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9 MATEEL ENVIRONMENTAL
JUSTICE FOUNDATION

10 Attorneys for Plaintiff MATEEL
11 ENVIRONMENTAL JUSTICE FOUNDATION

12 SUPERIOR COURT OF THE STATE OF CALIFORNIA

13 CITY AND COUNTY OF SAN FRANCISCO

14 UNLIMITED JURISDICTION

15
16 MATEEL ENVIRONMENTAL JUSTICE) Case No. CGC-21-594626
FOUNDATION,)
17) **CONSENT JUDGMENT**
Plaintiff,)
18)
v.)
19)
CYDEA, INC.,)
20)
Defendant.)
21)
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_____)

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1 **1. INTRODUCTION**

2 1.1 On or about January 14, 2021, plaintiff Mateel Environmental Justice
3 Foundation (“MEJF”), provided a 60-day Notice of Violation to the California Attorney
4 General, the District Attorneys of each county in California, the City Attorneys of every
5 California city with a population greater than 750,000, and defendant Cydea, Inc.
6 (“Cydea”)(MEJF and Cydea “Parties”), alleging that Cydea, through its sales in California
7 of beer taps, faucets and dispensing equipment that contain lead, was in violation of
8 California Health and Safety Code § 25249.5 et seq., (“Proposition 65”) by knowingly and
9 intentionally exposing persons to lead, a product known to the State of California to cause
10 cancer and/or birth defects or other reproductive harm, without first providing a clear and
11 reasonable warning.

12 1.2 On or about, August 19, 2021, MEJF, acting in the public interest pursuant to
13 Health and Safety Code § 25249.7(d), filed a Complaint for Civil Penalties and Injunctive
14 Relief in this action in San Francisco County Superior Court, Case No. CGC-21-594626
15 against Cydea based on the allegations contained in the January 14, 2021 Notice Letter.
16 MEJF alleges in the Complaint that Cydea is a business that employs more than ten persons
17 and manufactures, distributes and/or markets within the State of California beer taps,
18 faucets and dispensing equipment that contains lead. Pursuant to Proposition 65, lead and
19 lead compounds are chemicals known to the State of California to cause cancer and
20 reproductive toxicity. MEJF further alleges that beer taps, faucets and dispensing
21 equipment that are manufactured, distributed, sold and/or marketed by Cydea for use in
22 California, require a warning under Proposition 65.

23 1.4 For purposes of this Consent Judgment only, the Parties stipulate that this
24 Court has jurisdiction over the allegations of violations contained in the 60 Day Notice
25 Letters and Complaint and personal jurisdiction over Defendant as to the acts alleged in the
26 Complaint, that venue is proper in the County of San Francisco and that this Court has
27 jurisdiction to enter this Consent Judgment as a full and final settlement and resolution of
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1 the allegations contained in the Complaint and of all claims which were or could have been
2 raised based on the facts alleged therein or arising therefrom.

3 1.5 The Parties enter into this Consent Judgment pursuant to a full and final
4 settlement of disputed claims between the parties for the purpose of avoiding prolonged
5 litigation. This Consent Judgment and compliance with it shall not constitute an admission
6 with respect to any allegation made in the 60 Day Notice Letters or the Complaint, each and
7 every allegation of which Cydea denies, nor may this Consent Judgment or compliance with
8 it be used as an admission or evidence of any fact, wrongdoing, misconduct, culpability or
9 liability on the part of a Cydea.

10 **2. DEFINITIONS.**

11 2.1 The term “Covered Product” means a beverage dispenser, beer tap, faucet,
12 spigot, or other dispensing equipment made in whole or in part from brass or other copper
13 alloys which contain lead manufactured, and that are marketed or sold in California by
14 Cydea.

15 2.2 The term “Effective Date” means the date of entry of this Consent Judgment.

16 **3. INJUNCTIVE RELIEF**

17 3.1 At any time more than 120 days after the Effective Date, Cydea agrees that it will
18 not knowingly ship for sale Covered Products for use in California if any food contact surface of
19 the Covered Product contains intentionally added lead.

20 **4. ENFORCEMENT OF JUDGMENT**

21 4.1. The terms of this Consent Judgment shall be enforced exclusively by the
22 Parties hereto.

23 **5. MONETARY RELIEF**

24 5.1. Cydea shall pay a total of \$21,500 in full and complete settlement of all
25 monetary claims by MEJF, as follows:

26 5.2 Payment shall be made to Klamath Environmental Law Center (“KELC”), and
27 sent to the attention of William Verick, Klamath Environmental Law Center, 1125 16th
28 Street, Suite 204, Arcata, California 95521. Cydea shall deliver these payments to its

1 attorneys of record in this action no later than on or before 5 days before any hearing of any
2 motion for approval of the settlement. Cydea's attorneys shall thereupon notify Mateel by
3 e-mail at wverick@igc.org that they have received such payments. If the Mateel has not
4 been notified that such payments have been received by Cydea's attorneys, then MEJF may
5 continue or withdraw any motion to approve this agreement, and this Consent Judgment
6 shall be deemed of no effect.

7 5.3 Upon approval by the Court of this Consent Judgment, the payments shall
8 subsequently and within a commercially reasonable time be allocated by KELC as follows:

9 5.3.1 The sum of \$1,500 shall be paid in civil penalties, payable as follows:
10 75% of the penalty shall be made payable to the Office of Environmental Health Hazard
11 Assessment, with the remaining 25% payable to Mateel Environmental Justice Foundation in
12 accordance with California Health and Safety Code § 25192.

13 5.3.2 The sum of \$20,000 shall be retained by Klamath Environmental Law
14 Center, as payment in part for the attorneys fees and costs incurred in this action.

15 5.4 Cydea's attorneys shall forward these payments to MEJF's attorneys at the above
16 address by overnight next-business day delivery no later than the day after the court approves this
17 consent judgment.

18 **6. CLAIMS COVERED AND RELEASE**

19 6.1 As to lead exposures alleged to be caused by Covered Products sold by Cydea
20 prior to the Effective Date, this Consent Judgment is a final and binding resolution between
21 MEJF, acting on behalf of itself and as to those matters raised in the 60 Day Notice Letters
22 in the public interest, and Cydea and its parents, subsidiaries, and affiliates as well as their
23 customers, distributors, wholesalers, retailers, or any other person in the course of doing
24 business, and the successors and assigns of any of them, who may have used, maintained,
25 distributed or sold or use, maintain, distribute or sell Covered Products or other products
26 that include as components Covered Products, including the Downstream Entities, as
27 defined in Section 6.2 ("Releasees") of: (i) as to lead exposures from Covered Products, any
28 violation of Proposition 65 (including but not limited to the claims made in the Complaints

1 and the Notices); and (ii) any other claim that could have been asserted by MEJF in the
2 public interest against the Releasees, based on exposure of persons to lead from Covered
3 Products or failure to provide a clear and reasonable warning of such exposure, whether
4 based on actions committed by the Releasees or others. Further, as part of entry of this
5 Judgment, the Court finds that compliance with the terms of this Consent Judgment meets
6 the current warning requirements for lead of Proposition 65.

7 6.2 In furtherance of the Parties' intention that this Consent Judgment shall be
8 effective as a full and final accord, satisfaction, and release as to the Releasees of and from
9 any and all matters released hereunder, MEJF acknowledges familiarity and understanding
10 of California Civil Code § 1542, which provides as follows:

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

17 To the extent that Section 1542 or any similar law or statute may otherwise apply to this Consent
18 Judgment, MEJF hereby waives and relinquishes as to all matters released hereunder all rights
19 and benefits it has, or may have, under Section 1542 or the laws of any other jurisdiction to the
20 same or similar effect. MEJF further acknowledges that, subsequent to the execution of this
21 Consent Judgment, it may discover Claims that were unsuspected at the time this Consent
22 Judgment was executed, and which might have materially affected its decision to execute this
23 Consent Judgment, but nevertheless MEJF releases the Releasees from any and all such Claims,
24 whether known or unknown, suspected or unsuspected, at the time of the execution of this
25 Consent Judgment.

26 **7. APPLICATION OF JUDGMENT**

27 7.1 The obligations of this Consent Judgment shall apply to and be binding upon
28 all plaintiffs acting in the public interest pursuant to Health and Safety Code § 25249.7, and
Cydea, and its successors or assigns. The terms contained in this Consent Judgment shall

1 be submitted to the California Attorney General's office prior to the entry of this Consent
2 Judgment by the Court.

3 7.2 This Consent Judgment shall have no effect on Covered Products sold or
4 offered for sale by Cydea outside the State of California.

5 **8. MODIFICATION OF JUDGMENT**

6 8.1 This Consent Judgment may be modified only upon written agreement of the
7 parties and upon entry of a modified Consent Judgment by the Court thereon or upon
8 motion of any party as provided by law and upon entry of a modified Consent Judgment by
9 the Court.

10 **9. COURT APPROVAL**

11 9.1 If the Court does not approve this Consent Judgment, it shall be of no force or
12 effect, and cannot be used in any proceeding for any purpose.

13 **10. RETENTION OF JURISDICTION**

14 10.1. This Court shall retain jurisdiction of this matter to implement this Consent
15 Judgment.

16 **11. GOVERNING LAW AND CONSTRUCTION**

17 11.1 The laws of the State of California shall govern the validity, construction and
18 performance of this Consent Judgment.

19 **12. NOTICES**

20 12.1 When any Party is entitled to receive any notice under this Consent
21 Judgment, the notice or report shall be sent by U.S. mail or overnight courier service to the
22 following persons:

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24 If to MEJF: William Verick, Esq.
25 Klamath Environmental Law Center
26 1125 16th Street, Suite 204
27 Arcata, CA 95521
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If to Cydea: Daniel J. Herling
Adam B. Korn
Mintz Levin Cohn Ferris Glovsky and Popeo PC
44 Montgomery Street, 36th Floor
San Francisco, CA 94104

12.2 Any Party may modify the person and address to whom notice is to be sent by sending each other Party notice in accordance with this Section.

13. SUCCESSORS AND ASSIGNS

13.1 This Consent Judgment shall apply to and be binding upon Mateel and Settling Defendant, Cydea, and their respective divisions, subdivisions and subsidiaries, and the successors or assigns of any of them.

14. AUTHORITY TO STIPULATE

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

15. ENTIRE AGREEMENT

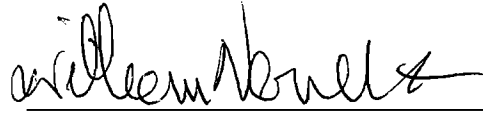
15.1 This Consent Judgment contains the sole and entire, agreement and understanding of the parties with respect to the entire subject matter hereof, and any and all prior discussions, negotiations, commitments and understandings related hereto. No representations, oral or otherwise, express or implied, other than those contained herein have been made by any party hereto. No other agreements not specifically referred to herein, oral or otherwise, shall be deemed to exist or to bind any of the parties.

16. EXECUTION IN COUNTERPARTS

16.1 This Consent Judgment may be executed in counterparts and/or by facsimile or portable document format (pdf), which taken together shall be deemed to constitute one original document.

1 **IT IS SO STIPULATED:**

2 Dated: 1-6-23



Mateel Environmental Justice Foundation

By: William Verick, CEO

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Dated: 1-4-23



CYDEA, Inc.

By: Craig Costanzo, Chief Executive Officer

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IT IS SO ORDERED, ADJUDGED AND DECREED:

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Date: _____

JUDGE OF THE SUPERIOR COURT

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