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17 WELLNX LIFE SCIENCES INC.

18 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
19 **COUNTY OF ALAMEDA**

20 **ENVIRONMENTAL RESEARCH**
21 **CENTER, INC., a California non-profit**
22 **corporation**

23 **Plaintiff,**

24 **vs.**

25 **WELLNX LIFE SCIENCES INC. and**
26 **DOES 1-100**

27 **Defendants.**

28 **CASE NO. RG17885219**

STIPULATED CONSENT
JUDGMENT

Health & Safety Code § 25249.5 *et seq.*

Action Filed: December 7, 2017

Trial Date: None set

1. INTRODUCTION

1.1 On December 7, 2017, Plaintiff Environmental Research Center, Inc. (“ERC”), a non-profit corporation, as a private enforcer and in the public interest, initiated this action by filing a Complaint for Injunctive and Declaratory Relief and Civil Penalties (the “Complaint”) pursuant to the provisions of California Health and Safety Code section 25249.5 *et seq.*

1 (“Proposition 65”), against Wellnx Life Sciences Inc. (“Wellnx”) and Does 1-100. In this
2 action, ERC alleges that a number of products manufactured, distributed, or sold by Wellnx
3 contain lead and/or cadmium, chemicals listed under Proposition 65 as carcinogens and
4 reproductive toxins, and expose consumers to these chemicals at a level requiring a Proposition
5 65 warning. These products (referred to hereinafter individually as a “Covered Product” or
6 collectively as “Covered Products”) are: (1) Pure Goodness Premium Superfood Whole Food
7 Supermeal Natural Vanilla (lead, cadmium), (2) CrossFuel Pure Performance 100% Whey
8 Isolate Vanilla (lead), (3) SlimQuick Pure Weight-Loss Protein Designed for Women Lose 3X
9 The Weight Double Chocolate (lead), (4) SlimQuick Pure Men Lose 3X The Weight For Men
10 Extra Strength (lead), (5) Nature's Science 100% Pure Raspberry Ketone (lead), (6) Nature's
11 Science 100% Pure Garcinia Cambogia (lead), (7) SlimQuick RX•8 Weight Loss (lead), (8)
12 Pure Goodness Premium Superfood Hemp Seed Protein Natural Chocolate (lead), (9) Pure
13 Goodness Premium Superfood Pumpkin Seed Protein Unflavored (lead), (10) Pure Goodness
14 Premium Superfood Pumpkin Seed Protein Natural Chocolate (lead), (11) Pure Goodness
15 Premium Superfood Whole Food Supermeal Natural Chocolate (lead, cadmium), (12)
16 CrossFuel Pure Performance Power Plant 30 Vegan Protein for Athletes Chocolate (lead), (13)
17 CrossFuel Pure Performance Amino Reps BCAA Hydration Matrix Fruit Punch (lead), (14)
18 Nature's Science Slim 3 3-in-1 Weight-Loss Formula (lead), (15) Nature's Science AquaLean
19 Natural Diuretic (lead), and (16) CrossFuel Pure Performance Pro 10X 10 Premium Time
20 Released Proteins Chocolate (cadmium).

21 **1.2** ERC and Wellnx are hereinafter referred to individually as a “Party” or
22 collectively as the “Parties.”

23 **1.3** ERC is a 501 (c)(3) California non-profit corporation dedicated to, among other
24 causes, helping safeguard the public from health hazards by reducing the use and misuse of
25 hazardous and toxic chemicals, facilitating a safe environment for consumers and employees,
26 and encouraging corporate responsibility.

27 **1.4** For purposes of this Consent Judgment, the Parties agree that Wellnx is a business
28 entity that has employed ten or more persons at all times relevant to this action, and qualifies as a

1 “person in the course of business” within the meaning of Proposition 65. Wellnx manufactures,
2 distributes, and/or sells the Covered Products.

3 **1.5** The Complaint is based on allegations contained in ERC’s Notice of Violation
4 dated July 28, 2017 that was served on the California Attorney General, other public enforcers,
5 and Wellnx (“Notice”). A true and correct copy of the 60-Day Notice dated July 28, 2017 is
6 attached hereto as **Exhibit A** and incorporated herein by reference. More than 60 days have
7 passed since the Notice was served on the Attorney General, public enforcers, and Wellnx and
8 no designated governmental entity has filed a complaint against Wellnx with regard to the
9 Covered Products or the alleged violations.

10 **1.6** ERC’s Notice and Complaint allege that use of the Covered Products exposes
11 persons in California to lead and/or cadmium without first providing clear and reasonable
12 warnings in violation of California Health and Safety Code section 25249.6. Wellnx denies all
13 material allegations contained in the Notice and Complaint.

14 **1.7** The Parties have entered into this Consent Judgment in order to settle,
15 compromise, and resolve disputed claims and thus avoid prolonged and costly litigation.
16 Nothing in this Consent Judgment nor compliance with this Consent Judgment shall constitute or
17 be construed as an admission by any of the Parties or by any of their respective officers,
18 directors, shareholders, employees, agents, parent companies, subsidiaries, divisions, franchisees,
19 licensees, customers, suppliers, distributors, wholesalers, or retailers of any fact, issue of law, or
20 violation of law.

21 **1.8** Except as expressly set forth herein, nothing in this Consent Judgment shall
22 prejudice, waive, or impair any right, remedy, argument, or defense the Parties may have in any
23 current or future legal proceeding unrelated to these proceedings.

24 **1.9** The Effective Date of this Consent Judgment is the date on which it is entered as
25 a Judgment by this Court. The Compliance Date is thirty (30) days after the Effective Date.

26 **2. JURISDICTION AND VENUE**

27 For purposes of this Consent Judgment and any further court action that may become
28 necessary to enforce this Consent Judgment, the Parties stipulate that this Court has subject matter

1 jurisdiction over the allegations of violations contained in the Complaint, personal jurisdiction
2 over Wellnx as to the acts alleged in the Complaint, that venue is proper in Alameda County, and
3 that this Court has jurisdiction to enter this Consent Judgment as a full and final resolution of all
4 claims up through and including the Effective Date which were or could have been asserted in this
5 action based on the facts alleged in the Notice and Complaint.

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

7 **3.1** Beginning on the Compliance Date, Wellnx shall be permanently enjoined from
8 manufacturing for sale in the State of California, “Distributing into the State of California”, or
9 directly selling in the State of California, any Covered Products which expose a person to a
10 “Daily Lead Exposure Level” of more than 0.5 micrograms of lead per day and/or “Daily
11 Cadmium Exposure Level” of more than 4.1 micrograms of cadmium per day unless it meets
12 the warning requirements under Section 3.2.

13 **3.1.1** As used in this Consent Judgment, the term “Distributing into the State
14 of California” shall mean to directly ship a Covered Product into California for sale in
15 California or to sell a Covered Product to a distributor that Wellnx knows or has reason to
16 know will sell the Covered Product in California.

17 **3.1.2** For purposes of this Consent Judgment, the “Daily Lead Exposure
18 Level” and “Daily Cadmium Exposure Level” shall be measured in micrograms, and shall be
19 calculated using the following formula: micrograms of lead or cadmium per gram of product,
20 multiplied by grams of product per serving of the product (using the largest serving size
21 appearing on the product label), multiplied by servings of the product per day (using the largest
22 number of servings in a recommended dosage appearing on the product label), which equals
23 micrograms of lead or cadmium exposure per day. If no recommended daily serving size is
24 provided on the label, then the daily serving size shall equal one.

25 **3.2 Clear and Reasonable Warnings**

26 If Wellnx is required to provide a warning pursuant to Section 3.1, the following warning
27 must be utilized (“Warning”):

28 **WARNING TO CALIFORNIA RESIDENTS:** Consuming this product can expose you

1 to chemicals including [lead] [and] [cadmium] which is [are] known to the State of
2 California to cause [cancer and] birth defects or other reproductive harm. For more
information go to www.P65Warnings.ca.gov/food.

3 Wellnx shall use the phrase “cancer and” in the Warning if Wellnx has reason to believe
4 that the the “Daily Lead Exposure Level” is greater than 15 micrograms of lead as determined
5 pursuant to the quality control methodology set forth in Section 3.4 or if Wellnx has reason to
6 believe that another Proposition 65 chemical is present which may require a cancer warning. As
7 identified in the brackets, the warning shall appropriately reflect whether there is lead, cadmium,
8 or both chemicals present in each of the Covered Products.

9 The Warning shall be securely affixed to or printed upon the container or label of each
10 Covered Product. In addition, for any Covered Product sold by Wellnx over the internet on a site
11 controlled by Wellnx, the Warning shall appear in one of the following locations: (i) the
12 checkout page when a California delivery address is indicated for any purchase of any Covered
13 Product, or (ii) the product display page. An asterisk or other identifying method must be
14 utilized to identify which products on the checkout page are subject to the Warning.

15 The Warning shall be at least the same size as the largest of any other health or safety
16 warnings also appearing on its website or on the label or container of Wellnx’s product packaging
17 and the word “**WARNING**” shall be in all capital letters and in bold print. No statements intended
18 to or likely to have the effect of diminishing the impact of the Warning on the average lay person
19 shall accompany the Warning. Further no statements may accompany the Warning that state or
20 imply that the source of the listed chemical has an impact on or results in a less harmful effect of
21 the listed chemical.

22 Wellnx must display the above Warning with such conspicuousness, as compared with
23 other words, statements, design of the label, container, or on its website, as applicable, to render
24 the Warning likely to be read and understood by an ordinary individual under customary
25 conditions of purchase or use of the product.

26 **3.3 Reformulated Covered Products**

27 A Reformulated Covered Product is one for which the “Daily Lead Exposure Level” is no
28 greater than 0.5 micrograms of lead per day and/or “Daily Cadmium Exposure Level” is no more

1 than 4.1 micrograms of cadmium per day as determined by the quality control methodology
2 described in Section 3.4.

3 **3.4 Testing and Quality Control Methodology**

4 **3.4.1** Beginning within one year of the Effective Date, Wellnx shall arrange
5 for lead and/or cadmium testing of the Covered Products at least once a year for a minimum of
6 three (3) consecutive years by arranging for testing of three (3) randomly selected samples of
7 each of the Covered Products, in the form intended for sale to the end-user, which Wellnx
8 intends to sell or is manufacturing for sale in California, directly selling to a consumer in
9 California or "Distributing into the State of California." The testing requirement does not apply
10 to Covered Products for which Wellnx has provided the Warning specified in Section 3.2. If
11 tests conducted pursuant to this Section demonstrate that no Warning is required for a Covered
12 Product during each of three (3) consecutive years, then the testing requirements of this Section
13 will no longer be required as to that Covered Product. However, if during or after the three-year
14 testing period, Wellnx changes ingredient suppliers for any of the Covered Products and/or
15 reformulates any of the Covered Products, Wellnx shall test that Covered Product annually for
16 at least two (2) consecutive years after such change is made.

17 **3.4.2** For purposes of measuring the "Daily Lead Exposure Level" and/or
18 "Daily Cadmium Exposure Level," the highest lead and/or cadmium detection result of the
19 three (3) randomly selected samples of the Covered Products will be controlling.

20 **3.4.3** All testing pursuant to this Consent Judgment shall be performed using a
21 laboratory method that complies with the performance and quality control factors appropriate
22 for the method used, including limit of detection, qualification, accuracy, and precision that
23 meets the following criteria: Inductively Coupled Plasma-Mass Spectrometry ("ICP-MS")
24 achieving a limit of quantification of less than or equal to 0.010 mg/kg or any other testing
25 method subsequently agreed to in writing by the Parties and approved by the Court through
26 entry of a modified consent judgment.

27 **3.4.4** All testing pursuant to this Consent Judgment shall be performed by an
28 independent third party laboratory certified by the California Environmental Laboratory

1 Accreditation Program or an independent third-party laboratory that is registered with the
2 United States Food & Drug Administration.

3 **3.4.5** Nothing in this Consent Judgment shall limit Wellnx's ability to conduct,
4 or require that others conduct, additional testing of the Covered Products, including the raw
5 materials used in their manufacture.

6 **3.4.6** Within thirty (30) days of ERC's written request, Wellnx shall deliver
7 lab reports obtained pursuant to Section 3.4 to ERC. Wellnx shall retain all test results and
8 documentation for a period of five years from the date of each test.

9 **4. SETTLEMENT PAYMENT**

10 **4.1** In full satisfaction of all potential civil penalties, additional settlement payments,
11 attorney's fees, and costs, Wellnx shall make a total payment of \$90,000.00 ("Total Settlement
12 Amount") to ERC within 6 months of the Effective Date in six (6) equal monthly installments
13 of \$15,000 with the first payment due and owing within five (5) days of the Effective Date and
14 each additional payment to follow in thirty (30) day increments ("Due Dates"). Wellnx shall
15 make each payment by wire transfer to ERC's escrow account, for which ERC will give
16 Wellnx the necessary account information. The Total Settlement Amount shall be apportioned
17 as follows:

18 **4.2** \$24,150.92 shall be considered a civil penalty pursuant to California Health and
19 Safety Code section 25249.7(b)(1). ERC shall remit 75% (\$18,113.19) of the civil penalty to
20 the Office of Environmental Health Hazard Assessment ("OEHHA") for deposit in the Safe
21 Drinking Water and Toxic Enforcement Fund in accordance with California Health and Safety
22 Code section 25249.12(c). ERC will retain the remaining 25% (\$6,037.73) of the civil penalty.

23 **4.3** \$5,421.97 shall be distributed to ERC as reimbursement to ERC for reasonable
24 costs incurred in bringing this action.

25 **4.4** \$18,113.17 shall be distributed to ERC as an Additional Settlement Payment
26 ("ASP"), pursuant to California Code of Regulations, title 11, sections 3203, subdivision (d) and
27 3204. ERC will utilize the ASP for activities that address the same public harm as allegedly
28 caused by Defendant in this matter. These activities are detailed below and support ERC's

1 overarching goal of reducing and/or eliminating hazardous and toxic chemicals in dietary
2 supplement products in California. ERC's activities have had, and will continue to have, a direct
3 and primary effect within the State of California because California consumers will be benefitted
4 by the reduction and/or elimination of exposure to lead and/or cadmium in dietary supplements
5 and/or by providing clear and reasonable warnings to California consumers prior to ingestion of
6 the products.

7 Based on a review of past years' actual budgets, ERC is providing the following list of
8 activities ERC engages in to protect California consumers through Proposition 65 citizen
9 enforcement, along with a breakdown of how ASP funds will be utilized to facilitate those
10 activities: (1) ENFORCEMENT (65-80%): obtaining, shipping, analyzing, and testing dietary
11 supplement products that may contain lead and/or cadmium and are sold to California
12 consumers. This work includes continued monitoring and enforcement of past consent judgments
13 and settlements to ensure companies are in compliance with their obligations thereunder, with a
14 specific focus on those judgments and settlements concerning lead and/or cadmium. This work
15 also includes investigation of new companies that ERC does not obtain any recovery through
16 settlement or judgment; (2) VOLUNTARY COMPLIANCE PROGRAM (10-20%): maintaining
17 ERC's Voluntary Compliance Program by acquiring products from companies, developing and
18 maintaining a case file, testing products from these companies, providing the test results and
19 supporting documentation to the companies, and offering guidance in warning or implementing a
20 self-testing program for lead and/or cadmium in dietary supplement products; and (3) "GOT
21 LEAD" PROGRAM (up to 5%): maintaining ERC's "Got Lead?" Program which reduces the
22 numbers of contaminated products that reach California consumers by providing access to free
23 testing for lead in dietary supplement products (Products submitted to the program are screened
24 for ingredients which are suspected to be contaminated, and then may be purchased by ERC,
25 catalogued, sent to a qualified laboratory for testing, and the results shared with the consumer
26 that submitted the product).

27 ERC shall be fully accountable in that it will maintain adequate records to document and
28 will be able to demonstrate how the ASP funds will be spent and can assure that the funds are

1 being spent only for the proper, designated purposes described in this Consent Judgment. ERC
2 shall provide the Attorney General, within thirty days of any request, copies of documentation
3 demonstrating how such funds have been spent.

4 **4.5** \$2,835.00 shall be distributed to Michael Freund as reimbursement of ERC's
5 attorney's fees, \$7,150.00 shall be distributed to Ryan Hoffman as reimbursement of ERC's
6 attorney's fees, while \$32,328.94 shall be distributed to ERC for its in-house legal fees. Except
7 as explicitly provided herein, each Party shall bear its own fees and costs.

8 **4.6** In the event that Wellnx fails to remit any settlement payment owed under
9 Section 4 of this Consent Judgment on or before its respective Due Date, Wellnx shall be
10 deemed to be in material breach of its obligations under this Consent Judgment. ERC shall
11 provide written notice of the delinquency to Wellnx via electronic mail. If Wellnx fails to
12 deliver the delinquent payment within five (5) days from the written notice, the Total
13 Settlement Amount shall become immediately due and owing and shall accrue interest at the
14 statutory judgment interest rate provided in the California Code of Civil Procedure section
15 685.010. Additionally, Wellnx agrees to pay ERC's reasonable attorney's fees and costs for
16 any efforts to collect any payment due under this Consent Judgment.

17 **5. MODIFICATION OF CONSENT JUDGMENT**

18 **5.1** This Consent Judgment may be modified only as to injunctive terms (i) by
19 written stipulation of the Parties and upon entry by the Court of a modified consent judgment or
20 (ii) by motion of either Party pursuant to Section 5.3 or 5.4 and upon entry by the Court of a
21 modified consent judgment.

22 **5.2** If Wellnx seeks to modify this Consent Judgment under Section 5.1, then Wellnx
23 must provide written notice to ERC of its intent ("Notice of Intent"). If ERC seeks to meet and
24 confer regarding the proposed modification in the Notice of Intent, then ERC must provide
25 written notice to Wellnx within thirty (30) days of receiving the Notice of Intent. If ERC
26 notifies Wellnx in a timely manner of ERC's intent to meet and confer, then the Parties shall
27 meet and confer in good faith as required in this Section. The Parties shall meet in person or
28 via telephone within thirty (30) days of ERC's notification of its intent to meet and confer.

1 Within thirty (30) days of such meeting, if ERC disputes the proposed modification, ERC shall
2 provide to Wellnx a written basis for its position. The Parties shall continue to meet and confer
3 for an additional thirty (30) days in an effort to resolve any remaining disputes. Should it
4 become necessary, the Parties may agree in writing to different deadlines for the meet-and-
5 confer period.

6 **5.3** In the event that Wellnx initiates or otherwise requests a modification under
7 Section 5.1, and the meet and confer process leads to a joint motion or application of the
8 Consent Judgment, Wellnx shall reimburse ERC its costs and reasonable attorney's fees for the
9 time spent in the meet-and-confer process and filing and arguing the motion or application.

10 **5.4** Where the meet-and-confer process does not lead to a joint motion or
11 application in support of a modification of the Consent Judgment, then either Party may seek
12 judicial relief on its own. In any such contested court proceeding, ERC may seek costs and any
13 attorney's fees incurred in opposing the motion pursuant to California Code of Civil Procedure
14 section 1021.5.

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

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

19 **6.2** If ERC alleges that any Covered Product fails to qualify as a Reformulated
20 Covered Product (for which ERC alleges that no Warning has been provided), then ERC shall
21 inform Wellnx in a reasonably prompt manner of its test results, including information
22 sufficient to permit Wellnx to identify the Covered Products at issue. Wellnx shall, within
23 thirty (30) days following such notice, provide ERC with testing information, from an
24 independent third-party laboratory meeting the requirements of Sections 3.4.3 and 3.4.4,
25 demonstrating Wellnx's compliance with the Consent Judgment, if warranted. The Parties
26 shall first attempt to resolve the matter prior to ERC taking any further legal action.

27 **7. APPLICATION OF CONSENT JUDGMENT**

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

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

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

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

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

1 **8.3** It is possible that other claims not known to the Parties, arising out of the facts
2 alleged in the Notice and Complaint, and relating to the Covered Products, will develop or be
3 discovered. ERC on behalf of itself only, and Wellnx on behalf of itself only, acknowledge
4 that this Consent Judgment is expressly intended to cover and include all such claims up
5 through and including the Effective Date, including all rights of action therefore. ERC and
6 Wellnx acknowledge that the claims released in Sections 8.1 and 8.2 above may include
7 unknown claims, and nevertheless waive California Civil Code section 1542 as to any such
8 unknown claims. California Civil Code section 1542 reads as follows:

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

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

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

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

23 **9. SEVERABILITY OF UNENFORCEABLE PROVISIONS**

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

26 **10. GOVERNING LAW**

27 The terms and conditions of this Consent Judgment shall be governed by and construed in
28 accordance with the laws of the State of California.

29 **11. PROVISION OF NOTICE**

30 All notices required to be given to either Party to this Consent Judgment by the other shall

1 be in writing and sent to the following agents listed below via first-class mail. Courtesy copies via
2 email may also be sent.

3 **FOR ENVIRONMENTAL RESEARCH CENTER, INC.:**

4 Chris Heptinstall, Executive Director, Environmental Research Center
5 3111 Camino Del Rio North, Suite 400
6 San Diego, CA 92108
7 Tel: (619) 500-3090
8 Email: chris_erc501c3@yahoo.com

9 With a copy to:

10 Michael Freund
11 Ryan Hoffman
12 Michael Freund & Associates
13 1919 Addison Street, Suite 105
14 Berkeley, CA 94704
15 Telephone: (510) 540-1992
16 Facsimile: (510) 540-5543

17 **WELLNX LIFE SCIENCES INC.**

18 Dana Johnson, President
19 6335 Edwards Boulevard
20 Mississauga, Ontario L5T 2W7
21 Canada

22 With a copy to:

23 Peter J. Farnese
24 Donald A. Beshada
25 Beshada Farnese LLP
26 108 Wanaque Ave.
27 Pompton Lakes, NJ 07442
28 Telephone: 310-356-4668
Facsimile: 310-388-1232
Email: pjf@beshadafarneselaw.com
Email: dbeshada@gmail.com

29 **12. COURT APPROVAL**

30 **12.1** Upon execution of this Consent Judgment by the Parties, ERC shall notice a
31 Motion for Court Approval. The Parties shall use their best efforts to support entry of this
32 Consent Judgment.

33 **12.2** If the California Attorney General objects to any term in this Consent Judgment,
34 the Parties shall use their best efforts to resolve the concern in a timely manner, and if possible

1 prior to the hearing on the motion.

2 **12.3** If this Stipulated Consent Judgment is not approved by the Court, it shall be
3 void and have no force or effect.

4 **13. EXECUTION AND COUNTERPARTS**

5 This Consent Judgment may be executed in counterparts, which taken together shall be
6 deemed to constitute one document. A facsimile or .pdf signature shall be construed to be as valid
7 as the original signature.

8 **14. DRAFTING**

9 The terms of this Consent Judgment have been reviewed by the respective counsel for each
10 Party prior to its signing, and each Party has had an opportunity to fully discuss the terms and
11 conditions with legal counsel. The Parties agree that, in any subsequent interpretation and
12 construction of this Consent Judgment, no inference, assumption, or presumption shall be drawn,
13 and no provision of this Consent Judgment shall be construed against any Party, based on the fact
14 that one of the Parties and/or one of the Parties' legal counsel prepared and/or drafted all or any
15 portion of the Consent Judgment. It is conclusively presumed that all of the Parties participated
16 equally in the preparation and drafting of this Consent Judgment.

17 **15. GOOD FAITH ATTEMPT TO RESOLVE DISPUTES**

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

22 **16. ENFORCEMENT**

23 ERC may, by motion or order to show cause before the Superior Court of Alameda
24 County, enforce the terms and conditions contained in this Consent Judgment. In any action
25 brought by ERC to enforce this Consent Judgment, ERC may seek whatever fines, costs,
26 penalties, or remedies as are provided by law for failure to comply with the Consent Judgment.
27 To the extent the failure to comply with the Consent Judgment constitutes a violation of
28 Proposition 65 or other laws, ERC shall not be limited to enforcement of this Consent Judgment,

1 but may seek in another action whatever fines, costs, penalties, or remedies as are provided by
2 law for failure to comply with Proposition 65 or other laws.

3 **17. ENTIRE AGREEMENT, AUTHORIZATION**

4 **17.1** This Consent Judgment contains the sole and entire agreement and
5 understanding of the Parties with respect to the entire subject matter herein, and any and all
6 prior discussions, negotiations, commitments, and understandings related hereto. No
7 representations, oral or otherwise, express or implied, other than those contained herein have
8 been made by any Party. No other agreements, oral or otherwise, unless specifically referred to
9 herein, shall be deemed to exist or to bind any Party.

10 **17.2** Each signatory to this Consent Judgment certifies that he or she is fully
11 authorized by the Party he or she represents to stipulate to this Consent Judgment.

12 **18. REQUEST FOR FINDINGS, APPROVAL OF SETTLEMENT AND ENTRY OF**
13 **CONSENT JUDGMENT**

14 This Consent Judgment has come before the Court upon the request of the Parties. The
15 Parties request the Court to fully review this Consent Judgment and, being fully informed
16 regarding the matters which are the subject of this action, to:

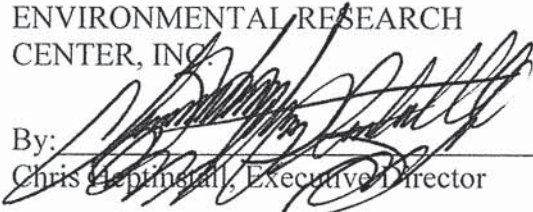
17 (1) Find that the terms and provisions of this Consent Judgment represent a fair and
18 equitable settlement of all matters raised by the allegations of the Complaint that the matter has
19 been diligently prosecuted, and that the public interest is served by such settlement; and

20 (2) Make the findings pursuant to California Health and Safety Code section
21 25249.7(f)(4), approve the Settlement, and approve this Consent Judgment.

22
23 **IT IS SO STIPULATED:**

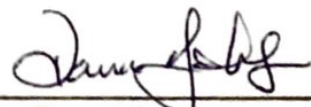
24 Dated: 1/26/, 2018

ENVIRONMENTAL RESEARCH
CENTER, INC.

By: 
Chris Heptinstall, Executive Director

1 Dated: 2/29/2018, 2018

WELLNX LIFE SCIENCES INC.



By: Dana Johnson
Its: ~~President~~
Secretary / Treasurer

7 **APPROVED AS TO FORM:**

8 Dated: 1/26, 2018

MICHAEL FREUND & ASSOCIATES

9 By: 

10 Michael Freund
11 Ryan Hoffman
12 Attorneys for Plaintiff Environmental
Research Center, Inc.

13 Dated: January 29, 2018

BESHADA FARNESE LLP

14 By: 

15 Peter J. Farnese
16 Attorney for Defendant Wellnx Life
17 Sciences Inc.

18 **ORDER AND JUDGMENT**

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

21 IT IS SO ORDERED, ADJUDGED AND DECREED.

22 Dated: _____, 2018

23 Judge of the Superior Court