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8 Attorneys for Plaintiff Public Health and Safety Advocates, LLC

9 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

10 **COUNTY OF LOS ANGELES**

11 **PUBLIC HEALTH AND SAFETY**  
12 **ADVOCATES, LLC., a Limited Liability**  
13 **Company, in the public interest,**

14 **Plaintiff,**

15 **v.**

16 **HAITAI USA, INC., a California**  
17 **Corporation and DOES 1 through 50,**  
18 **inclusive,**

19 **Defendant(s)**

20 **Case No.: 21STCV23084**

21 **[PROPOSED] STIPULATED CONSENT**  
22 **JUDGMENT**

23 **HEALTH AND SAFETY CODE §**  
24 **25249.6**

1 **1. INTRODUCTION**

2 **1.1. Public Health and Safety Advocates, LLC. and Haitai USA, Inc.**

3 This Consent Judgment is entered into by and between plaintiff Public Health and Safety  
4 Advocates, LLC (“PHSA” or “Plaintiff”) and defendant Haitai USA, Inc. (“HAITAI” or  
5 “Defendant”) with HAITAI and PHSA each individually referred to as a “Party” and collectively  
6 as the “Parties.”

7 **1.2. Plaintiff**

8 PHSA is a limited liability company duly organized and existing in the State of California,  
9 which seeks to promote awareness of exposures to toxic chemicals and to improve human health  
10 by reducing or eliminating hazardous substances used in consumer products.

11 **1.3. Defendant**

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

15 **1.4. General Allegations**

16 PHSA alleges that HAITAI has manufactured, sold, and/or distributed for sale in  
17 California, certain products described more specifically below containing lead and cadmium,  
18 chemicals listed by the State of California under Proposition 65, without providing a required  
19 Proposition 65 warning. Lead and Cadmium shall be referred to hereinafter as the “Listed  
20 Chemicals.”

21 **1.5. Product Description**

22 The HAITAI products that are the subject of this Consent Judgment are: (1) Seasoned  
23 Shredded Cuttlefish, UPC #020914812469; (2) Seasoned Shredded Cuttlefish, UPC  
24 #020914812476 which were sold and/or distributed for sale in California by HAITAI (“Covered  
25 Products”).

26 **1.6. Notice of Violation**

27 On June 22, 2020, PHSA served HAITAI and the requisite public enforcement agencies  
28 with two 60-Day Notices of Violation (“Notices”) alleging that HAITAI violated Proposition 65.

1 The Notices alleged that HAITAI failed to warn its customers and consumers in California that the  
2 Covered Products contain lead and cadmium.

3 **1.7. Complaint**

4 On June 21, 2021, Plaintiff, who was and is acting in the interest of the general public in  
5 California, filed a complaint (“Complaint” or “Action”) in the Superior Court in and for the  
6 County of Los Angeles against HAITAI and Does 1 through 50, alleging violations of Health &  
7 Safety Code §25249.6 based on the alleged exposures to lead and cadmium contained in the  
8 Covered Products.

9 **1.8. No Admission**

10 The Parties enter into this Consent Judgment as a full and final settlement of all claims that  
11 were raised or that could have been raised in the Notices, arising out of the facts and/or conduct  
12 alleged therein. HAITAI denies the material, factual and legal allegations contained in PHSA’s  
13 Notice and the Complaint, and maintains that all products, including but not limited to the  
14 Covered Products, that it has sold and distributed in California have been and are in compliance  
15 with all applicable laws, and are completely safe for their intended use. Nothing in this Consent  
16 Judgment shall be construed as an admission by HAITAI of any fact, finding, conclusion, issue of  
17 law, or violation of law, nor shall compliance with this Consent Judgment constitute or be  
18 construed as an admission by HAITAI of any fact, finding, conclusion, issue of law, or violation  
19 of law, such being specifically denied by HAITAI. However, this section shall not diminish or  
20 otherwise affect HAITAI’s obligations, responsibilities, and duties hereunder.

21 **1.9. Consent to Jurisdiction**

22 For purposes of this Consent Judgment only, the Parties stipulate that: (1) this Court has  
23 jurisdiction over HAITAI as to the allegations contained in the Complaint; 2) that venue is proper  
24 in the County of Los Angeles; and 3) that this Court has jurisdiction to enter and enforce the  
25 provisions of this Consent Judgment.

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1           **1.10.       Effective Date**

2           For purposes of this Consent Judgment, the term “Effective Date” shall mean the date on  
3 which the Court approves this Consent Judgment, including any unopposed tentative ruling  
4 granting approval of this Consent Judgment.

5           **2. INJUNCTIVE RELIEF: REFORMULATED PRODUCTS AND WARNINGS**

6           **2.1.       Reformulation Standard and Schedule**

7           Commencing within 60 days of the Effective Date, HAITAI shall not manufacture for  
8 consumer sale into the State of California any Covered Product that subsequently exposes a person  
9 to a Daily Serving of more than 0.5 micrograms of lead or 4.1 micrograms of cadmium without  
10 providing a warning as set forth in Sections 2.3 -2.6. A reformulated Covered Product  
11 (“Reformulated Product”) is one for which the Daily Serving contains no more than 0.5  
12 micrograms of lead or 4.1 micrograms of cadmium (“Reformulation Standard”).

13           Covered Products that comply with the Reformulation Standard shall not require any  
14 warnings. For any Covered Products manufactured after 60 days from the Effective Date or later  
15 that do not meet the Reformulation Standard, HAITAI shall provide the warning set forth in  
16 Section 2.3-2.6.

17           As long as HAITAI complies and remains in compliance with the requirements of Section  
18 2.1 – 2.6 for each of the Covered Products, the Parties agree that such Products shall be deemed to  
19 comply with Proposition 65 with respect to lead and cadmium, and that compliance with this  
20 Consent Judgment shall fully and completely satisfy HAITAI’s obligations under Proposition 65  
21 to provide warnings for such Covered Products with respect to the presence of lead or cadmium,  
22 regardless of when manufactured, distributed or sold. To the extent that HAITAI manufactures  
23 other similar products in the future, aside from the Covered Products, its compliance with the  
24 obligations set forth herein, Sections 2.1-2.6, shall be deemed to comply with Proposition 65 with  
25 respect to lead and cadmium.

26           Covered Products manufactured within 60 days of the Effective Date and/or currently in  
27 the channels of distribution may continue to be sold through by HAITAI and Releasees. However,  
28 as of 60 days from the Effective Date, HAITAI and the Releasees, as defined in Section 5.1, may

1 not sell into California newly manufactured Covered Products that are not Reformulated Products  
2 that do not contain the warnings set forth in Paragraph 2.3-2.6.

3 **2.2. Daily Serving**

4 A Daily Serving (for purposes of determining Proposition 65 compliance for chemicals  
5 present in the Covered Products) shall be defined as the serving size set forth on the "Nutritional  
6 Facts" or "Supplemental Facts" stated on the Covered Product package.

7 **2.3. Warning Option**

8 Covered Products that do not meet the standard of Reformulated Products set forth in  
9 Section 2.1 above shall be accompanied by a warning as described in Section 2.4-2.6 below. This  
10 warning shall only be required as to Covered Products that Defendant manufactures, sells or ships  
11 to consumers, retailers, or distributors in California after the Effective Date. No Proposition 65  
12 warning for lead and/or cadmium shall be required as to any Covered Products that are already in  
13 the stream of commerce as of 60 days from the Effective Date.

14 **2.4. Warning Language**

15 Covered Products manufactured after the Effective Date for sale in California that do not  
16 qualify as Reformulated Products shall contain a Proposition 65 warning affixed to the packaging,  
17 labeling, or directly on each Covered Product. The warning shall state either:

18 **[California Proposition 65] WARNING:** Consuming this product can  
19 expose you to chemicals including lead, which are known to the State  
20 of California to cause [cancer and] birth defects and other reproductive  
harm. [www.P65Warnings.ca.gov](http://www.P65Warnings.ca.gov).

21 **[California Proposition 65] WARNING:** [Cancer and] Reproductive  
22 Harm - [www.P65Warnings.ca.gov](http://www.P65Warnings.ca.gov).

23 The warning shall be prominently displayed with such conspicuousness as compared with  
24 other words, statements, designs, or devices as to render it likely to be read and understood by an  
25 ordinary individual under customary conditions before purchase or use. Each warning shall be  
26 provided in a manner such that the consumer or user is reasonably likely to understand the  
27 Covered Products the warning applies to, so as to minimize the risk of consumer confusion. In the  
28 event that the Office of Environmental Health Hazard Assessment promulgates one or more

1 regulations requiring or permitting warning text and/or methods of transmission applicable to the  
2 Covered Products that is different than those set forth above, HAITAI shall be entitled to use, at its  
3 discretion, such other warning text and/or methods of transmission without being deemed in  
4 breach of this Consent Judgment, as long as such warning text and methods of transmission  
5 comply with OEHHA regulations.

6 **2.5. Internet Sales**

7 For any Covered Products sold by HAITAI through the internet, the relevant warnings  
8 shall comply with the requirements of 27 Cal. Code Regs. § 25602(b), effective August 30, 2018.

9 **2.6. Warnings By Notice To Businesses Who Sell Or Receive The Covered**  
10 **Products**

11 For purposes of this Consent Judgment, HAITAI may also satisfy the warning requirement  
12 by complying with the requirements of 27 Cal. Code Regs. §25600.2 including providing the  
13 required information to any business or retailer that is subject to Proposition 65, to which it sells  
14 or transfers the Covered Products.

15 **2.7. Right To Rely On Subsequent Standards Or Safe Harbor Levels Adopted By**  
16 **OEHHA Or The Attorney General's Office**

17 To the extent that OEHHA adopts safe harbor levels for lead or cadmium in seafood that  
18 are different than those currently in effect, HAITAI shall be entitled to rely on such standards  
19 notwithstanding the requirements set forth in Section 2.1. Similarly, the California Attorney  
20 General's office is currently litigating the case *People of the State of Cal. v. Pac. Am. Fish*  
21 *Company, Inc.* Case No. RG20085046 ("PAFC Case") pending in the Superior Court of Alameda  
22 County related to heavy metals in seafood products. To the extent the Attorney General's office  
23 adopts a standard for the amount of lead and/or cadmium in seafood products that it deems  
24 compiles with the safe harbor provisions that is different from Section 2.1 as part of a resolution of  
25 the PAFC Case, HAITAI shall be permitted to rely on such standard notwithstanding the  
26 requirements set forth in Section 2.1.

27 **3. MONETARY PAYMENTS**

28 **3.1. Payments Pursuant to Health & Safety Code § 25249.7(b)**

1 HAITAI shall pay a total civil penalty of \$3,000.00, to be apportioned in accordance with  
2 California Health & Safety Code §§25249.12(c) & (d), with 75% of these funds remitted to the  
3 State of California's Office of Environmental Health Hazard Assessment ("OEHHA") and the  
4 remaining 25% of the penalty remitted to PHSA. HAITAI shall issue two separate checks for the  
5 penalty payment: (a) one check made payable to the Kawahito Law Group in Trust for the State  
6 of California's Office of Environmental Health Hazard Assessment ("in Trust for OEHHA") in the  
7 amount of \$2,250.00, representing 75% of the total civil penalty; and (b) one check to "Kawahito  
8 Law Group in Trust for PHSA" in the amount of \$750.00, representing 25% of the total civil  
9 penalty. Two separate 1099s shall be issued for the above payments: The first 1099 shall be  
10 issued to OEHHA, P.O. Box 4010, Sacramento, CA 95814 (EIN: 68-0284486). The second  
11 1099 shall be issued to Kawahito Law Group APC, who shall furnish a W2 at least five calendar  
12 days before payment is due.

13 The payments shall be delivered to PHSA's counsel at the following address within ten  
14 days of the Effective Date of this Consent Judgment:

15 James Kawahito, Esq.  
16 Kawahito Law Group APC  
17 300 Corporate Pointe., Suite 340  
18 Culver City, CA 90230

19 Payment may also be made by wire or ACH or wire transfer. Instructions will be provided  
20 separately upon request.

#### 21 4. REIMBURSEMENT OF ATTORNEYS' FEES AND COSTS

22 The Parties acknowledge that PHSA and its counsel offered to resolve this dispute without  
23 reaching terms on the amount of fees and costs to be reimbursed to them, thereby leaving any fee  
24 reimbursement issue to be resolved after the material terms of the Consent Judgment had been  
25 settled. The Parties reached an accord on the compensation due to PHSA and its counsel under  
26 general contract principles and the private attorney general doctrine codified at California Code of  
27 Civil Procedure (CCP) § 1021.5, for all work performed through the mutual execution of this  
28 Consent Judgment. HAITAI shall reimburse PHSA and its counsel in the total amount of

1 \$27,000.00 for all attorney's fees, investigative and consulting costs, and all other expenses of any  
2 kind incurred by PHSA as a result of investigating, bringing this matter to the attention of  
3 HAITAI, litigating this matter, negotiating this Consent Judgment, drafting the Complaint, and  
4 preparing the necessary briefing to obtain Court approval of the Consent Judgment. The check  
5 shall be made payable to "Kawahito Law Group APC" and delivered to the address below. Wire  
6 or ACH Instructions will be provided separately upon request. The payment shall be delivered to  
7 PHSA's counsel at the following address within ten days of the Effective Date of this Consent  
8 Judgment:

9 James Kawahito, Esq.  
10 Kawahito Law Group APC  
11 300 Corporate Pointe., Suite 340  
12 Culver City, CA 90230

13 To allow for the issuance of a timely payment pursuant to the above, PHSA shall provide  
14 HAITAI with a completed IRS Form W-9 for the Kawahito Law Group APC upon request.

15 **5. RELEASE OF CLAIMS**

16 **5.1. Release of HAITAI**

17 This Consent Judgment is a full, final and binding resolution between PHSA, on behalf of  
18 itself and the public interest, and its past and current agents, representatives, attorneys, successors  
19 and/or assignees (the "Releasers"), on the one hand, and HAITAI, its respective parents,  
20 subsidiaries, affiliated entities that are under common ownership, shareholders, members,  
21 directors, officers, managers employees, representatives, agents, attorneys, divisions, subdivisions,  
22 partners, sister companies, licensors, licensees, and each entity to whom HAITAI directly or  
23 indirectly distributes or sells the Covered Products, including but not limited to downstream  
24 retailers, distributors, wholesalers, customers, marketplace hosts, franchisers, cooperative  
25 members, licensors, licensees, and the successors and assigns of any of them ("Releasees"), on the  
26 other hand, of any violation of Proposition 65 that was or could have been asserted by PHSA  
27 against HAITAI or the Releasees based on the alleged failure to warn about alleged Proposition 65  
28 exposures to lead and/or cadmium caused by the Covered Products that were manufactured by  
HAITAI (either directly or through any of the Releasees) as of 60 days after the Effective Date.



1 Compliance with the terms of this Consent Judgment constitutes compliance with Proposition 65  
2 by Defendant with respect to the alleged or actual failure to warn about exposures to lead and  
3 cadmium from Covered Products.

4 With respect to the foregoing waivers and releases in this paragraph, PHSA on behalf of itself,  
5 hereby specifically waives any and all rights and benefits which he now has, or in the future may  
6 have, conferred by virtue of the provisions of Section 1542 of the California Civil Code, which  
7 provides as follows:

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          SETTLEMENT WITH THE DEBTOR.

12           **5.2    HAITAI Release of PHSA**

13           HAITAI on behalf of itself, its past and current agents, representatives, attorneys,  
14          successors, and/or assignees, hereby waives any and all claims against PHSA, its attorneys and  
15          other representatives, for any and all actions taken or statements made (or those that could have  
16          been taken or made) by PHSA and its attorneys and other representatives, whether in the course of  
17          investigating claims or otherwise seeking to enforce Proposition 65 against it in this matter with  
18          respect to the Covered Products.

19           **6.    COURT APPROVAL**

20           This Consent Judgment is not effective until it is approved and entered by the Court and  
21          shall be null and void if, for any reason, it is not approved and entered by the Court.

22           **7.    SEVERABILITY**

23           If, subsequent to the execution of this Consent Judgment, any provision of this Consent  
24          Judgment is deemed by a court to be unenforceable, the validity of the remaining provisions shall  
25          not be adversely affected.

26           **8.    GOVERNING LAW**

27           The terms of this Consent Judgment shall be governed by the laws of the State of  
28          California and apply within the State of California. In the event that Proposition 65 is repealed,

1 preempted, or is otherwise rendered inapplicable by reason of law generally, or as to the Products,  
2 then HAITAI may provide Plaintiff with written notice of any asserted change in the law, and  
3 shall have no further obligations pursuant to this Consent Judgment, with respect to, and to the  
4 extent that, the Covered Products are so affected.

5 **9. JOINT PREPARATION**

6 The Parties have jointly participated in the preparation of this Consent Judgment and this  
7 Consent Judgment is the result of the joint efforts of the Parties. Accordingly, any uncertainty or  
8 ambiguity existing in this Consent Judgment shall not be interpreted against any Party as a result  
9 of the manner of the preparation of this Consent Judgment. Each Party to this Consent Judgment  
10 agrees that any statute or rule of construction providing that ambiguities are to be resolved against  
11 the drafting Party should not be employed in the interpretation of this Consent Judgment and, in  
12 this regard, the Parties hereby waive California Civil Code § 1654.

13 **10. ENTIRE AGREEMENT**

14 This Consent Judgment contains the sole and entire agreement and understanding of the  
15 Parties with respect to the entire subject matter hereof, and any and all prior discussions,  
16 negotiations, commitments, or understandings related thereto, if any, are hereby merged herein.  
17 No supplementation, modification, waiver, or termination of this Consent Judgment shall be  
18 binding unless executed in writing by the Party to be bound thereby. No waiver of any of the  
19 provisions of this Consent Judgment shall be deemed or shall constitute a waiver of any of the  
20 other provisions hereof whether or not similar, nor shall such waiver constitute a continuing  
21 waiver unless set forth in writing between the Parties.

22 **11. NOTICES**

23 Unless specified herein, all correspondence and notice required to be provided pursuant to  
24 this Consent Judgment shall be in writing and, with courtesy copies to counsel delivered by email,  
25 sent by: (a) personal delivery; (b) first-class, registered or certified mail, return receipt requested;  
26 or (c) a recognized overnight courier on any Party by the other at the following addresses:

27  
28 For HAITAI: Ryan Landis, Esq.  
Gordon Rees Scully Mansukhani

1 5 Park Plaza, Suite 1100  
2 Irvine, CA 92614  
3 rlandis@grsm.com

4 For PHSA: Public Health And Safety Advocates, LLC  
5 10429 Eastborne St.  
6 Los Angeles, CA 90049

7 With a Copy to: James K. Kawahito  
8 Kawahito Law Group APC  
9 Attn. PHSA v. HAITAI  
10 300 Corporate Pointe, Suite 340  
11 Culver City, CA 90230  
12 jkawahito@kawahitolaw.com

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

15 **12. COUNTERPARTS; FACSIMILE SIGNATURES**

16 This Consent Judgment may be executed in counterparts and by facsimile or portable  
17 document format (PDF) signature, each of which shall be deemed an original, and all of which,  
18 when taken together, shall constitute one and the same document.

19 **13. COMPLIANCE WITH HEALTH & SAFETY CODE § 25249.7**

20 PHSA and his attorneys agree to comply with the reporting form requirements referenced  
21 in California Health and Safety Code Section 25249.7(f).

22 **14. ADDITIONAL POST EXECUTION ACTIVITIES**

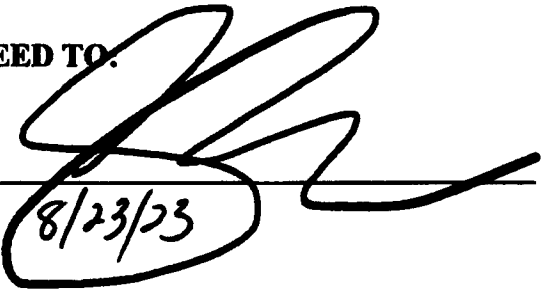
23 The Parties acknowledge that, pursuant to Health & Safety Code §25249.7, a noticed  
24 motion is required to obtain judicial approval of this Consent Judgment. In furtherance of  
25 obtaining such approval, PHSA shall be responsible for preparing the motion to approve the  
26 Consent Judgment. HAITAI and their respective counsel agree to mutually employ their best  
27 efforts to support the entry of this agreement as a Consent Judgment and obtain approval of the  
28 Consent Judgment by the Court in a timely manner. For purposes of this paragraph, best efforts  
shall include at a minimum, cooperating in Plaintiff's drafting and filing of any papers in support  
of the required motion for judicial approval.

**15. MODIFICATION**

1 This Consent Judgment may be modified only: (1) by written agreement of the parties and  
2 upon entry of a modified consent judgment by the Court thereon; or (2) upon a successful motion  
3 of any party and entry of a modified consent judgment by the Court. The Attorney General shall  
4 be served with notice of any proposed modification to this Consent Judgment at least forty-five  
5 days in advance of its consideration by the Court. To the extent either party alleges a breach of  
6 this Consent Judgment, written notice shall be provided to the party in alleged breach and the  
7 Parties shall thereafter meet and confer for at least 30 days to try to informally resolve the dispute  
8 before either Party files a motion to enforce.

9 **16. AUTHORIZATION**

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

13 **AGREED TO:**  
14   
15 Date: \_\_\_\_\_  
16 8/23/23

**AGREED TO:**  
Date: \_\_\_\_\_  
By: \_\_\_\_\_

17 By: \_\_\_\_\_  
18 Public Health And Safety Advocates, LLC

By: \_\_\_\_\_  
HAITAI USA, Inc.

19  
20  
21  
22  
23 IT IS HEREBY ORDERED, ADJUDGED AND DECREED that, pursuant to Health & Safety  
24 Code § 25249.7(f)(4) and Code of Civil Procedure § 664.6, judgment is hereby entered.

25  
26 Dated: \_\_\_\_\_

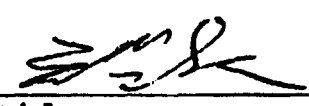
\_\_\_\_\_  
JUDGE OF THE SUPERIOR COURT

28

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4 be served with notice of any proposed modification to this Consent Judgment at least forty-five  
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6 this Consent Judgment, written notice shall be provided to the party in alleged breach and the  
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10 The undersigned are authorized to stipulate to, enter into, and execute this Consent  
11 Judgment on behalf of their respective parties, and have read, understood, and agree to all of the  
12 terms and conditions of this Consent Judgment.

13	<b>AGREED TO:</b>	<b>AGREED TO:</b>
14		
15	Date: _____	Date: <u>8/23/23</u>
16		
17	By: _____	By: 
18	Public Health And Safety Advocates, LLC	Haitai, Inc.
19		
20		
21		
22		

23 IT IS HEREBY ORDERED, ADJUDGED AND DECREED that, pursuant to Health & Safety  
24 Code § 25249.7(f)(4) and Code of Civil Procedure § 664.6, judgment is hereby entered.

25  
26 Dated: \_\_\_\_\_  
27  
28 JUDGE OF THE SUPERIOR COURT