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Attorneys for Plaintiff: CALSAFE RESEARCH CENTER, INC.,

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF ORANGE

CALSAFE RESEARCH CENTER, INC., a California non-profit corporation Plaintiff, v. KARABETIAN IMPORT AND DISTRIBUTION, INC., a California domestic stock corporation; and DOES 1 to 10, Defendants.	Case No.: 30-2022-01289169-CU-TT-CJC **[PROPOSED] STIPULATED CONSENT JUDGMENT**

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Plaintiff CalSafe Research Center, Inc. ("Plaintiff'), and Defendant Karabetian Import and Distribution, Inc., a California domestic stock corporation ("Defendant") hereby enter into this Stipulated Consent Judgment ("Consent Judgment") as follows:

WHEREAS: On or about October 28, 2022, Plaintiff, through Plaintiff's counsel, served a 60 Day Notice to Defendant, Karabetian Import and Distribution, Inc., the California Attorney General, the District Attorneys of every County in the State of California, and the City Attorneys for every City in the State of California with a population greater than 750,000 (collectively, "Public Prosecutor(s)") alleging that Defendant violated California's Safe Drinking Water and Toxic Enforcement Act of 1986, California *Health and Safety Code* § 25249.6, *et seq*., and its implementing regulations (collectively, "Proposition 65") alleging that and that Plaintiff intended to file an enforcement action in the public interest; and

WHEREAS: Plaintiff alleges that Defendant manufactured and/or distributed Tazah Premium Date Paste and Tazah Vermicelli, containing Lead, (collectively the "Covered Products") that were sold or distributed for sale in California and further alleges that those Covered Products expose consumers in the State of California to chemicals including Lead, which are listed by the State of California pursuant to California *Health and Safety Code* § 25249.8; and

WHEREAS: Plaintiff further alleges that persons in the State of California were exposed to Lead in Covered Products without being provided the Proposition 65 warning set out at California *Health and Safety Code* § 25249.6 and its implementing regulations ("Proposition 65 Warning");

WHEREAS: Defendant denies the allegations of the 60 Day Notice, and denies that it has violated Proposition 65 and expressly denies that it has engaged in any wrongdoing whatsoever,

WHEREAS: Plaintiff seeks to provide the public with Proposition 65 warnings and believes that this objective is achieved by the actions described in this Consent Judgment; and

WHEREAS: Plaintiff and Defendant wish to resolve their differences without the delay and expense of litigation.

NOW THEREFORE BE IT RESOLVED AND AGREED UPON AS BETWEEN PLAINTIFF ACTING IN THE PUBLIC INTEREST AND DEFENDANT AS FOLLOWS:

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1. INTRODUCTION

1.1 On October 28, 2022, Plaintiff served a 60-Day Notice upon Defendant, Karabetian Import and Distribution, Inc., and on Public Prosecutors. No Public Prosecutors commenced an enforcement action. No Public Prosecutor having commenced an enforcement action, Plaintiff proceeded to file its Complaint ("Complaint") against Defendant in the present action.

1.2 For purposes of this Consent Judgment, the Parties agree that Defendant is a business entity that has employed ten or more persons at all times relevant to this action, and qualifies as a "person in the course of doing business" within the meaning of Proposition 65.

1.3 For purposes of this Consent Judgment only, Plaintiff and Defendant (the "Parties") stipulate that: 1) this Court has jurisdiction over the allegations of violation contained in the Complaint, and personal jurisdiction over Defendant as to the acts alleged in the Complaint; 2) venue is proper in the County of Orange; and 3) this Court has jurisdiction to enter this Consent Judgment as a full and final resolution of all claims which were or could have been raised in the Complaint based on the facts alleged therein with respect to the Covered Products, and of all claims which were or could have been raised by any person or entity based in whole or in part, directly or indirectly, on the facts alleged in the 60-Day Notice, in the present action, or arising therefrom or related thereto, with respect to Covered Products, including any Proposition 65 claim arising out of an exposure to Covered Products (collectively, "Proposition 65 Claims").

1.4 The Parties enter into this Consent Judgment as a full and final settlement of the Proposition 65 Claims, for the purpose of avoiding prolonged and costly litigation and of resolving the issues raised therein both as to past and future conduct. By execution of this Consent Judgment and agreeing to comply with its terms, the Parties do not admit any fact, conclusion of law, or violation of law, nor shall Defendant's compliance with the Consent Judgment constitute or be construed as an admission by Defendant of any fact, conclusion of law, or violation of law. Defendant denies the material, factual, and legal allegations in the 60-Day Notices and the Complaint and expressly denies any wrongdoing whatsoever.

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2. DEFINITIONS

2.1 "Effective Date" shall mean, with respect to this Consent Judgment, the date the Consent Judgment has been approved and entered by the Court.

2.2 "Covered Products" shall mean, with respect to this Consent Judgment, Tazah Premium Date Paste and Tazah Vermicelli that are manufactured, distributed, sold and/or offered for sale by Defendant.

3. INJUNCTIVE RELIEF

3.1 For each Covered Product, Defendant agrees to undertake, or cause to be undertaken on its behalf, either: (a) reformulation of the Covered Product to bring it within the Proposition exemption identified in Section 3.2 below or (b) to provide a warning as prescribed in Sections 3.3.-3.4 below. Compliance with Section 3.1 will constitute compliance by Defendant with all requirements of Proposition 65 relating to Lead exposure in the Covered Products.

3.2 Proposition 65 Exemption for the Covered Products

Covered Products shall be deemed to comply with Proposition 65 and be exempt from any Proposition 65 warning requirements with respect to Lead, if the Covered Product contains no more than 0.5 micrograms of lead per serving, with serving size measured by the serving size specified on the label for the Covered Product.

3.3 Warning Option

Covered Products that do not meet the warning exemption set forth in Section 3.2, shall be accompanied by a warning as described in Section 3.4 below. This warning requirement shall only be required as to Covered Products that are manufactured, distributed, marketed, sold or shipped for sale to consumers by Defendant in the State of California, after the Effective Date, No Proposition 65 warning shall be to Covered Products already in distribution and the stream of commerce. Said Covered Products are hereby deemed to be exempt from a Proposition 65 warning with respect to Lead and/or expressly released under this Consent Judgment. The warning shall also comply with 27 C.C.R. § 25602 (d). Specifically, where the product sign,

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label or shelf tag used to provide the warning includes consumer information in a language other than English, the warning must also be provided in that language in addition to English.

3.4 Warning Language

Where required to meet the criteria set forth in Section 3.3, Defendant shall provide one of the following warning statements ("Warning"), displayed in a reasonably conspicuous manner:

Option (1)

> **WARNING:** Consuming this product can expose you to Lead, which is known to the State of California to cause birth defects or other reproductive harm. For more information go to www.P65Warnings.ca.gov/food

Option (2)

> **WARNING:** Reproductive Harm-www.P65Warnings.ca.gov/food

The Warning shall be provided through a warning on the label that is securely affixed to or printed upon the label and complies with the warning content provided in Option 1 or Option 2 above. In addition, for any Covered Product sold over the internet by Defendant, the Warning shall appear on the image of the Covered Product. Given Defendant's lack of control over third-party websites, the online warning requirements expressed in this Section apply only to Covered Products sold through Defendant's website. However, Defendant will instruct any third-party website sellers to which it supplies the Covered Product to provide the Warnings as a condition of selling the Covered Product. If subsequently enacted changes to Proposition 65 or its implementing regulations require the use of additional or different information on any warning specifically applicable to the Covered Products (the "New Safe Harbor Warning"), the Parties agree that the New Safe Harbor warning may be utilized in place of or in addition to, as applicable, the warnings set forth in this Section.

4. MONETARY RELIEF

4.1 Within 60 days of the Effective Date, and after receiving taxpayer information from Plaintiff, Defendant shall pay the total sum of $19,500.00 which includes $1,950.00 in civil penalties and

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$17,550.00 in payment of Plaintiff's costs and reasonable attorney's fees. The initial attorney's fees and costs payment of $8,775 shall be paid within 30 days of the Effective Date, and the second attorney's fees and costs payment of $8,775 shall be paid 30 days thereafter. The $1,950.00 civil penalty shall be apportioned pursuant to *Health and Safety Code* § 25249.12 (d), with 75%, or $1,462.50, paid to the State of California's Office of Environmental Health Hazard Assessment and 25%, or $487.50, payable to Plaintiff. The civil penalty shall be paid within 30 days of the Effective Date. The Parties have agreed that the apportionment of the attorney's fees and costs is as follows: $15,550 for the date paste and $2,000 for the Vermicelli. The Plaintiff's portion of the civil penalty shall be wired to Plaintiff pursuant to the following instructions**:**

Wire & ACH Instructions:

Account Name: The Law Offices of Joseph R. Manning
Bank Name: J.P. Morgan Chase Bank, N.A.
Bank Address: 270 Park Ave. New York, NY. 10017
ACH Routing / ABA Number: 322271627
Wire Routing / ABA Number: 021000021
Account Number: 802922919

For further benefit of: Civil Penalty Payment Case No. 30-2022-01289169-CU-TT-CJC

4.2 The OEHHA portion of the civil penalty shall be made payable to OEHHA and associated with taxpayer identification number 68-0284486. This payment shall be delivered as follows:

For United States Postal Service Delivery:
Attn: Mike Gyurics
Fiscal Operations Branch Chief
Office of Environmental Health Hazard Assessment
P.O. Box 4010, MS #19B
Sacramento, CA 95812-4010

For Non-United States Postal Service Delivery:
Attn: Mike Gyurics
Fiscal Operations Branch Chief
Office of Environmental Health Hazard Assessment
1001 I Street, MS #19B
Sacramento, CA 95814

Defendant agrees to provide Plaintiff's counsel with a copy of the check payable to OEHHA,

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simultaneous with its payments to Plaintiff. Plaintiff and its counsel will provide completed IRS 1099, W-9, or other tax forms as required. Relevant information is set out below:

- CalSafe Research Center, Inc, associated with taxpayer identification number 84-4419173, CalSafe Research Center, Inc. 4533 MacArthur Blvd. Ste. 230, Newport Beach, CA 92660.
- Manning Law, APC, associated with taxpayer identification number 83-0502205, Manning Law, APC, 26100 Towne Centre Drive, Foothill Ranch, CA 92610.

4.3 The portion of the settlement attributable to attorney's fees and costs in the amount of $17,550.00 shall be paid to Plaintiff's counsel, who are entitled to attorney's fees and costs incurred by it in this action, including but not limited to investigating potential violations, bringing this matter to Defendant's attention, as well as litigating and negotiating a settlement in the public interest. Defendant shall provide its payment to Plaintiff's counsel pursuant to the following instructions:

Wire & ACH Instructions:

Account Name: The Law Offices of Joseph R. Manning
Bank Name: J.P. Morgan Chase Bank, N.A.
Bank Address: 270 Park Ave. New York, NY. 10017
ACH Routing / ABA Number: 322271627
Wire Routing / ABA Number: 021000021
Account Number: 802922919

For further benefit of: Attorney's Fees Case No. 30-2022-01289169-CU-TT-CJC

5. CLAIMS COVERED AND RELEASED

5.1 This Consent Judgment is a full, final and binding resolution between Plaintiff on behalf of itself and in the public interest, and Defendant and its respective officers, directors, members, shareholders, employees, attorneys, agents, parent companies, subsidiaries, divisions, affiliates, suppliers, franchisees, licensees, retailers, and their parent and all subsidiaries and affiliates thereof, their respective employees, agents and assigns, as well as all other upstream and downstream entities in the distribution chain for any of the Covered Products, and the predecessors, successors, and assigns of any of them (collectively, the "Released Parties").

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5.2 Plaintiff acting on its own behalf and in the public interest releases the Released Parties from all claims, actions, causes of actions, suits, demand, liability, damages, penalties, fees, costs, and expenses asserted or which could have been asserted from the handling or consumption of the Covered Products, as to any alleged violations of Proposition 65 or its implementing regulations up through the Effective Date based on exposure to Lead from the Covered Products as set forth in the Notices of Violation, the Complaint and herein. Compliance with the terms of this Consent Judgment constitutes compliance with Proposition 65 with respect to exposures to Lead from the Covered Products. Plaintiff further covenants not to sue Released Parties for any alleged violation of Proposition 65 with response to lead in Covered Products put into the stream of commerce in California by Defendant prior to the expiration of the Grace Period. The Parties understand and agree that this release shall not extend to any third-party website sellers who Defendant has instructed to provide the Warnings, pursuant to Section 3.4, as a condition of selling the Covered Product and have failed to do so.

5.3 It is possible that other claims not known to the Parties arising out of the facts contained in the 60-Day Notice, or alleged in the Complaint, relating to the Covered Products, will hereafter be discovered or developed. Plaintiff, on behalf of itself only, on the one hand, and Defendant, on the other hand, acknowledge that this Consent Judgment is expressly intended to cover and include all such claims through and including the Effective Date, including all rights of action thereon. Plaintiff and Defendant acknowledge that the claims released in Sections 5.1 and 5.2 may include unknown claims, and nevertheless intend to release such claims, and in doing so waive California *Civil Code* § 1542 which reads as follows:

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

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5.4 Plaintiff understands and acknowledges that the significance and consequence of this waiver of California *Civil Code* § 1542 is that even if Plaintiff suffers future damages arising out of or resulting from, or related directly or indirectly to, in whole or in part, the Covered Products, including but not limited to any exposure to, or failure to warn with respect to exposure to, the Covered Products, Plaintiff will not be able to make any claim for those damages against any of the Released Parties.

5.5 Compliance by Defendant with the terms of this Consent Judgment shall constitute compliance with Proposition 65 with respect to exposure to Lead in the Covered Products as set forth in the 60-Day Notices and/or the Complaint.

6. COMPLIANCE WITH HEALTH AND SAFETY CODE SECTION 252249.7(f)

6.1 Plaintiff and its attorneys agree to comply with the reporting form requirements referenced in California *Health and Safety Code* § 25249.7(f)

7. PROVISION NOTICE

7.1 When any Party is entitled to receive any notice or writing under this Consent Judgment, the notice or writing shall be sent by first class certified mail with return receipt requested, or by electronic mail, as follows:

To Defendant:
Zena M. Kalioundji, Esq.
Binder And Kalioundji, LLP
21021 Devonshire St.
Suite 101
Chatsworth, CA. 91311
zena@binderkal.com

To Plaintiff:
Joseph R. Manning, Jr., Esq.
Manning Law, APC
26100 Towne Centre Drive
Foothill Ranch, CA. 92610
P65@manninglawoffice.com

Any party may modify the person and address to whom the notice is to be sent by sending the other Party notice that is transmitted in the manner set forth in section 7.1.

8. COURT APPROVAL

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8.1 Upon execution of this Consent Judgment by all Parties, Plaintiff shall prepare and file, at its sole cost and expense, a Motion for Approval of this Consent Judgment that Defendant shall support. This Consent Judgment shall not become effective until approved and entered by the Court. If this Consent Judgment is not entered by the Court, it shall be of no force or effect, and shall not be introduced into evidence or otherwise used in any proceeding for any purpose.

8.2 This Consent Judgment may apply to and benefit the Parties and their respective officers, directors, shareholders, employees, agents, parent companies, subsidiaries, divisions, franchisees, licensees, customers, distributors, wholesalers, retailers, predecessors, successors, and assigns. This Consent Judgment shall have no application to any Covered Products that are distributed or sold exclusively outside the State of California and that is not intended for use by California consumers.

9. GOVERNING LAW AND CONSTRUCTION

9.1 The terms of this Consent Judgment shall be governed by the laws of the State of California.

10. ENTIRE AGREEMENT

10.1 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, or understandings related thereto, if any, are hereby merged herein and therein.

10.2 There are no warranties, representations, or other agreements between the Parties except as expressly set forth herein. No representations, oral or otherwise, express or implied, other than those specifically referred to in this Consent Judgment have been made by any Party hereto.

10.3 No other agreements not specifically contained or referenced herein, oral or otherwise, shall be deemed to exist or to bind any of the Parties hereto. Any agreements specifically contained or referenced herein, oral or otherwise, shall be deemed to exist or to bind any of the Parties hereto only to the extent that they are expressly incorporated herein.

10.4 No supplementation, modification, waiver, or termination of this Consent Judgment shall be binding unless executed in writing by the Party to be bound thereby, and approved and ordered by the Court.

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10.5 No waiver of any of the provisions of this Consent Judgment shall be deemed or shall constitute a waiver of any of the other provisions hereof whether or not similar, nor shall such waiver constitute a continuing waiver.

11. RETENTION OF JURISDICTION & ENFORCEMENT

11.1 The terms of this Consent Judgment shall be enforced exclusively by the Parties hereto. The Parties, may, by noticed motion or order to show cause before the Superior Court of Orange County, giving the notice required by law, enforce the terms and conditions contained herein.

11.2 If Plaintiff alleges that any Covered Products fail to comply with this Consent Judgment, then Plaintiff shall inform Defendant in a reasonably prompt manner of its test results and related packaging information, including information sufficient to permit Defendant to identify the Covered Products at issue. The Parties shall first attempt through written notice pursuant to Section 7to resolve the matter prior to Plaintiff taking any further legal action.

11.3 In the event that Proposition 65 is repealed or preempted as to food products, or if lead is deemed to be naturally occurring in the Covered Products and not requiring a warning through a law or regulation, then Plaintiff shall have no further obligation pursuant to this Consent Judgment with respect to, and to the extent that the Covered Products are so affected.

12. NO EFFECT ON OTHER SETTLEMENTS

12.1 Nothing in this Consent Judgment shall preclude Plaintiff from resolving any claim against another entity on terms that are different from those contained in this Consent Judgment.

13. EXECUTION IN COUNTERPARTS

13.1 This Consent Judgment may be executed in counterparts, each of which shall be deemed to be an original, and all of which, taken together, shall constitute the same document. Execution of the Consent Judgment by e-mail, facsimile, or other electronic means, shall constitute legal and binding execution and delivery. Any photocopy of the executed Consent Judgment shall have the same force and effect as the original.

14. AUTHORIZATION

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

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15. SEVERABILITY

15.1 If subsequent to Court approval of this Consent Judgment, any part or provision is declared by a Court to be invalid, void, or unenforceable, the remaining portions of provisions shall continue in full force and effect.

AGREED TO:

CalSafe Research Center, Inc.

Dated: 1/18/2024

By: DocuSigned by: eric fairon 4D7E7F1FE86247B...

AGREED TO:

Karabetian Import and Distribution, Inc.

Dated: Jan 17, 2024

By: Hanan Karabetian (Jan 17, 2024 17:26 PST)

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

Dated: _____

_____
JUDGE OF THE SUPERIOR COURT

[redacted]





