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8 Attorneys for Plaintiff,
9 Consumer Advocacy Group, Inc.

10 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

11 **COUNTY OF LOS ANGELES**

12 CONSUMER ADVOCACY GROUP, INC.,
13 in the public interest,

14 Plaintiff,

15 v.

16 EDEN FOODS, INC., a Michigan
17 Corporation;
18 and DOES 1-50,

19 Defendants.

CASE NO. 21STCV23004

CONSENT JUDGMENT [PROPOSED]

Health & Safety Code § 25249.5 *et seq.*

20
21
22 **1. INTRODUCTION**

23 1.1 This Consent Judgment is entered into by and between plaintiff, CONSUMER
24 ADVOCACY GROUP, INC. (referred to as “CAG”) acting on behalf of itself and in the interest
25 of the public, and defendant, EDEN FOODS, INC. (hereinafter referred to as “Defendant”), with
26 each a Party to the action collectively referred to as “Parties.”

27 **1.2 Defendant and Products**
28

1 1.2.1 Defendant is a Michigan corporation which employs ten or more persons.
2 Defendant distributes, and sells the following:

3 (i) Seaweed identified as "Eden ® Sushi Nori"; "Toasted Sea Vegetable"; "Net
4 Wt. 0.6 oz. 17g 7 Sheets"; "edenfoods.com/sushi"; UPC 0 24182 15769 7"; "Product of Japan"
5 (hereinafter the "Sushi Nori Sea Vegetable");

6 (ii) Seaweed identified as "Eden ® Dried Arame Seaweed"; "Sea Vegetable";
7 "Wild, Japanese, Hand Harvested"; "Net Wt. 2.1 oz (60 grams)"; "UPC 0 24182 15475 7";
8 "Product of Japan" (hereinafter the "Arame Sea Vegetable");

9 (iii) Pickled Ginger identified as "Eden ® Pickled Ginger with Shiso Leaves";
10 "Net Wt. 2.1 oz (60 grams)"; "UPC 0 2418230101 4"; "Product of Japan" (hereinafter the
11 "Pickled Ginger");

12 (iv) Sea Vegetable identified as "Eden"; "Nori Sea Vegetable"; "Traditional
13 Japanese"; "Net Wt. 0.88 oz 25g"; "UPC 0 24182 15706 2"; "Product of Japan" (hereinafter the
14 "Nori Sea Vegetable");

15 (v) Sea Vegetable identified as "Eden Kombu Sea Vegetable Japanese Hand
16 Harvested"; "Net Wt. 2.1 oz 60g"; "UPC 0 24182 15273 9"; "Product of Japan" (hereinafter the
17 "Kombu Sea Vegetable"); and

18 (vi) Seaweed identified as "Eden®"; "Mekabu"; "Wakame Seaweed Sporophyll";
19 "Net Wt. 0.88 oz (25g)"; "3020"; "UPC 0 24182 15173 2" (hereinafter the "Mekabu Wakame
20 Seaweed").

21 The products in (i)-(vi) above collectively referred to as the "Covered Products".
22 The Sushi Nori Sea Vegetable, Arame Sea Vegetable, Nori Sea Vegetable, Kombu Sea
23 Vegetable and Mekabu Wakame Seaweed collectively referred to as the "Sea Vegetable and
24 Seaweed Products".

25 1.2.2 For purposes of this Consent Judgment, Defendant is deemed a person in
26 the course of doing business in California and are subject to the provisions of the Safe Drinking
27 Water and Toxic Enforcement Act of 1986, California Health & Safety Code §§ 25249.6 et seq.
28 ("Proposition 65").

1 1.3 **Chemicals of Concern**

2 1.3.1 Lead and Lead Compounds (hereinafter “Lead”) are known to the State of
3 California to cause cancer and/or birth defects or other reproductive harm.

4 1.3.2 Cadmium and Cadmium Compounds (hereinafter “Cadmium”) are known
5 to the State of California to cause cancer and/or birth defects or other reproductive harm.

6 1.3.3 Inorganic Arsenic Oxides (hereinafter “Arsenic”) are known to the State of
7 California to cause birth defects or other reproductive harm.

8 1.4 **Notices of Violation**

9 1.4.1 On or about October 8, 2020, CAG served Defendant, Whole Foods Market,
10 Whole Foods Market California, Inc., Whole Foods and various public enforcement agencies
11 with a document entitled “60-Day Notice of Violation” (hereinafter “Notice 1”) that provided the
12 Defendant with notice of alleged violation of Health & Safety Code § 25249.6 for failing to warn
13 individuals in California of exposures to Lead contained in the Sushi Nori Sea Vegetable sold
14 and/or distributed by Defendant. No other public enforcer has commenced or diligently
15 prosecuted the allegations set forth in the Notice.

16 1.4.2 On or about August 12, 2021, CAG served Defendant, Vitacost.com, Inc.,
17 Vitacost and various public enforcement agencies with a document entitled “60-Day Notice of
18 Violation” (hereinafter “Notice 2”) that provided the Defendant with notice of alleged violations
19 of Health & Safety Code § 25249.6 for failing to warn individuals in California of exposures to
20 Lead and Arsenic contained in the Arame Sea Vegetable sold and/or distributed by Defendant.
21 No other public enforcer has commenced or diligently prosecuted the allegations set forth in the
22 Notice.

23 1.4.3 On or about August 12, 2021, CAG served Defendant, Whole Foods Market,
24 Whole Foods Market California, Inc., Whole Foods, Mrs. Gooch’s Natural Food Markets, Inc.
25 and various public enforcement agencies with a document entitled “60-Day Notice of Violation”
26 (hereinafter “Notice 3”) that provided the Defendant with notice of alleged violations of Health
27 & Safety Code § 25249.6 for failing to warn individuals in California of exposures to Lead
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1 contained in the Pickled Ginger sold and/or distributed by Defendant. No other public enforcer
2 has commenced or diligently prosecuted the allegations set forth in the Notice.

3 1.4.4 On or about October 15, 2021, CAG served Defendant, Whole Foods Market,
4 Whole Foods Market California, Inc. and various public enforcement agencies with a document
5 entitled “60-Day Notice of Violation”) (hereinafter “Notice 4”) that provided the Defendant with
6 notice of alleged violations of Health & Safety Code § 25249.6 for failing to warn individuals in
7 California of exposures to Lead contained in the Nori Sea Vegetable sold and/or distributed by
8 Defendant. No other public enforcer has commenced or diligently prosecuted the allegations set
9 forth in the Notice.

10 1.4.5 On or about October 22, 2021, CAG served Defendant, Vitacost, Vitacost.com,
11 Inc. and various public enforcement agencies with a document entitled “60-Day Notice of
12 Violation” (hereinafter “Notice 5”) that provided the Defendant with notice of alleged violations
13 of Health & Safety Code § 25249.6 for failing to warn individuals in California of exposures to
14 Cadmium and Arsenic contained in Kombu Sea Vegetable sold and/or distributed by Defendant.
15 No other public enforcer has commenced or diligently prosecuted the allegations set forth in the
16 Notice.

17 1.4.6 On or about March 1, 2022, CAG served Defendant, Whole Foods Market; Whole
18 Foods Market California, Inc.; and Whole Foods and various public enforcement agencies with a
19 document entitled “60-Day Notice of Violation” (hereinafter “Notice 6”) that provided the
20 Defendant with notice of alleged violations of Health & Safety Code § 25249.6 for failing to
21 warn individuals in California of exposures to Lead contained in the Sushi Nori Sea Vegetable
22 sold and/or distributed by Defendant. No other public enforcer has commenced or diligently
23 prosecuted the allegations set forth in the Notice.

24 1.4.7 On or about March 1, 2022, CAG served Defendant and Vitacost.com, Inc. and
25 various public enforcement agencies with a document entitled “60-Day Notice of Violation”
26 (hereinafter “Notice 7”) that provided the Defendant with notice of alleged violations of Health
27 & Safety Code § 25249.6 for failing to warn individuals in California of exposures to Lead
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1 contained in the Sushi Nori Sea Vegetable. No other public enforcer has commenced or
2 diligently prosecuted the allegations set forth in the Notice.

3 1.4.8 On or about May 3, 2022, CAG served Defendant and various public enforcement
4 agencies with a document entitled “60-Day Notice of Violation” (hereinafter “Notice 8”) that
5 provided the Defendant with notice of alleged violations of Health & Safety Code § 25249.6 for
6 failing to warn individuals in California of exposures to Cadmium contained in the Mekabu
7 Wakame Seaweed sold and/or distributed by Defendant. No other public enforcer has
8 commenced or diligently prosecuted the allegations set forth in the Notice.

9 1.4.9 On or about January 18, 2023, CAG served Defendant and various public
10 enforcement agencies with a document entitled “60-Day Notice of Violation” (hereinafter
11 “Notice 9”) that provided the Defendant with notice of alleged violations of Health & Safety
12 Code § 25249.6 for failing to warn individuals in California of exposures to Cadmium contained
13 in the Mekabu Wakame Seaweed sold and/or distributed by Defendant. No other public enforcer
14 has commenced or diligently prosecuted the allegations set forth in the Notice.

15 1.4.10 On or about May 16, 2023, CAG served Defendant, Amazon.com Services LLC,
16 Amazon.com, Inc. and various public enforcement agencies with a document entitled “60-Day
17 Notice of Violation” (hereinafter “Notice 10”) that provided the Defendant with notice of alleged
18 violations of Health & Safety Code § 25249.6 for failing to warn individuals in California of
19 exposures to Arsenic contained in the Arame Sea Vegetable sold and/or distributed by
20 Defendant. No other public enforcer has commenced or diligently prosecuted the allegations set
21 forth in the Notice.

22 1.4.11 Notice 1, Notice 2, Notice 3, Notice 4, Notice 5, Notice 6, Notice 7, Notice 8,
23 Notice 9 and Notice 10 are collectively referred to as the “Notices.”

24
25 **1.5 Complaint**

26 1.5.1 On June 21, 2021, CAG filed a complaint for civil penalties and injunctive
27 relief (“Complaint”) in Los Angeles Superior Court, Case No. 21STCV23004 against Defendant
28

1 The Complaint alleges, among other things, that Defendant violated Proposition 65 by failing to
2 give clear and reasonable warnings of exposure to Lead from the Sushi Nori Sea Vegetable.

3 1.5.2 On January 27, 2022, CAG filed a First Amended Complaint for civil
4 penalties and injunctive relief (“FAC”) in Los Angeles Superior Court, Case No. 21STCV23004
5 against Defendant. The FAC alleges, among other things, that Defendant violated Proposition 65
6 by failing to give clear and reasonable warnings of exposure to Lead from the Sushi Nori Sea
7 Vegetable, Lead and Arsenic in the Arame Sea Vegetable, Lead in Picked Ginger, Lead in the
8 Nori Sea Vegetable, and Arsenic and Cadmium in the Kombu Sea Vegetable.

9 1.5.3 On May 15, 2023, CAG filed a Second Amended Complaint for civil
10 penalties and injunctive relief (“SAC”) in Los Angeles Superior Court, Case No. 21STCV23004
11 against Defendant. The SAC alleges, among other things, that Defendant violated Proposition 65
12 by failing to give clear and reasonable warnings of exposure to Lead and Arsenic from the
13 Arame Sea Vegetable, Lead from Pickled Ginger, Cadmium and Arsenic from the Kombu Sea
14 Vegetable, and Cadmium in the Mekabu Wakame Seaweed. The Complaint, FAC and SAC are
15 collectively referred to as the “Action”.

16
17 **1.6 Consent to Jurisdiction**

18 1.6.1 For purposes of this Consent Judgment, the Parties stipulate that this Court
19 has jurisdiction over the allegations of violations contained in the Action and personal
20 jurisdiction over Defendant as to the acts alleged in the Action, that venue is proper in the
21 County of Los Angeles and that this Court has jurisdiction to enter this Consent Judgment as a
22 full settlement and resolution of the allegations contained in cause of action one of the Action
23 and of all claims which were or could have been raised by any person or entity based in whole or
24 in part, directly or indirectly, on the facts alleged therein or arising therefrom or related thereto.

25 **1.7 No Admission**

26 1.7.1 This Consent Judgment resolves claims that are denied and disputed. The
27 Parties enter into this Consent Judgment pursuant to a full and final settlement of any and all
28 claims between the Parties for the purpose of avoiding prolonged litigation. Nothing in this

1 Consent Judgment shall be construed as an admission by the Parties of any material allegation of
2 the Action (each and every allegation of which Defendant denies), any fact, conclusion of law,
3 issue of law or violation of law, including without limitation, any admission concerning any
4 violation of Proposition 65 or any other statutory, regulatory, common law, or equitable doctrine,
5 or the meaning of the terms “knowingly and intentionally expose” or “clear and reasonable
6 warning” as used in Health and Safety Code section 25249.6. Nothing in this Consent Judgment,
7 nor compliance with its terms, shall constitute or be construed as an admission by the Parties of
8 any fact, conclusion of law, issue of law, or violation of law, or of fault, wrongdoing, or liability
9 by any Defendant, its officers, directors, employees, or parent, subsidiary or affiliated
10 corporations, or be offered or admitted as evidence in any administrative or judicial proceeding
11 or litigation in any court, agency, or forum. Furthermore, nothing in this Consent Judgment shall
12 prejudice, waive or impair any right, remedy, argument, or defense the Parties may have in any
13 other or future legal proceeding, except as expressly provided in this Consent Judgment.

14 **2. DEFINITIONS**

15 2.1 “Covered Products” means products specifically identified in Paragraph 1.2.1 sold
16 or supplied by Defendant.

17 2.2 “Effective Date” means the date that this Consent Judgment is approved by the
18 Court.

19 2.3 “Compliance Date” means January 1, 2024.

20 2.3 “Lead” means Lead and Lead Compounds.

21 2.4 “Cadmium” means Cadmium and Cadmium Compounds.

22 2.5 “Arsenic” means Inorganic Arsenic Oxides.

23 2.6 Listed Chemicals shall mean Lead, Cadmium, and Arsenic as to Seaweed and Sea
24 Vegetables and Lead as to Pickled Ginger.
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1 **3. INJUNCTIVE RELIEF / REFORMULATION / CLEAR AND REASONABLE**
2 **WARNINGS.**

3 3.1 After the Compliance Date, Defendant shall not manufacture to sell in California,
4 offer for sale in California, or ship for sale in California any Seaweed or Sea Vegetables unless
5 the level of Lead does not exceed 75 parts per billion (“ppb”) and the level of Cadmium does not
6 exceed 85 ppb, and the level of Arsenic does not exceed 20 ppb unless Proposition 65 compliant
7 warnings are used as set forth in the following paragraphs.

8 3.2 After the Compliance Date, Defendant shall not sell in California, offer for sale in
9 California, or ship for sale in California any Pickled Ginger unless the level of Lead does not
10 exceed 33 ppb unless Proposition 65 compliant warnings are used as set forth in the following
11 paragraphs.

12 3.3 For any Covered Products that exceeds their respective levels of Lead, Cadmium
13 and/or Arsenic that are placed into the stream of commerce in California by Defendant after the
14 Compliance Date, Defendant must provide a Proposition 65 compliant warning for the Covered
15 Products as set forth below. The language of the warnings and method for providing any
16 warnings for the Covered Products shall be compliant with Title 27, California Code of
17 Regulations, § 25600, et seq. Where a sign, or label used for the Covered product includes
18 consumer information as defined by California Code of Regulations title 27 §25600.1(c) in a
19 language other than English, the warning must also be provided in that language in addition to
20 English. Should Defendant sell or distribute any Covered Product through the internet the
21 warning will be posted in the manner provided for with respect to internet sales, as provided for
22 in 27 CCR sections 25601 and 25602, as they may be subsequently amended.

23 3.4 Changes in the law and regulations applicable to Prop 65 occurring after this date
24 shall be incorporated into the terms of this Consent Judgment.
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1 **4. SETTLEMENT PAYMENT**

2 4.1 **Payment and Due Date:** Within ten (10) days of the Effective Date, Defendant
3 shall pay a total of two hundred thousand dollars (\$200,000.00) in full and complete settlement
4 of all monetary claims by CAG related to the Notices, as follows:

5 4.1.1 **Civil Penalty:** Defendant shall issue separate checks totaling eleven
6 thousand four hundred and forty dollars (\$11,440.00) as penalties pursuant to Health & Safety
7 Code § 25249.12:

8 (a) Defendant will issue a check made payable to the State of California's
9 Office of Environmental Health Hazard Assessment ("OEHHA") in the amount of eight
10 thousand five hundred and eighty dollars (\$8,580.00) representing 75% of the total penalty and
11 Defendant will issue a separate check to CAG in the amount of two thousand eight hundred and
12 sixty dollars (\$2,860.00) representing 25% of the total penalty; and

13 (b) Separate 1099s shall be issued for each of the above payments:
14 Defendant will issue a 1099 to OEHHA, P.O. Box 4010, Sacramento, CA 95184 (EIN: 68-
15 0284486). Defendant will also issue a 1099 to CAG c/o Yeroushalmi & Yeroushalmi, 9100
16 Wilshire Boulevard, Suite 240W, Beverly Hills, California 90212.

17 4.1.2 **Additional Settlement Payments:** Defendant shall make a separate
18 payment, in the amount of eight thousand five hundred and sixty dollars (\$8,560.00) as an
19 additional settlement payment to "Consumer Advocacy Group, Inc." pursuant to Health & Safety
20 Code § 25249.7(b) and California Code of Regulations, Title 11 § 3203(d). Defendant will issue
21 a separate check to CAG for the Additional Settlement Payment. CAG will use this payment as
22 follows, eighty percent (80%) for fees of investigation, purchasing and testing for Proposition 65
23 listed chemicals in various products, and for expert fees for evaluating exposures through various
24 mediums, including but not limited to consumer product, occupational, and environmental
25 exposures to Proposition 65 listed chemicals, and the cost of hiring consulting and retaining
26 experts who assist with the extensive scientific analysis necessary for those files in litigation and
27 to offset the costs of future litigation enforcing Proposition 65 but excluding attorney fees;
28

1 twenty percent (20%) for administrative costs incurred during investigation and litigation to
2 reduce the public's exposure to Proposition 65 listed chemicals by notifying those persons and/or
3 entities believed to be responsible for such exposures and attempting to persuade those persons
4 and/or entities to reformulate their products or the source of exposure to completely eliminate or
5 lower the level of Proposition 65 listed chemicals including but not limited to costs of
6 documentation and tracking of products investigated, storage of products, website enhancement
7 and maintenance, computer and software maintenance, investigative equipment, CAG's
8 member's time for work done on investigations, office supplies, mailing supplies and postage.
9 Within 30 days of a request from the Attorney General, CAG shall provide to the Attorney
10 General copies of documentation demonstrating how the above funds have been spent. CAG
11 shall be solely responsible for ensuring the proper expenditure of such additional settlement
12 payment.

13 **4.1.3 Reimbursement of Attorneys Fees and Costs:** Defendant shall pay one
14 hundred and eighty thousand dollars (\$180,000.00) to "Yeroushalmi & Yeroushalmi" as
15 reimbursement for reasonable investigation fees and costs, attorneys' fees, and any other costs
16 incurred as a result of investigating, bringing this matter to Defendant's attention, litigating, and
17 negotiating a settlement in the public interest.

18 **4.2** Other than the payment to OEHHA described above, all payments referenced in
19 paragraphs 4.1.1, 4.1.2, and 4.1.3 above, shall be delivered to: Reuben Yeroushalmi,
20 Yeroushalmi & Yeroushalmi, 9100 Wilshire Blvd., Suite 240W, Beverly Hills, CA 90212. The
21 payment to OEHHA shall be delivered to Office of Environmental Health Hazard Assessment,
22 Attn: Mike Gyurics, 1001 I Street, Mail Stop 12-B, Sacramento, California 95812. Concurrently
23 with payment to OEHHA, Defendant shall provide CAG with written confirmation that the
24 payment to OEHHA was delivered.

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26 **5. MATTERS COVERED BY THIS CONSENT JUDGMENT**

27 **5.1** This Consent Judgment is a full, final, and binding resolution between CAG on
28 behalf of itself and in the public interest and Defendant for alleged failure to provide any

1 required Proposition 65 warning of exposure to Lead, Cadmium, and Arsenic from the Covered
2 Products as set forth in the Notices and the Action, and fully resolves all claims that have been or
3 could have been asserted against Defendant in the Action up through the Compliance Date.
4 CAG, on behalf of itself and in the public interest, hereby discharges Defendant, and their
5 respective officers, directors, insurers, employees, parents, shareholders, divisions, subdivisions,
6 subsidiaries, and their successors and assigns (“Defendant Releasees”) and all customers,
7 retailers, and downstream entities in the distribution chain of the Covered Products to whom
8 Defendant distributed or sold Covered Products, and the predecessors, successors and assigns of
9 any of them, and all of their respective officers, directors, shareholders, members, managers,
10 employees, agents only as to Covered Products sold by the Defendant (collectively,
11 “Downstream Releasees”), for all Covered Products placed into the stream of commerce up
12 through the e Compliance Date for any alleged violations of Proposition 65 based on alleged
13 exposure to Lead, Cadmium, and Arsenic from the Covered Products. Defendant’s compliance
14 with the terms of this Consent Judgment shall be deemed to constitute compliance with
15 Proposition 65 regarding alleged exposures to Lead, Cadmium, and Arsenic from the Covered
16 Products. Nothing in this Section affects CAG’s right to commence or prosecute an action under
17 Proposition 65 against any person other than Defendant Releasees or Downstream Releasees
18 after the Compliance Date.

19
20 5.2 CAG on behalf of itself, its past and current agents, representatives, attorneys,
21 successors, and/or assignees, hereby waives all rights to institute or participate in, directly or
22 indirectly, any form of legal action and releases all claims, including, without limitation, all
23 actions, and causes of action, in law or in equity, suits, liabilities, demands, obligations,
24 damages, costs, fines, penalties, losses, or expenses (including, but not limited to, investigation
25 fees, expert fees, and attorneys’ fees) of any nature whatsoever, whether known or unknown,
26 fixed or contingent (collectively “Claims”), against the Released Parties arising from any alleged
27 violation of Proposition 65 or any other statutory or common law regarding any failure to warn
28 about alleged exposure to Lead, Cadmium, and Arsenic from the Covered Products. In

1 furtherance of the foregoing, as to alleged exposures to Listed Chemicals from the Covered
2 Products, CAG on behalf of itself only, hereby waives any and all rights and benefits which it
3 now has, or in the future may have, conferred upon it with respect to Claims arising from any
4 alleged violation of Proposition 65 or any other statutory or common law regarding any failure to
5 warn about alleged exposure to Listed Chemicals from the Covered Products by virtue of the
6 provisions of section 1542 of the California Civil Code, which provides as follows:

7 A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE
8 CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO
9 EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE
10 RELEASE AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE
11 MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE
12 DEBTOR OR RELEASED PARTY.

13 CAG understands and acknowledges that the significance and consequence of this waiver of
14 California Civil Code section 1542 is that even if CAG suffers future damages arising out of or
15 resulting from, or related directly or indirectly to, in whole or in part, Claims arising from any
16 alleged violation of Proposition 65 or any other statutory or common law regarding any failure to
17 warn about alleged exposure to Listed Chemicals from the Covered Products, including but not
18 limited to any exposure to, or failure to warn with respect to alleged exposure to Listed
19 Chemicals from the Covered Products, CAG will not be able to make any claim for those
20 damages against Released Parties. Furthermore, CAG acknowledges that it intends these
21 consequences for any such Claims arising from any alleged violation of Proposition 65 or any
22 other statutory or common law regarding any failure to warn about alleged exposure to Listed
23 Chemicals from Covered Products as may exist as of the date of this release but which CAG
24 does not know exist, and which, if known, would materially affect their decision to enter into this
25 Consent Judgment, regardless of whether their lack of knowledge is the result of ignorance,
26 oversight, error, negligence, or any other cause.
27
28

1 **6. ENTRY OF CONSENT JUDGMENT**

2 6.1 CAG shall file a motion seeking approval of this Consent Judgment pursuant to
3 California Health & Safety Code § 25249.7(f). Upon entry of the Consent Judgment, CAG and
4 Defendant waive their respective rights to a hearing or trial on the allegations of the Action.

5 6.2 The Parties shall make all reasonable efforts possible to have the Consent
6 Judgment approved by the Court.

7 6.3 If this Consent Judgment is not approved in full by the Court, (a) this Consent
8 Judgment and any and all prior agreements between the Parties merged herein shall terminate
9 and become null and void, and the actions shall revert to the status that existed prior to the
10 execution date of this Consent Judgment; (b) no term of this Consent Judgment or any draft
11 thereof, or of the negotiation, documentation, or other part or aspect of the Parties' settlement
12 discussions, shall have any effect, nor shall any such matter be admissible in evidence for any
13 purpose in this Action, or in any other proceeding; and (c) the Parties agree to meet and confer to
14 determine whether to modify the terms of the Consent Judgment and to resubmit it for approval.

15 **7. MODIFICATION OF JUDGMENT**

16 7.1 This Consent Judgment may be modified only upon written agreement of the
17 Parties and upon entry of a modified Consent Judgment by the Court thereon, or upon motion of
18 any party as provided by law and upon entry of a modified Consent Judgment by the Court.

19 7.2 Any Party seeking to modify this Consent Judgment shall attempt in good faith to
20 meet and confer with the other Party prior to filing a motion to modify the Consent Judgment.

21 **8. RETENTION OF JURISDICTION**

22 8.1 This Court shall retain jurisdiction of this matter to implement and enforce the
23 terms of this Consent Judgment under Code of Civil Procedure § 664.6.

24 8.2 In any proceeding brought by either Party to enforce this Consent Judgment, the
25 prevailing party shall be entitled to recover its reasonable attorney's fees and costs.
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1 **10. DUTIES LIMITED TO CALIFORNIA**

2 9.1 This Consent Judgment shall have no effect on Covered Products sold by
3 Defendant outside the State of California.

4 **10. SERVICE ON THE ATTORNEY GENERAL**

5 10.1 CAG shall serve a copy of this Consent Judgment, signed by the Parties, on the
6 California Attorney General so that the Attorney General may review this Consent Judgment
7 prior to its approval by the Court. No sooner than forty-five (45) days after the Attorney General
8 has received the aforementioned copy of this Consent Judgment, and in the absence of any
9 written objection by the Attorney General to the terms of this Consent Judgment, may the Court
10 approve this Consent Judgment.

11 **11. ATTORNEY FEES**

12 11.1 Except as specifically provided in Section 4.1.3 and 8.2, each Party shall bear its
13 own costs and attorney fees in connection with this action.

14 **12. GOVERNING LAW**

15 12.1 The validity, construction and performance of this Consent Judgment shall be
16 governed by the laws of the State of California, without reference to any conflicts of law
17 provisions of California law.

18 12.2 The terms of this Consent Judgment shall be governed by the laws of the State of
19 California. In the event that Proposition 65 is amended, repealed, preempted, or is otherwise
20 rendered inapplicable by reason of law generally, or if any of the provisions of this Consent
21 Judgment are rendered inapplicable or are no longer required as a result of any such amendment,
22 repeal or preemption, or rendered inapplicable by reason of law generally as to the Covered
23 Products, then any Defendant subject to this Consent Judgment may provide written notice to
24 CAG of any asserted change in the law, and shall have no further obligations pursuant to this
25 Consent Judgment with respect to, and to the extent that, the Covered Products are so affected.
26 Nothing in this Consent Judgment shall be interpreted to relieve a Defendant from any obligation
27 to comply with any pertinent state or federal law or regulation.
28

1 12.3 The Parties, including their counsel, have participated in the preparation of this
2 Consent Judgment and this Consent Judgment is the result of the joint efforts of the Parties. This
3 Consent Judgment was subject to revision and modification by the Parties and has been accepted
4 and approved as to its final form by all Parties and their counsel. Accordingly, any uncertainty or
5 ambiguity existing in this Consent Judgment shall not be interpreted against any Party as a result
6 of the manner of the preparation of this Consent Judgment. Each Party to this Consent Judgment
7 agrees that any statute or rule of construction providing that ambiguities are to be resolved
8 against the drafting Party should not be employed in the interpretation of this Consent Judgment
9 and, in this regard, the Parties hereby waive California Civil Code § 1654.

10 **13. EXECUTION AND COUNTERPARTS**

11 13.1 This Consent Judgment may be executed in counterparts and by means of
12 facsimile or portable document format (pdf), which taken together shall be deemed to constitute
13 one document and have the same force and effect as original signatures.

14 **14. NOTICES**

15 14.1 Any notices under this Consent Judgment shall be by First-Class Mail or E-mail.

16
17 If to CAG:

18 Reuben Yeroushalmi
19 YEROUSHALMI & YEROUSHALMI
20 9100 Wilshire Boulevard, Suite 240W
21 Beverly Hills, CA 90212
22 (310) 623-1926
23 Email: lawfirm@yeroushalmi.com

24 If to Defendant.:

25 Merrit Jones
26 BRYAN CAVE LEIGHTON PAISNER LLP
27 Three Embarcadero Center, 7th Floor
28 San Francisco, CA 94111-4070
 (415) 675-3435
 Merrit.Jones@bclplaw.com

1 **15. AUTHORITY TO STIPULATE**

2 15.1 Each signatory to this Consent Judgment certifies that he or she is fully authorized
3 by the party he or she represents to enter into this Consent Judgment and to execute it on behalf of
4 the party represented and legally to bind that party.

6 AGREED TO:	6 AGREED TO:
7 Date: <u>July 17</u> , ²⁰²³ 2022	7 Date: <u>7-17-</u> , ²⁰²³ 2022
8 <u>Michael Marcus</u>	8 <u>Michael Potter</u>
9 Name: <u>Michael Marcus</u>	9 Name: <u>Michael Potter</u>
10 Title: <u>Director</u>	10 Title: <u>President</u>
11 CONSUMER ADVOCACY GROUP, INC.	11 EDEN FOODS, INC
12	12
13	13

14
15 **IT IS SO ORDERED.**

16
17 Date: _____

18 _____
19 JUDGE OF THE SUPERIOR COURT