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5 Attorneys for Plaintiff
6 The Chemical Toxin Working Group Inc. doing
business as Healthy Living Foundation Inc.
7

8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

9 **COUNTY OF ALAMEDA**

10 THE CHEMICAL TOXIN WORKING
GROUP INC., a California non-profit
11 corporation, doing business as HEALTHY
LIVING FOUNDATION INC.

12 Plaintiff,

13 v.

14 PHARMACA INTEGRATIVE PHARMACY,
INC., a Delaware corporation;
15 VITALITY WORKS, INC., a New Mexico
corporation;
16 AMAZON.COM, INC., a Delaware
corporation;
17 AMAZON.COM SERVICES LLC, a
Delaware limited liability company;
18 and DOES 1-40,

19 Defendants.
20

CASE NO. 21CV004037

[PROPOSED] CONSENT JUDGMENT

[Assigned for All Purposes to the Hon. Tara
M. Desautels, Dept. 16]

1st Amended Complaint: March 22, 2022

21 **1. INTRODUCTION**

22 1.1. The Parties to this Consent Judgment are The Chemical Toxin Working Group Inc.
doing business as Healthy Living Foundation Inc. ("Plaintiff") and Defendant Vitality
23 Works, Inc. ("Defendant"). Plaintiff and Defendant (collectively, the "Parties" and
24

1 individually, a “Party”) enter into this Consent Judgment (“Consent Judgment”) to settle
2 claims asserted by Plaintiff against Defendant as set forth in the Complaint.

3 1.2. Defendant has manufactured, distributed, and/or sold the Covered Products.

4 1.3. On June 18, 2021, Plaintiff served a 60-day notice of violation of Proposition 65 on the
5 California Attorney General, the District Attorneys of every county in California, the
6 City Attorneys of every California city with a population greater than 750,000, and to
7 Defendant, alleging that Defendant violated Proposition 65 by exposing persons in
8 California to the Listed Chemical in Pharmaca Valerian and Pharmaca Ginger without
9 first providing a clear and reasonable Proposition 65 warning (the “First Notice”). The
10 First Notice is designated with Attorney General number 2021-01443. No designated
11 governmental entity has filed a complaint against Defendant with regard to the
12 Pharmaca Valerian and Pharmaca Ginger or the alleged violations.

13 1.4. On September 24, 2021, Plaintiff served a 60-day notice of violation of Proposition 65
14 on the California Attorney General, the District Attorneys of every county in California,
15 the City Attorneys of every California city with a population greater than 750,000, and
16 to Defendant, alleging that Defendant violated Proposition 65 by exposing persons in
17 California to the Listed Chemical in Pharmaca Valerian, Pharmaca Ginger, and Vitality
18 Valerian without first providing a clear and reasonable Proposition 65 warning (the
19 “Second Notice”). The Second Notice is designated with Attorney General number
20 2021-02385. No designated governmental entity has filed a complaint against
21 Defendant with regard to the Pharmaca Valerian, Pharmaca Ginger, and Vitality
22 Valerian or the alleged violations.

23 1.5. On November 5, 2021, Plaintiff served a 60-day notice of violation of Proposition 65 on
24 the California Attorney General, the District Attorneys of every county in California,
25 the City Attorneys of every California city with a population greater than 750,000, and
to Defendant, alleging that Defendant violated Proposition 65 by exposing persons in
California to the Listed Chemical in Pure Mountain Valerian without first providing a

1 clear and reasonable Proposition 65 warning (the “Third Notice”). The Third Notice is
2 designated with Attorney General number 2021-02730. No designated governmental
3 entity has filed a complaint against Defendant with regard to the Pure Mountain
4 Valerian or the alleged violations.

5 1.6. The “Notices” means the First Notice, Second Notice, and Third Notice.

6 1.7. For purposes of this Consent Judgment only, the Parties stipulate that this Court has
7 jurisdiction over the allegations of violations contained in the Complaint and personal
8 jurisdiction over Defendant as to the acts alleged in the Complaint, that venue is proper
9 in the County of Alameda, and that this Court has jurisdiction to enter and enforce this
10 Consent Judgment as a full and final resolution of all claims which were or could have
11 been raised in the Complaint based on the facts alleged therein and in the Notices with
12 respect to Covered Products manufactured, distributed, and/or sold by or on behalf of
13 Defendant. Additionally, for purposes of this Consent Judgment, Defendant is deemed
14 a person in the course of doing business in California and subject to the provisions of
15 the Safe Drinking Water and Toxic Enforcement Act of 1986, California Health &
16 Safety Code §§ 25249.6 et seq. (“Proposition 65”).

17 1.8. Defendant denies the allegations in the Notices and Complaint, and nothing in this
18 Consent Judgment is or shall be construed as an admission by the Parties of any fact,
19 conclusion of law, issue of law, or violation of law, nor shall compliance with the
20 Consent Judgment constitute or be construed as an admission by the Parties of any fact,
21 conclusion of law, issue of law, or violation of law. Nothing in this Consent Judgment
22 shall prejudice, waive or impair any right, remedy, argument, or defense the Parties may
23 have in any other pending or future legal proceedings. This Consent Judgment is the
24 product of negotiation and compromise and is accepted by the Parties solely for
25 purposes of settling, compromising, and resolving issues disputed in this action.

24 **2. DEFINITIONS**

25 2.1. The “Complaint” means the operative first amended complaint filed on March 22, 2022

1 in the above-captioned matter.

2 2.2. The “Covered Product(s)” means the following products sold or supplied by the
3 Defendant:

4 2.2.1. Pharmaca Valerian 90 Vegetarian Capsules also known as Pharmaca Valerian, 90
5 Veggie Caps, Herbal Supplement (“Pharmaca Valerian”);

6 2.2.2. Pharmaca Ginger 90 Vegetarian Capsules also known as Pharmaca Ginger, 90
7 Veggie Caps, Herbal Supplement (“Pharmaca Ginger”);

8 2.2.3. Vitality Works Valerian Herbal Supplement, 90 Veggie Caps (“Vitality Valerian”);

9 2.2.4. Pure Mountain Botanicals Valerian herbal supplement 90 Veggie Caps (“Pure
10 Mountain Valerian”).

11 2.3. The “Listed Chemical” means lead and lead compounds.

12 2.4. The “Effective Date” means the date on which the Defendant receives notice of entry of
13 this Consent Judgment.

14 2.5. “Compliance Date” refers to the date that is sixty (60) days after the Effective Date.

15 2.6. “Distributor” is any entity or individual that sells Covered Products into the State of
16 California.

17 2.7. The term “Reasonably Foreseeable” means that a reasonable inquiry would have
18 revealed to Defendant that a Distributor will sell Covered Products to California.

19 2.8. The term “Distribute[s] into the State of California” shall mean to directly ship a
20 Covered Product into California for sale in California, or to sell a Covered Product to a
21 Distributor that Defendant knows, or for which it is Reasonably Foreseeable that such
22 Distributor will sell the Covered Products in California.

23 **3. INJUNCTIVE RELIEF**

24 3.1. Any Covered Products that Defendant Distributes into the State of California after the
25 Compliance Date, shall either (1) comply with the warning requirements of Section 3.2
or (2) qualify as Reformulated Covered Products under Section 3.3.

1 **3.2. Warnings**

2 3.2.1. The term “WARNING” shall be in bold and capitalized.

3 3.2.2. If the short-form warning is used under Section 3.2.5 Option 2, a pictogram with a
4 yellow equilateral triangle outlined in bold black with a black exclamation point in
5 the center must be placed to the left of the word “WARNING”. The size of the
6 pictogram cannot be smaller than the word “WARNING”. Where the label for the
7 product is not printed using the color yellow, the symbol may be in black and white.

8 3.2.3. For any Covered Product sold by Defendant over the internet, the warning shall be
9 prominently displayed as follows: (a) on the primary display page for the Covered
10 Product; (b) as a clearly marked hyperlink using the word “WARNING” in all capital
11 and bold letters on the Covered Product’s primary display page; (c) on the checkout
12 page or any other page in the checkout process when a California delivery address is
13 indicated for any purchase of any Covered Product and with the warning clearly
14 associated with the Covered Product to indicate that the product is subject to the
15 warning; or (d) by otherwise prominently displaying the warning to the purchaser
16 prior to completing the purchase. For Defendant’s internet/online sales, in addition to
17 the online warning described above, Defendant must also ensure a warning under
18 Section 3.2.4 appears on the label of the Covered Product.

19 3.2.4. For any Covered Product sold by Defendant to a Distributor that will or for which
20 it is Reasonably Foreseeable will sell those Covered Products over the internet,
21 Defendant shall provide the written notice applicable to each brand of Covered
22 product attached hereto as Exhibit A, B, or C to each entity. Confirmation of receipt
23 of the notice must be received electronically or otherwise in writing from the entity
24 or an authorized agent for the entity to which Defendant sent the notice.

25 **3.2.5. Warning statement**

 If Defendant provides warnings under Section 3.2, Defendant shall provide one of the
24 following warning statements:

 A) Option 1, Long-Form Warning:

1 **WARNING:** Consuming this product can expose you to [chemicals including]
2 lead, which is [are] known to the State of California to cause [cancer and] birth defects
3 or other reproductive harm. For more information, go to
4 www.P65Warnings.ca.gov/food.

4 B) Option 2, Short-Form Warning:

5 The font size of this short-form warning must be a minimum of 6 points, and it cannot be
6 smaller than the largest size font used for other consumer information (as defined in 27
7 Cal. Code Regs. § 25600.1(c)) included on the label:

7 **WARNING:** [Cancer and] Reproductive Harm – www.P65Warnings.ca.gov/food

8 The bracketed terms may be provided at Defendant's option.

8 **3.2.6. Warning Method of Transmission**

9 The warning statement shall be prominently displayed for the Covered Product (1) on the
10 label of the Covered Product, or (2) on a placard, shelf tag, or sign, provided that the
11 statement is displayed with such conspicuousness, as compared with other words,
12 statements, or designs as to render it likely to be read and understood by an ordinary
13 individual prior to sale. If the warning statement is displayed on the Covered Product's
14 label, it must be set off from other surrounding information and enclosed in a text box. If
15 the warning statement is displayed on a placard, shelf tag, or sign where the Covered
16 Product is offered for sale in a physical store, the warning placard or sign must enable an
17 ordinary individual to determine which Covered Products the warning applies to. Where
18 the Covered Products' sign, label, or shelf tag used to provide a warning includes
19 consumer information about a product in a language other than English, the warning must
20 also be provided in that language in addition to English.

20 **3.3. Reformulated Covered Products; Testing**

21 3.3.1. Defendant shall not Distribute into the State of California any Covered Products
22 that exceed exposure of 0.5 micrograms of lead per the maximum daily dose
23 recommended on the label of the Covered Products, unless the Covered Products have
24 a warning in compliance with Section 3.2. Such Reformulated Covered Products will
25 not require a Proposition 65 warning. For purposes of determining if a warning is
required pursuant to Section 3.3, the average lead concentration of six (6) samples of

1 the Covered Products randomly selected from different lot numbers by Defendant (or
2 from as many lots as are available for testing if there are fewer than six (6)) shall be
3 used. The average lead concentration of the six (6) samples shall be calculated using
4 the arithmetic mean. Plaintiff reserves the right to test reformulated products and, if
5 the results are violative of Section 3.3, assert any new claims that may arise, subject
6 to the provisions of Section 5.

7 3.3.2. All testing pursuant to this Consent Judgment shall be performed using a laboratory
8 method that complies with the performance and quality control factors appropriate
9 for the method used, including limit of detection, limit of quantification, accuracy,
10 and precision and meets the following criteria: Inductively Coupled Plasma-Mass
11 Spectrometry (ICP-MS) achieving a limit of quantification of less than or equal to
12 0.010 mg/kg, or any other testing method subsequently agreed upon in writing by the
13 Parties.

14 3.3.3. All testing pursuant to this Consent Judgment shall be performed by an independent
15 third party laboratory accredited to perform lead testing using the methodology in
16 Section 3.3.2. Testing shall be performed prior to Defendant's first distribution into
17 California or sale in California of any Covered Product manufactured or purchased
18 by Defendant after the Compliance Date, and testing shall continue at least once per
19 year thereafter for as long as Defendant sells the Covered Product.

20 3.3.4. The reformulation and testing requirements of Section 3.3 do not apply to any of
21 the Covered Product for which Defendant has provided a warning as specified in
22 Section 3.2.

23 3.4. For any Covered Products that Defendant has currently existing in its inventory or a
24 Distributor's inventory as of the Compliance Date that are not a Reformulated Covered
25 Product, Defendant shall not Distribute into the State of California these Covered
Products unless they contain a warning pursuant to Section 3.2.

1 **4. SETTLEMENT PAYMENT**

2 4.1. **Total Settlement Amount:** Within ten (10) calendar days of the Effective Date,
3 Defendant shall make a total payment of \$155,000.00 (“Total Settlement Amount”) in
4 full satisfaction of all potential civil penalties, additional settlement payments,
5 attorney’s fees and costs (including, but not limited to, fees and costs incurred by
6 attorneys, experts, and investigators), pursuant to Section 4.3 as indicated below.

7 4.2. **Allocation:** The Total Settlement Amount shall be apportioned and paid by Defendant
8 as follows:

9 4.2.1. **Civil Penalty.** \$31,000.00 shall be considered a civil penalty pursuant to California
10 Health and Safety Code section 25249.7(b)(1), of which Plaintiff shall remit seventy-
11 five percent (75%), (\$23,250.00) to the “Safe Drinking Water and Toxic Enforcement
12 Fund” managed by the State of California’s Office of Environmental Health Hazard
13 Assessment. Plaintiff shall retain twenty-five percent (25%), (\$7,750.00) of the civil
14 penalty pursuant to California Health and Safety Code section 25249.12(d).

15 4.2.2. **Attorneys’ Fees.** Defendant shall pay \$124,000.00 to “Poulsen Law P.C.” (herein
16 “Poulsen Law”) as reimbursement of Plaintiff’s attorney’s fees and costs (including
17 but not limited to expert and investigative costs) incurred in bringing this action.

18 **4.3. Delivery of Payment**

19 4.3.1. Defendant shall pay the Total Settlement Amount by wire transfer to Plaintiff
20 counsel’s escrow account, for which Plaintiff’s counsel will give Defendant the
21 necessary account information.

22 4.3.2. Plaintiff shall be solely responsible for allocating the Total Settlement Amount
23 pursuant to Section 4. Upon request, Plaintiff or its legal counsel shall supply
24 Defendant with a completed W-9 form.

25 **5. ENFORCEMENT**

5.1. The Parties agree that any legal action to enforce this Consent Judgment shall be
brought in Alameda County Superior Court. The Parties agree that Alameda County

1 Superior Court has subject matter jurisdiction over the enforcement of this Consent
2 Judgment and personal jurisdiction over Defendant, and that venue is proper in
3 Alameda County. The Plaintiff and Defendant have the exclusive right to enforce the
4 terms of the Consent Judgment. They may enforce any of the terms and conditions of
5 this Consent Judgment only after that Party first provides thirty (30) days notice
6 identifying a material noncompliance with the terms and conditions of this Consent
7 Judgment and attempts to resolve such Party's failure to comply in an open and good
8 faith manner. Notwithstanding the immediately preceding sentence Plaintiff may bring
9 a motion or an action to enforce any breach of the settlement payment terms in Section
10 4 upon five (5) business days written notice by Plaintiff to the Defendant.

11 5.2. Prior to bringing any motion, order to show cause, or other proceeding to enforce the
12 terms of this Consent Judgment other than for failure to make payment, Plaintiff shall
13 serve a Notice of Violation ("NOV") to the Defendant via electronic mail to the Parties
14 identified in Section 10. The NOV shall include for the Covered Product(s): the date(s)
15 the alleged violation(s) was observed and the location at which the Covered Products
16 were offered for sale and shall be accompanied by all test data obtained by Plaintiff
17 regarding the Covered Products, and any other evidence or support for the allegations in
18 the NOV.

19 5.3. Defendant shall, within thirty (30) days following service of such NOV, provide
20 Plaintiff with documentation that meets one of the following conditions:

21 5.3.1. The Covered Products were shipped by Defendant for sale in California before the
22 Compliance Date or are otherwise exempt, or

23 5.3.2. Since receiving the NOV Defendant has taken corrective action by either (i)
24 requesting, in writing, with receipt confirmation, that its customers or stores in
25 California, as applicable, remove the specific lot of Covered Products identified in
the NOV from sale in California and destroy or return the identified Covered Products

1 to Defendant or vendor, as applicable, or (ii) providing a clear and reasonable warning
2 for the Covered Products identified in the NOV pursuant to Section 3 above.

3 5.3.3. Plaintiff shall take no further action to enforce the alleged violation(s) of this
4 Consent Judgment if the documentation called for in this section satisfies the
5 requirements of Sections 5.3.1 or 5.3.2 above.

6 5.4. After thirty (30) days pass from the date Plaintiff serves an NOV, if a dispute remains
7 as to compliance with the terms and conditions of this Consent Judgment, the Parties
8 shall meet and confer pursuant to Section 13.1 below to resolve the matter for a period
9 of no less than an additional thirty (30) days before Plaintiff may take any further legal
10 action to enforce this Consent Judgment.

11 5.5. In any proceeding brought by either Party to enforce this Consent Judgment, the
12 prevailing party shall be entitled to recover its reasonable attorney's fees and costs.

13 **6. BINDING EFFECT; CLAIMS COVERED AND RELEASED**

14 6.1. This Consent Judgment is a full, final, and binding resolution between Plaintiff, on
15 behalf of itself and in the public interest, and its respective principals, officers, directors,
16 employees, parents, subsidiaries, executors, administrators, successors, and assigns, on
17 the one hand, and Defendant, on behalf of itself, and its respective owners, principals,
18 shareholders, officers, directors, employees, parent companies, subsidiaries, heirs,
19 executors, divisions, administrators, predecessors, successors and assigns, on the other,
20 of any alleged violation of Proposition 65 or its implementing regulations for failure to
21 provide Proposition 65 warnings up through the Effective Date for exposure to the
22 Listed Chemical from the import, manufacturing, marketing, distribution, sale or
23 offering for sale, handling, use or consumption of the Covered Products, and fully
24 resolves all claims that have been asserted or could have been asserted based on the
25 Notices and in the Complaint, for failure to provide Proposition 65 warnings. Plaintiff
hereby releases, waives all claims against, and discharges Defendant, its respective
owners, principals, shareholders, officers, directors, employees, parent companies,

1 subsidiaries, suppliers, franchisees, licensees, customers, distributors, wholesalers,
2 retailers and any of Defendant's suppliers only for ingredients or components used by
3 Defendant to make the Covered Products, downstream entities in the distribution chain
4 for the Covered Products including Pharmaca Integrative Pharmacy, Inc., Amazon.com,
5 Inc., Amazon.com Services LLC, HS Services LLC dba Pure Mountain Botanicals, and
6 the predecessors, successors and assigns of any of them (collectively, "Released
7 Parties"), for any and all claims, actions, causes of action, suits, demands, liabilities,
8 damages, penalties, fees, costs and expenses related to any alleged violation of
9 Proposition 65 arising from any failure to provide Proposition 65 warnings for the
10 Listed Chemical for the Covered Products up through the Effective Date.

11 6.2. Plaintiff, on its own behalf only, on the one hand, and Defendant, on its own behalf
12 only, on the other hand, further waive and release any and all claims they may have
13 against each other for all actions or statements made or undertaken in the course of
14 seeking or opposing enforcement of Proposition 65 in connection with the Notices and
15 Complaint.

16 6.3. It is possible that other claims not known to the Parties, arising out of the facts alleged
17 in the Notices and Complaint, and relating to the Covered Products, will develop or be
18 discovered. Plaintiff on behalf of itself only, and Defendant on behalf of itself only,
19 acknowledge that this Consent Judgment is expressly intended to cover and include all
20 such claims up through and including the Effective Date, including all rights of action
21 therefore. Plaintiff and Defendant acknowledge that the claims released in Sections 6.1
22 and 6.2 above may include unknown claims, and nevertheless waive California Civil
23 Code section 1542 and any federal or state law of similar effect as to any such unknown
24 claims. California Civil Code section 1542 reads as follows:

25
A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT
THE CREDITOR OR RELEASING PARTY DOES NOT KNOW OR
SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF
EXECUTING THE RELEASE AND THAT, IF KNOWN BY HIM OR

1 HER, WOULD HAVE MATERIALLY AFFECTED HIS OR HER
2 SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY.

3 6.4. Plaintiff on behalf of itself only, and Defendant on behalf of itself only, acknowledge
4 and understand the significance and consequences of this specific waiver of California
5 Civil Code section 1542.

6 6.5. The Parties agree that compliance with the terms of this Consent Judgment shall
7 constitute compliance by any Released Party with Proposition 65 regarding alleged
8 exposures to the Listed Chemical in the Covered Products manufactured, purchased,
9 distributed, or sold by Plaintiff after the Compliance Date. This release shall not apply
10 to any Distributor who fails to provide an internet warning as required pursuant to
11 paragraph 3.2.4.

12 **7. SEVERABILITY OF UNENFORCEABLE PROVISIONS**

13 7.1. In the event that any of the provisions of this Consent Judgment are held by a court to
14 be unenforceable, the validity of the remaining enforceable provisions shall not be
15 adversely affected.

16 **8. GOVERNING LAW**

17 8.1. The terms and conditions of this Consent Judgment shall be governed by and construed
18 in accordance with the laws of the State of California.

19 **9. MODIFICATION**

20 9.1. This Consent Judgment after its entry by the Court may be modified by stipulation of
21 the Parties with the approval of the Court or by an order of this Court on noticed motion
22 by a Party in accordance with law. Any Party seeking to modify this Consent Judgment
23 must notify the other Party in writing, and the Parties shall thereafter attempt in good
24 faith to meet and confer with the other Party prior to filing a motion to modify the
25 Consent Judgment. If the Parties are unable to resolve their dispute informally within
sixty (60) days after the date of the written notification, the Party that issued the written
notification to seek the modification may bring a motion or proceeding to seek judicial

1 relief as to the requested modification.

2 9.2. In any stipulated modification to the Consent Judgment, the Party requesting the
3 modification shall prepare the draft motion or application to modify the Consent
4 Judgment.

5 **10. PROVISION OF NOTICE**

6 10.1. All notices required to be given to either Party to this Consent Judgment by the other
7 shall be in writing and sent to the following agents listed below via both email and first-
8 class mail.

9 For Plaintiff:

10 Aida Poulsen
11 Poulsen Law P.C.
12 282 11th Avenue, Suite 2612
13 New York, New York, 10001
14 Tel: +1 (646) 776 5999
15 Tel: + 1(650) 296 1014 Direct
16 ap@poulsenlaw.org

17 For Defendant:

18 Peg Carew Toledo, Esq.
19 Arnold & Porter Kaye Schofer LLP
20 Three Embarcadero Center, 10th Floor
21 San Francisco, California 94111
22 Tel: (415) 471-3110
23 Fax: (415) 471-3400
24 Email: peg.toledo@arnoldporter.com

25 **11. EXECUTION AND COUNTERPARTS**

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

12. DRAFTING

12.1. The terms of this Consent Judgment have been reviewed by the respective counsel for
each Party prior to its signing, and each Party has had an opportunity to fully discuss the
terms and conditions with legal counsel. The Parties agree that, in any subsequent

1 interpretation and construction of this Consent Judgment, no inference, assumption, or
2 presumption shall be drawn, and no provision of this Consent Judgment shall be
3 construed against any Party, based on the fact that one of the Parties and/or one of the
4 Parties' legal counsel prepared and/or drafted all or any portion of the Consent
5 Judgment. It is conclusively presumed that all of the Parties participated equally in the
6 preparation and drafting of this Consent Judgment.

7 **13. GOOD FAITH ATTEMPT TO RESOLVE DISPUTES**

8 13.1. If a dispute arises with respect to either Party's compliance with the terms of this
9 Consent Judgment, the Parties shall meet and confer in person, by telephone, and/or in
10 writing, and endeavor to resolve the dispute in an amicable manner. No action or
11 motion may be filed in the absence of such a good faith attempt to resolve the dispute
beforehand.

12 **14. ENTIRE AGREEMENT, AUTHORIZATION**

13 14.1. This Consent Judgment contains the sole and entire agreement and understanding of the
14 Parties with respect to the entire subject matter herein, and any and all prior discussions,
15 negotiations, commitments, and understandings related hereto. No representations, oral
16 or otherwise, express or implied, other than those contained herein have been made by
17 any Party. No other agreements, oral or otherwise, unless specifically referred to
herein, shall be deemed to exist or to bind any Party.

18 14.2. Each signatory to this Consent Judgment certifies that he or she is fully authorized by
19 the Party he or she represents to stipulate to this Consent Judgment.

20 **15. COURT APPROVAL**

21 15.1. Plaintiff shall file a motion seeking approval of this Consent Judgment pursuant to
22 California Health & Safety Code § 25249.7(f). Upon entry of the Consent Judgment,
23 Plaintiff and Defendant waive their respective rights to a hearing or trial on the
24 allegations of the Complaint.
25

1 15.2. The Parties shall make all reasonable efforts possible to have the Consent Judgment
2 approved by the Court. For purposes of this Section, "reasonable efforts" shall include,
3 at minimum, cooperating with the drafting and filing of the necessary moving papers,
4 and supporting the motion for judicial approval.

5 15.3. If this Consent Judgment is not approved in full by the Court, (a) this Consent Judgment
6 and any and all prior agreements between the Parties merged herein shall terminate and
7 become null and void, and the actions shall revert to the status that existed prior to the
8 execution date of this Consent Judgment; (b) no term of this Consent Judgment or any
9 draft thereof, or of the negotiation, documentation, or other part or aspect of the Parties'
10 settlement discussions, shall have any effect, nor shall any such matter be admissible in
11 evidence for any purpose in this Action, or in any other proceeding; and (c) the Parties
12 agree to meet and confer to determine whether to modify the terms of the Consent
Judgment and to resubmit it for approval.

13 **16. DISMISSAL**

14 16.1. Within ten (10) days of the Effective Date, Plaintiff shall dismiss without prejudice the
15 claims in the Complaint as to the remaining Defendants.

16 **17. SERVICE ON THE ATTORNEY GENERAL**

17 17.1. Plaintiff shall serve a copy of this Consent Judgment, signed by the parties, on the
18 California Attorney General so that the Attorney General may review this Consent
19 Judgment prior to its approval by the Court. No sooner than forty-five (45) days after
20 the Attorney General has received the aforementioned copy of this Consent Judgment,
21 and in the absence of any written objection by the Attorney General to the terms of this
Consent Judgment, may the Court approve this Consent Judgment.

22 **18. ATTORNEY FEES**

23 18.1. Except as specifically provided in section 4.2.2 and 5.5, each party shall bear its own
24 costs and attorney fees in connection with this action.
25

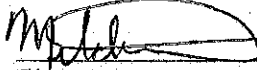
1 **19. RETENTION OF JURISDICTION**

2 19.1. This Court shall retain jurisdiction of this matter to implement, enforce, or modify the
3 Consent Judgment under Code of Civil Procedure § 664.6.

4 **IT IS SO STIPULATED:**

5 Dated: 1/25, 2023

VITALITY WORKS, INC.

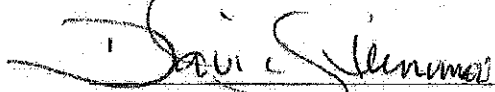
7 
Signature

8 MITCHELL COVEN
Printed Name

10 CEO
Title

11 Dated: 1-17, 2023

12 THE CHEMICAL TOXIN WORKING
13 GROUP INC., doing business as HEALTHY
LIVING FOUNDATION INC

14 
Signature

16 David Steinman
Printed Name

18 Chief officer / ceo
Title

19 **ORDER AND JUDGMENT**

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

22 **IT IS SO ORDERED, ADJUDGED, AND DECREED.**

24 Dated: _____
Judge of the Superior Court

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EXHIBIT A
Notice to Pharmaca Integrative Pharmacy, Inc.

This is to notify you that Vitality Works, Inc. (“Vitality Works”) has entered into a settlement with The Chemical Toxin Working Group Inc. dba Healthy Living Foundation Inc. regarding alleged violations of California Health and Safety Code §§ 25246.5 et seq. (“Proposition 65”) regarding:

- (1) Pharmaca Valerian 90 Vegetarian Capsules**
- (2) Pharmaca Ginger 90 Vegetarian Capsules (each a “Covered Product,” or collectively, the “Covered Products”).**

Under the terms of this settlement, Vitality Works is providing the following notice to you regarding the Covered Products.

For any Covered Product sold online or over the internet by you or your downstream distributors, customers, retailers (collectively “Purchaser(s)”) in or to California, you or the Purchaser **must provide a warning to a consumer** which meets the “Content Requirements” and “Method of Transmission” below:

Content Requirements:

The warning shall be in one of the following forms:

A) Option 1, Long-Form Warning:

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

B) Option 2, Short-Form Warning: The font size of this short-form warning must be a minimum of 6 points, and it cannot be smaller than the largest size font used for other consumer information (as defined in 27 Cal. Code Regs. § 25600.1(c)) included on the label:

WARNING: [Cancer and] Reproductive Harm – www.P65Warnings.ca.gov/food

Method of Transmission:

The online warning shall be prominently displayed as follows: (a) on the primary display page for the Covered Product; (b) as a clearly marked hyperlink using the word “WARNING” in all capital and bold letters on the Covered Product’s primary display page; (c) on the checkout page or any other page in the checkout process when a California delivery address is indicated for any purchase of any Covered Product and with the warning clearly associated with the Covered Product to indicate that the product is subject to the warning; or (d) by otherwise prominently displaying the warning to the purchaser prior to completing the purchase.

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Confirmation of receipt:

You must confirm receipt of this notice within 30 days of receiving it by filling in the requested information below and returning a signed copy to [insert email address] to acknowledge that you have received this notice and that the warnings for internet sales will be posted in accordance with these specifications.

Acknowledged by:

_____ (Signature)

_____ (Print Name)

_____ (Company)

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EXHIBIT B
Notice to Retailers and Distributors

This is to notify you that Vitality Works, Inc. (“Vitality Works”) has entered into a settlement with The Chemical Toxin Working Group Inc. dba Healthy Living Foundation Inc. regarding alleged violations of California Health and Safety Code §§ 25246.5 et seq. (“Proposition 65”) regarding:

- **Vitality Works Valerian Herbal Supplement, 90 Veggie Caps (“Covered Product”)**

Under the terms of this settlement, Vitality Works is providing the following notice to you regarding the Covered Product.

For any Covered Product sold online or over the internet by you or your downstream distributors, customers, retailers (collectively “Purchaser(s)”) in or to California, you or the Purchaser **must provide a warning to a consumer** which meets the “Content Requirements” and “Method of Transmission” below:

Content Requirements:

The warning shall be in one of the following forms:

A) Option 1, Long-Form Warning:

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

B) Option 2, Short-Form Warning: The font size of this short-form warning must be a minimum of 6 points, and it cannot be smaller than the largest size font used for other consumer information (as defined in 27 Cal. Code Regs. § 25600.1(c)) included on the label:

WARNING: [Cancer and] Reproductive Harm – www.P65Warnings.ca.gov/food

Method of Transmission:

The online warning shall be prominently displayed as follows: (a) on the primary display page for the Covered Product; (b) as a clearly marked hyperlink using the word “WARNING” in all capital and bold letters on the Covered Product’s primary display page; (c) on the checkout page or any other page in the checkout process when a California delivery address is indicated for any purchase of any Covered Product and with the warning clearly associated with the Covered Product to indicate that the product is subject to the warning; or (d) by otherwise prominently displaying the warning to the purchaser prior to completing the purchase.

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Acknowledged by:

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EXHIBIT C
Notice to HS Services LLC

This is to notify you that Vitality Works, Inc. (“Vitality Works”) has entered into a settlement with The Chemical Toxin Working Group Inc. dba Healthy Living Foundation Inc. regarding alleged violations of California Health and Safety Code §§ 25246.5 et seq. (“Proposition 65”):

- **(Pure Mountain Botanicals Valerian herbal supplement 90 Veggie Caps (“Covered Product”))**

Under the terms of this settlement, Vitality Works is providing the following notice to you regarding the Covered Product.

For any Covered Product sold online or over the internet by you or your downstream distributors, customers, retailers (collectively “Purchaser(s)”) in or to California, you or the Purchaser **must provide a warning to a consumer** which meets the “Content Requirements” and “Method of Transmission” below:

Content Requirements:

The warning shall be in one of the following forms:

A) Option 1, Long-Form Warning:

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

B) Option 2, Short-Form Warning: The font size of this short-form warning must be a minimum of 6 points, and it cannot be smaller than the largest size font used for other consumer information (as defined in 27 Cal. Code Regs. § 25600.1(c)) included on the label:

WARNING: [Cancer and] Reproductive Harm – www.P65Warnings.ca.gov/food

Method of Transmission:

The online warning shall be prominently displayed as follows: (a) on the primary display page for the Covered Product; (b) as a clearly marked hyperlink using the word “WARNING” in all capital and bold letters on the Covered Product’s primary display page; (c) on the checkout page or any other page in the checkout process when a California delivery address is indicated for any purchase of any Covered Product and with the warning clearly associated with the Covered Product to indicate that the product is subject to the warning; or (d) by otherwise prominently displaying the warning to the purchaser prior to completing the purchase.

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Confirmation of receipt:

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Acknowledged by:

_____ (Signature)

_____ (Print Name)

_____ (Company)

_____ (Date)