to improve human health by reducing or eliminating hazardous substances
9 contained in consumer products.

10 **1.3 Defendant**

11 Numi employs ten or more individuals and is a “person in the course of doing business” for
12 purposes of the Safe Drinking Water and Toxic Enforcement Act of 1986, Health and Safety Code
13 section 25249.6 *et seq.* (“Proposition 65”).

14 **1.4 General Allegations**

15 Leeman alleges that Numi sells or distributes for sale in California dried teas containing lead,
16 and that it does so without providing the warning required by Proposition 65. Lead is listed pursuant
17 to Proposition 65 as a chemical known to cause birth defects or other reproductive harm. Numi
18 denies that it has violated Proposition 65.

19 **1.5 Covered Products**

20 For purposes of this Consent Judgment, “Covered Products” are defined as, and specifically
21 limited to, the *Numi Organic Tea Gunpowder Green, UPC #6 80692 10109 6*, that is sold in
22 California by Numi.

23 **1.6 Notice of Violation**

24 On August 19, 2016, Leeman served Numi, the California Attorney General, and all other
25 requisite public enforcement agencies with a 60-Day Notice of Violation (“Notice”). The Notice
26 alleges that Numi violated Proposition 65 by failing to warn its customers and consumers in
27 California of the health hazards associated with exposures to lead from the Covered Products. No
28

1 public enforcer has commenced and is diligently prosecuting an action to enforce the violations
2 alleged in the Notice.

3 **1.7 Complaint**

4 On November 10, 2016, Leeman filed the instant action. On December 6, 2016, Leeman filed
5 a first amended complaint (“Complaint”), the operative pleading in this action. The first amended
6 complaint names Numi, among others, as a defendant in the action.

7 **1.8 No Admission**

8 Numi generally denies all of the material allegations made in the Complaint and has asserted
9 various affirmative defenses in the answer it filed on February 27, 2017. Nothing in this Consent
10 Judgment shall be construed as an admission by Numi of any fact, finding, conclusion, issue of law,
11 or violation of law, nor shall compliance with this Consent Judgment constitute or be construed as an
12 admission by Numi of any fact, finding, conclusion, issue of law, or violation of law, the same being
13 specifically denied by Numi. This Section shall not, however, diminish or otherwise affect Numi’s
14 obligations, responsibilities, and duties under this Consent Judgment.

15 **1.9 Jurisdiction**

16 For purposes of this Consent Judgment only, the Parties stipulate that this Court has
17 jurisdiction over Numi as to the allegations in the Complaint, that venue is proper in the County of
18 San Francisco, and that the Court has jurisdiction to enter and enforce the provisions of this Consent
19 Judgment pursuant to Proposition 65 and Code of Civil Procedure section 664.6.

20 **1.10 Effective Date**

21 For purposes of this Consent Judgment, the term “Effective Date” means the date on which
22 the motion for approval of this Consent Judgment is granted by the Court, including the date of any
23 unopposed tentative ruling granting the approval motion.

24 **2. INJUNCTIVE RELIEF**

25 **2.1 Lead Standards**

26 Commencing on the Effective Date and continuing thereafter, Numi agrees to only import for
27 sale, manufacture for sale, or purchase for sale in or into California Covered Products that either: (i)
28

1 meet the lead standards set forth in Section 2.2; or (ii) are sold with clear and reasonable warnings
2 pursuant to Section 2.3.

3 **2.2 Lead Standards**

4 Commencing on the Effective Date and continuing thereafter, Numi shall not import,
5 manufacture, or sell in or into California, any Covered Product unless it satisfies either the “Brewing
6 Standard” set forth in Section 2.2.1 or the “Dried Tea Standard” set forth in 2.2.2 or contains a
7 warning required by Section 2.3. Compliance with Sections 2.2.1, 2.2.2 or 2.3 shall constitute
8 compliance with Proposition 65. References herein to meeting or complying with the “Lead
9 Standard” mean complying with, at Numi’s election, either the Brewing Standard or the Dried Tea
10 Standard, including as modified pursuant to Sections 2.4.1 or 2.4.2, below.

11 **2.2.1 Brewing Standard.** Covered Products meeting the Brewing Standard shall
12 yield an average infusion test result of “no reportable amount” of lead when a domestic laboratory
13 evaluates, and averages the results of, three (3) independent infusion samples of the Product taken
14 from a single lot or batch using a validated preparation method and analyzes the sample according to
15 an infusion sample of the Product using the Preparation Method (as defined below) and analyzes the
16 sample according to U.S. Environmental Protection Agency (“EPA”) testing methodology 6020 using
17 inductively coupled plasma mass spectrometry (ICP-MS). The sample shall be prepared by placing
18 one prepackaged tea bag or, for loose leaf teas, two grams of dried tea leaves, in 237 milliliters (mL)
19 of deionized water heated to 100 degrees Celcius for three minutes, and after those three minutes
20 decanting a representative sample of the resulting infusion for analysis (the “Preparation Method”).
21 For purposes of this Section, “no reportable amount” is defined as an amount of lead that does not
22 exceed a reporting limit of 1.00 microgram per liter ($\mu\text{g/L}$).

23 **2.2.2 Dried Tea Standard.** Covered Products meeting the Dried Tea Standard shall
24 yield a content test result of “no reportable amount” of lead when a domestic laboratory evaluates a
25 representative sample of the dried tea Covered Product using a validated preparation method and
26 analyzes the sample according to EPA testing methodology 6020 using ICP-MS. For purposes of this
27 Section, “no reportable amount” is defined as an amount of lead that does not exceed 0.25
28 milligrams/kilogram (mg/kg).

1 **2.3 Warnings**

2 Commencing on the Effective Date and continuing thereafter, those Covered Products sold,
3 offered for sale, or distributed for sale in California by Numi that are not Reformulated Products,
4 shall be accompanied by a clear and reasonable warning, in accordance with this section. The
5 warning required by this section shall be prominently placed in relation to the Covered Product with
6 such conspicuousness when compared with other words, statements, designs, or devices as to render
7 it likely to be read and understood by an ordinary individual under customary conditions of purchase
8 or use. A clear warning specified in this section shall be deemed reasonable if transmitted in
9 accordance with Title 27, Article 6 § 25602 or 25607.1. The following warning statement shall be
10 deemed clear:

11 **WARNING:** Consuming this product can expose you to
12 chemicals including lead, which is known to the
13 State of California to cause birth defects or other
14 reproductive harm. For more information go to
 www.P65Warnings.ca.gov/food

15 **2.4 Modification of the Lead Standards**

16 The standards set forth in Section 2.2, above, shall not be modified unless the conditions and
17 procedures set forth in Sections 2.4.1 or 2.4.2, below, are satisfied.

18 **2.4.1 Alternative Standards Adopted by The State of California.** Defendant may
19 utilize any lead standard or level for any dried tea or teas (loose leaf or bagged) that is, or has been, at
20 any time: (i) adopted by The State of California, either by statute or regulation; or (ii) agreed to by
21 the California Attorney General, either in the public interest or on behalf of the People of the State of
22 California, in a consent judgment entered by a Superior Court of the State of California. In the event
23 Defendant intends to utilize a standard permitted by this subsection, Defendant shall provide Leeman
24 with written notice of the proposed change and the basis therefor.

25 **2.4.2 Alternative Standards Adopted by Leeman.** Defendant may utilize any lead
26 standard or level for any dried tea or teas (loose leaf or bagged) that is, or has been, at any time,
27 agreed to by Leeman in a consent judgment entered by a California Superior Court, or established by
28 the Court as part of a judgment or statement of decision following a trial on the merits. In the event

1 Defendant intends to utilize a standard permitted by this subsection, Defendant shall provide Leeman
2 with written notice of the proposed change and the agreement entered by Leeman supporting the
3 proposed new standard.

4 **3. MONETARY SETTLEMENT TERMS**

5 Pursuant to Health and Safety Code section 25249.7(b), and in settlement of all claims
6 contained in or referred to in the Notices, Complaint, and this Consent Judgment, Numi shall make
7 payments totaling \$34,500.00 (thirty-four thousand five hundred dollars) within ten days of the
8 Effective Date, as more specifically set forth in sections 3.1 and 3.2, below, which shall be in full and
9 final satisfaction of any and all civil penalties and attorneys' fees and costs owed to plaintiff and/or
10 her counsel. All payments required by this Consent Judgment shall be delivered to:

11 The Chanler Group
12 Attn: Proposition 65 Controller
13 2560 Ninth Street
14 Parker Plaza, Suite 214
15 Berkeley, CA 94710

14 **3.1 Civil Penalty Payment**

15 Numi shall pay \$5,000.00 (five thousand dollars) in civil penalties. Numi's civil penalty
16 payment will be allocated according to Health and Safety Code section 25249.12(c)(1) and (d), with
17 seventy-five percent (75%) of the penalty paid to the California Office of Environmental Health
18 Hazard Assessment ("OEHHA"), and the remaining twenty-five percent (25%) of the penalty
19 payment retained by Leeman. Numi shall issue its payment in two checks for the following amounts
20 made payable to (a) "OEHHA" in the amount of \$3,750.00 (three thousand seven hundred fifty
21 dollars); and (b) "Whitney R. Leeman, Client Trust Account" in the amount of \$1,250.00 (one
22 thousand two hundred fifty dollars). Leeman's counsel shall be responsible for delivering OEHHA's
23 portion of the civil penalty paid under this Consent Judgment.

24 **3.2 Reimbursement of Attorney's Fees and Costs**

25 Numi shall pay \$29,500 (twenty-nine thousand five hundred dollars) by a check made payable
26 to "The Chanler Group" for all fees and costs incurred investigating, bringing this matter to Numi's
27 attention, litigating, and negotiating a settlement in the public interest. The parties acknowledge that
28 Leeman and her counsel offered to resolve this dispute without reaching terms on the fees and costs

1 to be reimbursed to them, thereby leaving the issue to be resolved after the material terms of this
2 Consent Judgment had been settled. Shortly after the other settlement terms had been finalized, the
3 Parties negotiated the compensation due to Leeman and her counsel under general contract principles
4 and the private attorney general doctrine codified at California Code of Civil Procedure section
5 1021.5 for all work performed through the mutual execution of this Consent Judgment, and through
6 court approval of the same, but exclusive of fees and costs on appeal, if any.

7 **4. CLAIMS COVERED AND RELEASED**

8 **4.1 Leeman’s Public Release of Proposition 65 Claims**

9 In consideration for the promises and agreements contained herein, and for the payments to
10 be made pursuant to Section 3 (including subsections 3.1 and 3.2), Leeman, acting in the public
11 interest, on her own behalf, and on behalf of her past and current agents, representatives, attorneys,
12 successors, and assignees, hereby releases and discharges (a) Numi and its past and present parents,
13 subsidiaries, affiliated entities under common ownership, directors, officers, owners, shareholders,
14 employees, representatives, agents, attorneys, and Co-Brand customers (“Releasees”), (b) each
15 person or entity to whom Numi directly or indirectly distributes or sells the Covered Products
16 including, but not limited to, Numi’s downstream distributors, wholesalers, customers, retailers,
17 franchisees, cooperative members, licensors, and licensees (“Downstream Releasees”), and (c) each
18 person or entity that provided any raw materials or component of the Covered Products to Numi
19 (“Upstream Releasees”), of and from any and all claims and causes of action arising under, based
20 on or derivative of Proposition 65 or its implementing regulations, based on the alleged or actual
21 exposures to lead or failure to warn about exposures to lead in any and all Covered Products
22 imported, manufactured, sold, or distributed for sale by Numi on or before the Effective Date, as set
23 forth in the Notice. All Products that have been distributed, shipped, or sold by any of the
24 Releasees or Downstream Releasees through and including the Effective Date of this Agreement are
25 exempt from the provisions of Sections 2.2 - 2.3, and are included within the scope of the release
26 and discharge in this paragraph. Compliance with the terms of this Consent Judgment constitutes
27 compliance with Proposition 65 by Numi, Numi’s successors and assigns, the other Releasees, and
28 Downstream Releasees with respect to exposures to lead or failure to warn about exposures to lead

1 in Covered Products distributed, shipped, or sold by Numi after the Effective Date.

2 To avoid ambiguity, the release and discharge in this Section 4.1 as to Upstream Releasees is
3 limited to the Products that said Upstream Releasee produced, grew, manufactured, or otherwise
4 provided to for Numi and that Numi then distributed, shipped, or sold under the Numi brand or a Co-
5 Brand customer's brand, and shall specifically exclude any Products said Upstream Releasee
6 produced, grew, manufactured, or otherwise sold, that were then sold by any entity, other than Numi,
7 or sold under any brand, other than the Numi brand or its Co-Brand customer's brand. To avoid
8 ambiguity, if a Numi Co-Brand customer also markets, distributes, or sells dried tea that is produced
9 or manufactured by an entity other than Numi or its affiliates, only those Covered Products produced
10 or manufactured by Numi are included within the release and discharge in this Section 4.1.

11 A "Co-Brand" customer means an entity that is not an affiliate of Numi that has entered into
12 an agreement with Numi pursuant to which such other entity markets, distributes or sells dried tea
13 products under a different brand name from Numi, which dried tea is produced, grown, or
14 manufactured by Numi. The only customer with which Numi has had a Co-Branding agreement in
15 effect and for which Numi has produced, grown, or manufactured dried tea within the past two years
16 is Sodexo S.A. for the "Sodexo" brand.

17 **4.2 Leeman's Individual Release of Claims**

18 Leeman, in her individual capacity only and *not* in her representative capacity, on her own
19 behalf and on behalf of her past and current agents, representatives, attorneys, successors, and
20 assignees, also provides a release and discharge to Numi, Releasees, Downstream Releasees, and
21 Upstream Releasees which shall be effective as a full and final accord and satisfaction, as a bar to any
22 and all suits, actions, and causes of action in law or in equity, whether arising from any violation of
23 Proposition 65 or any other statutory or common law claims or causes of action, obligations, costs,
24 expenses, attorneys' fees, damages, civil penalties, payments in lieu of civil penalties, losses, claims,
25 liabilities, and demands of any nature, character, or kind, whether known or unknown, suspected or
26 unsuspected, arising out of alleged or actual exposures to lead in Covered Products imported,
27 manufactured, sold, or distributed for sale by Numi before the Effective Date.

28

1 **4.3 Numi’s Release of Leeman**

2 Numi, on its own behalf, and on behalf of its past and current agents, representatives,
3 attorneys, successors, and assignees, hereby waives any and all claims against Leeman and her
4 attorneys and other representatives, for any and all actions taken or statements made by Leeman and
5 her attorneys and other representatives, whether in the course of investigating claims, seeking to
6 enforce Proposition 65 against Numi in this matter, or with respect to the Covered Products.

7 **5. COURT APPROVAL**

8 This Consent Judgment is not effective until it is approved and entered by the Court, and shall
9 be null and void if it is not approved and entered by the Court within one year after it has been fully
10 executed by the Parties, or by such additional time to which the Parties may agree in writing.

11 **6. SEVERABILITY**

12 If, subsequent to the Court’s approval and entry of this Consent Judgment as a judgment, any
13 provision is held by a court to be unenforceable, the validity of the remaining provisions shall not be
14 adversely affected.

15 **7. GOVERNING LAW**

16 The terms of this Consent Judgment shall be governed by the laws of the state of California
17 and apply within the state of California. In the event that Proposition 65 is repealed, or is otherwise
18 rendered inapplicable by reason of law generally or as to the Covered Products, then Numi may
19 provide written notice to Leeman of any asserted change in the law, and shall have no further
20 injunctive obligations pursuant to this Consent Judgment with respect to, and to the extent that, the
21 Covered Products are so affected.

22 **8. NOTICE**

23 Unless specified herein, all correspondence and notice required by this Consent Judgment
24 shall be in writing and sent by: (a) personal delivery; (b) first-class, registered or certified mail, return
25 receipt requested; or (c) a recognized overnight courier on any Party by the other at the following
26 addresses (for Numi, all notices shall be sent to both Messrs. Ramin and Vogelheim):
27
28

1 For Numi:

2 Ahmed Ramin, CEO
3 Numi, Inc.
4 400 23rd Avenue
Oakland, CA 94606

Thomas W. Vogelheim, Esq.
NELSON VOGELHEIM & PHILLIPS, LLP
1101 Fifth Avenue, Suite 305
San Rafael, CA 94901

5 For Leeman:

6 The Chanler Group
7 Attn: Proposition 65 Coordinator
8 2560 Ninth Street
Parker Plaza, Suite 214
Berkeley, CA 94710-2565

9 Any Party may, from time to time, specify in writing to the other a change of address to which all
10 notices and other communications shall be sent.

11 **9. COUNTERPARTS; FACSIMILE SIGNATURES**

12 This Consent Judgment may be executed in counterparts and by facsimile signature, each of
13 which shall be deemed an original, and all of which, when taken together, shall constitute one and the
14 same document.

15 **10. POST EXECUTION ACTIVITIES**

16 Leeman agrees to comply with the reporting form requirements referenced in Health and
17 Safety Code section 25249.7(f). The Parties further acknowledge that, pursuant to Health and Safety
18 Code section 25249.7(f), a noticed motion is required to obtain judicial approval of the settlement,
19 which Leeman shall draft and file. In furtherance of obtaining such approval, the Parties agree to
20 mutually employ their best efforts, and those of their counsel, to support the entry of this agreement
21 as judgment, and to obtain judicial approval of their settlement in a timely manner. For purposes of
22 this Section, "best efforts" shall include, at a minimum, supporting the motion for approval,
23 responding to any opposition or objection any third-party may file, and appearing at the hearing
24 before the Court if so requested.

25 **11. MODIFICATION**

26 This Consent Judgment may be modified only by: (i) a written agreement of the Parties and
27 entry of a modified consent judgment thereon by the Court; or (ii) a successful motion or application
28 of any Party, and the entry of a modified consent judgment thereon by the Court.

1 **12. ENFORCEMENT**

2 **12.1 Future Sales of Covered Products Alleged to Violate this Consent Judgment.**

3 In order to assert an alleged violation of this Consent Judgment, Leeman shall provide written
4 notice to Numi of the alleged violation in accordance with this Section (“Notice of Breach”). The
5 Notice of Breach shall include: (a) copies of all test results conducted on the Covered Products during
6 the three month period for which the violation is alleged; (b) such test results must be of no less than
7 three of the Covered Products collected within the three month period; (c) the average of all test
8 results for the period must exceed the Lead Standard; and (d) copies of (i) purchase information for
9 the allegedly violating Covered Products, and (ii) a digital image of the allegedly violating Covered
10 Products showing the SKU, UPC, Lot, and Batch number(s), if any.

11 Numi and Leeman shall, within sixty days of Numi’s receipt of the Notice of Breach, meet
12 and confer regarding the alleged violation. During this time, Leeman shall not file any motion,
13 application, action, or pleading regarding the violation(s) alleged in the Notice of Breach.

14 For the first alleged violation for which Leeman provides Numi with a Notice of Breach,
15 Numi may demonstrate compliance by providing verified results for lead testing performed in three
16 samples of the Covered Product that shows the average level of lead content measured meets the
17 Lead Standard. If Numi cannot demonstrate compliance, it must pay a stipulated civil penalty of
18 \$2,500.00 to be allocated according to Section 3.1.

19 In the event that, thereafter, Leeman provides a Notice of Breach alleging a second violation
20 of the Consent Judgment by Numi, she must do so in accordance with this paragraph. Provided,
21 however, that if Numi demonstrates compliance in response to a first alleged violation consistent with
22 the foregoing paragraph, then any additional Notice(s) of Breach, the method for Numi to show
23 compliance with this Consent Judgment, and any required payments pursuant thereto, shall be in the
24 same manner as for a first alleged violation. There shall be no second violation or second alleged
25 violation, unless and until Numi fails to demonstrate compliance in response to a first alleged
26 violation. For a second alleged violation, Numi may demonstrate compliance with the Consent
27 Judgment by providing test results obtained using the test methodologies established by subsections
28 2.2.1 or 2.2.2, conducted on five samples of the Covered Product, indicating that the average of any

1 three such results complies with the Lead Standard (i.e., even taking the highest three results); such a
2 showing shall constitute compliance and no penalty or other payment shall be owed.

3 In the event that Numi cannot demonstrate compliance in the manner set forth above after
4 receipt of a second Notice of Breach for a Covered Product, Numi shall pay a stipulated penalty of
5 \$5,000.00 for the second, and each subsequent, violation(s).

6 **12.2 Future Sales of Additional Non-Covered Products**

7 In order to assert an alleged violation of Proposition 65 that alleges exposure to lead from any
8 Numi dried tea or teas (loose leaf or bagged) that is not a Covered Product (“Non-Covered
9 Products”), Leeman shall provide notice to Numi of the alleged violation that includes: (a) all test
10 results conducted on a specific Non-Covered Product during the three month period for which a
11 violation is alleged; (b) such testing must be of no less than three of the same Non-Covered Product
12 collected within the same three month period; (c) the average of all test results for that period must
13 exceed the Lead Standard; and (d) Leeman shall provide Numi with a copy of the (i) purchase
14 information for the accused Non-Covered Product and (ii) a digital image of the Non-Covered
15 Product packaging or labeling showing the SKU, UPC, Lot, and Batch number(s), if any.

16 Thereafter, Numi and Leeman shall, within sixty days of Numi’s receipt of the notice, meet
17 and confer regarding the Non-Covered Product(s). During this time Leeman shall not serve a 60-Day
18 Notice of Violation regarding the alleged violation(s).

19 For the first alleged violation as to any specific Non-Covered Product for which Leeman
20 provides notice of a violation, Numi may demonstrate compliance by providing verified lead test
21 results for testing performed in accordance with the methodologies established by subsections 2.2.1
22 or 2.2.2 for three samples of the Non-Covered Product that show that the average level of lead
23 content meets the Lead Standard. If Numi cannot demonstrate compliance, it shall have a right to
24 cure the initial alleged violation and shall demonstrate that the violation has been cured by providing
25 verified lead test results for three samples of the Non-Covered Product, showing that the average
26 level meets the Lead Standard.

27 In the event that, thereafter, Leeman provides Numi with notice pertaining to a second (or
28 subsequent) alleged violation for the same Non-Covered Product, she must do so in accordance with

1 this Section. Provided, however, that if Numi demonstrates compliance in response to a first alleged
2 violation consistent with the foregoing paragraph, then any additional notice(s) of an alleged
3 violation of Proposition 65 for the same Non-Covered Product and the method for Numi to show
4 compliance with the Lead Standard, shall be in the same manner as for a first alleged violation.
5 There shall be no second violation or second alleged violation, unless and until Numi fails to
6 demonstrate compliance for a first alleged violation pursuant to the preceding paragraph. For any
7 second (or subsequent) alleged violation noticed by Leeman regarding the same Non-Covered
8 Product, Numi may demonstrate compliance by providing test results, using those test methodologies
9 established by subsections 2.2.1 or 2.2.2, conducted on five samples of the Non-Covered Product
10 indicating that the average of any three such results comply with the Lead Standard (i.e., even taking
11 the highest three results); such a showing shall constitute compliance and no penalty or other
12 payment shall be owed.

13 In the event that Numi cannot demonstrate compliance in the manner set forth above after
14 receipt of a second (or subsequent) notice for the same Non-Covered Product, Leeman may issue a
15 60-Day Notice of Violation for the Non-Covered Product or otherwise seek to remedy the alleged
16 violations under the law.

17 **12.3 Application of Sections 12.1 and 12.2 to Co-Brand Customers.**

18 Sections 12.1 and 12.2 shall also be applicable to any Co-Brand customers, as long as Numi
19 provides written notice to Plaintiff of the Co-Brand customer's brand name within 90 (ninety) days of
20 entering into any new Co-Branding agreements.

21 **13. AUTHORIZATION**


22 The undersigned are authorized to execute this Consent Judgment and acknowledge that they
23 have read, understand, and agree to all of the terms and conditions contained herein.

24 **AGREED TO:**

AGREED TO:

25 Date: 6/12/2017

Date: _____

26
27 By: 
28 WHITNEY R. LEEMAN, PH.D.

By: _____
AHMED RAMIN, CEO
NUMI, INC.

1 this Section. Provided, however, that if Numi demonstrates compliance in response to a first alleged
2 violation consistent with the foregoing paragraph, then any additional notice(s) of an alleged
3 violation of Proposition 65 for the same Non-Covered Product and the method for Numi to show
4 compliance with the Lead Standard, shall be in the same manner as for a first alleged violation.
5 There shall be no second violation or second alleged violation, unless and until Numi fails to
6 demonstrate compliance for a first alleged violation pursuant to the preceding paragraph. For any
7 second (or subsequent) alleged violation noticed by Leeman regarding the same Non-Covered
8 Product, Numi may demonstrate compliance by providing test results, using those test methodologies
9 established by subsections 2.2.1 or 2.2.2, conducted on five samples of the Non-Covered Product
10 indicating that the average of any three such results comply with the Lead Standard (i.e., even taking
11 the highest three results); such a showing shall constitute compliance and no penalty or other
12 payment shall be owed.

13 In the event that Numi cannot demonstrate compliance in the manner set forth above after
14 receipt of a second (or subsequent) notice for the same Non-Covered Product, Leeman may issue a
15 60-Day Notice of Violation for the Non-Covered Product or otherwise seek to remedy the alleged
16 violations under the law.

17 **12.3 Application of Sections 12.1 and 12.2 to Co-Brand Customers.**

18 Sections 12.1 and 12.2 shall also be applicable to any Co-Brand customers, as long as Numi
19 provides written notice to Plaintiff of the Co-Brand customer's brand name within 90 (ninety) days of
20 entering into any new Co-Branding agreements.

21 **13. AUTHORIZATION**

22 The undersigned are authorized to execute this Consent Judgment and acknowledge that they
23 have read, understand, and agree to all of the terms and conditions contained herein.

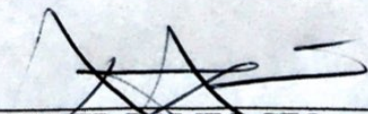
24 **AGREED TO:**

25 Date: _____

27 By: _____
28 WHITNEY R. LEEMAN, PH.D.

AGREED TO:

25 Date: June 19, 2017

27 By:  _____
28 AHMED RAMIN, CEO
NUMI, INC.