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8 Attorneys for Plaintiff
9 CALSAFE RESEARCH CENTER, INC.,
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13 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
14 **COUNTY OF LOS ANGELES**

15 CALSAFE RESEARCH CENTER, INC., a
16 California non-profit corporation

17 Plaintiff,

18 v.

19 OVERSEAS FOOD DISTRIBUTION,
20 LLC, a California corporation; and DOES 1
21 to 10,

22 Defendants.
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Case No.: 22TRCV01287

**[PROPOSED] STIPULATED CONSENT
JUDGMENT**

1 Plaintiff CalSafe Research Center, Inc. ("Plaintiff"), and Defendant Overseas Food Distribution,
2 LLC ("Defendant") hereby enter into this Stipulated Consent Judgment ("Consent Judgment") as
3 follows:

4 WHEREAS: On or about April 13, 2022, July 29, 2022 and September 9, 2022, Plaintiff, through
5 Plaintiff's counsel, served three separate 60-Day Notices to Defendant, Jordan Market, the California
6 Attorney General, the District Attorneys of every County in the State of California, and the City
7 Attorneys for every City in the State of California with a population greater than 750,000 (collectively,
8 "Public Prosecutor(s)") alleging that Defendant violated California's Safe Drinking Water and Toxic
9 Enforcement Act of 1986, California *Health and Safety Code* § 25249.6, *et seq.*, and its implementing
10 regulations (collectively, "Proposition 65") alleging that and that Plaintiff intended to file an enforcement
11 action in the public interest; and

12 WHEREAS: Plaintiff alleges that Defendant manufactured and/or distributed Golchin, Tamarind
13 Paste (UPC# 746646604256); Golchin, Green Thyme (UPC# 746646508066); Golchin, Cracked Green
14 Olives with Provincial Herbs (UPC# 746646303746) and Golchin, Ground Cinnamon (UPC#
15 746646538315) (collectively the "Covered Products") that were sold or distributed for sale in California
16 and further alleges that those Covered Products expose consumers in the State of California Lead, which
17 is listed by the State of California pursuant to California *Health and Safety Code* § 25249.8; and;

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

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

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

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

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

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1. INTRODUCTION

1.1 On April 13, 2022 (Attorney General Notice #2022-00726), July 29, 2022 (Attorney General Notice # 2022-01723) and September 9, 2022 (Attorney General Notice #2022-02096), Plaintiff served 60-Day Notices upon Defendant, Overseas Food Distribution, LLC, 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 Los Angeles; 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 Notices, 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

1 violation of law, nor shall Defendant's compliance with the Consent Judgment constitute or be
2 construed as an admission by Defendant of any fact, conclusion of law, or violation of law.
3 Defendant denies the material, factual, and legal allegations in the 60-Day Notices and the
4 Complaint and expressly denies any wrongdoing whatsoever.

5 **2. DEFINITIONS**

6 2.1 "Effective Date" shall mean, with respect to this Consent Judgment, the date the Consent
7 Judgment has been approved and entered by the Court.

8 2.2 "Covered Products" shall mean, with respect to this Consent Judgment, the following products
9 which are manufactured, distributed, sold and/or offered for sale by Defendant in California:
10 Golchin, Tamarind Paste (UPC# 746646604256); Golchin, Green Thyme (UPC#
11 746646508066); Golchin, Cracked Green Olives with Provincial Herbs (UPC# 746646303746)
12 and Golchin, Ground Cinnamon (UPC# 746646538315).

13 2.3 For purposes of this Consent Judgment, the "Daily Lead Exposure Level" shall be measured in
14 micrograms, and shall be calculated using the following formula: micrograms of lead per gram
15 of product, multiplied by grams of product per serving of the product (using the largest serving
16 size appearing on the product label), multiplied by servings of the product per day (using the
17 largest number of recommended daily servings appearing on the label), which equals micrograms
18 of lead exposure per day. If the label contains no recommended daily servings, then the number
19 of recommended daily servings shall be one.

20 **3. INJUNCTIVE RELIEF**

21 3.1 For each Covered Product, Defendant agrees to undertake, or cause to be undertaken on its
22 behalf, either: (a) reformulation of the Covered Product to bring it within the Proposition
23 exemption identified in Section 3.2 below or (b) to provide a warning as prescribed in Sections
24 3.3.-3.4 below. Compliance with Section 3.1 will constitute compliance by Defendant with all
25 requirements of Proposition 65 relating to Lead exposure in the Covered Products.

26 3.2 Proposition 65 Exemption for the Covered Products

1 The Golchin, Cracked Green Olives with Provincial Herbs (UPC# 746646303746) shall be
2 deemed to comply with Proposition 65 and be exempt from any Proposition 65 warning
3 requirements with respect to lead, if the “Daily Lead Exposure Level” is no greater than 0.5
4 micrograms of lead per day. The Golchin, Tamarind Paste (UPC# 746646604256) shall be
5 deemed to comply with Proposition 65 and be exempt from any Proposition 65 warning
6 requirements with respect to lead, if it contains no more than 0.037 parts per million (“ppm”).
7 The Golchin, Green Thyme (UPC# 746646508066) shall be deemed to comply with Proposition
8 65 and be exempt from any Proposition 65 warning requirements with respect to lead, if it
9 contains no more than 0.31 ppm and The Golchin, Ground Cinnamon (UPC# 746646538315)
10 shall be deemed to comply with Proposition 65 and be exempt from any Proposition 65 warning
11 requirements with respect to lead, if it contains no more than 0.20 ppm.

12 3.3 Warning Option

13 Covered Products that do not meet the warning exemption set forth in Section 3.2, shall be
14 accompanied by a warning as described in Section 3.4 below. This warning requirement shall
15 only be required as to Covered Products that are manufactured, distributed, marketed, sold or
16 shipped for sale to consumers by Defendant in the State of California.

17 3.4 Warning Language

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

20 Option (1)

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

24 Option (2)

25 **WARNING:** Cancer and Reproductive Harm—www.P65Warnings.ca.gov/food.

26 The Warning shall be provided through a warning on the label that is securely affixed to or
27 printed upon the label and complies with the warning content provided in Option 1 or Option 2
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1 above. In addition, for any Covered Product sold over the internet by Defendant, the Warning
2 shall appear prior to check-out on the primary product page, or as a pop-up when a California
3 address is input into the shipping instructions, or on the checkout page when a California
4 delivery address is indicated for any purchase of any Covered Product. The Warning may be
5 provided with a conspicuous hyperlink stating "**WARNING**" in all capital and bold letters so
6 long as the hyperlink goes directly to a page prominently displaying the Warning without content
7 that detracts from the Warning. Given Defendant's lack of control over third-party websites, the
8 online warning requirements expressed in this Section apply only to Covered Products sold
9 through Defendant's website. However, Defendant will instruct any third-party website sellers to
10 which it supplies the Cover Product to provide the Warnings as a condition of selling the
11 Covered Product. The warning shall also comply with 27 C.C.R. § 25602 (d). Specifically,
12 where the product sign, label or shelf tag used to provide the warning includes consumer
13 information in a language other than English, the warning must also be provided in that language
14 in addition to English. If subsequently enacted changes to Proposition 65 or its implementing
15 regulations require the use of additional or different information on any warning specifically
16 applicable to the Covered Products (the "New Safe Harbor Warning"), the Parties agree that the
17 New Safe Harbor warning may be utilized in place of or in addition to, as applicable, the
18 warnings set forth in this Section.

19 **4. MONETARY RELIEF**

20 4.1 Defendant shall pay the total sum of \$21,750.00 which includes \$2,175.00 in civil penalties and
21 \$19,575.00 in payment of Plaintiff's costs and reasonable attorney's fees. The \$2,175.00 civil
22 penalty shall be apportioned pursuant to *Health and Safety Code* § 25249.12 (d), with 75%, or
23 \$1,631.25, paid to the State of California's Office of Environmental Health Hazard Assessment
24 and 25%, or \$543.75, payable to Plaintiff. Plaintiff shall remit 75% (\$1,631.25.00) of the civil
25 penalty to the Office of Environmental Health Hazard Assessment ("OEHHA") for deposit in the
26 Safe Drinking Water and Toxic Enforcement Fund in accordance with California Health and
27 Safety Code section 25249.12(c). The civil penalty payments shall be due within ten (10) days
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1 of the Effective Date. The civil penalty shall be made payable to Manning Law APC, Attorney-
2 Client Trust. This payment shall be paid by credit card or check delivered to **Manning Law,**
3 **APC, 26100 Towne Centre Drive, Foothill Ranch, CA 92610.**

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5 Defendant agrees to provide Plaintiff's counsel with a copy of the check payable to OEHHA,
6 simultaneous with its penalty payments to Plaintiff. Plaintiff and its counsel will provide
7 completed IRS 1099, W-9, or other tax forms as required. Relevant information is set out
8 below:

- 9 • CalSafe Research Center, Inc, associated with taxpayer identification number 84-
10 4419173, CalSafe Research Center, Inc. 4533 MacArthur Blvd. Ste. 230, Newport
11 Beach, CA 92660.
- 12 • Manning Law, APC, associated with taxpayer identification number 83-0502205,
13 Manning Law, APC, 26100 Towne Centre Drive, Foothill Ranch, CA 92610.

14 4.2 The portion of the settlement attributable to attorney's fees and costs in the amount of \$19,575.00
15 shall be paid to Plaintiff's counsel, who are entitled to attorney's fees and costs incurred by it in
16 this action, including but not limited to investigating potential violations, bringing this matter to
17 Defendant's attention, as well as litigating and negotiating a settlement in the public interest. The
18 payment shall be made in two equal installments of \$9,787.50. The first installment shall be due
19 within ten (10) days of the Effective Date and the second installment shall be due within five (5)
20 months of the Effective Date. Defendant shall provide its payment to Plaintiff's counsel in the
21 form of a check made payable to the Manning Law, APC, and delivered to 26100 Towne Centre
22 Drive, Foothill Ranch, CA 92610 or Defendant may pay the installment payments via credit card.

23 **5. CLAIMS COVERED AND RELEASED**

24 5.1 This Consent Judgment is a full, final and binding resolution between Plaintiff on behalf of itself
25 and in the public interest, and Defendant and its respective officers, directors, members,
26 shareholders, employees, attorneys, agents, parent companies, subsidiaries, divisions, affiliates,
27 suppliers, franchisees, licensees, and retailers, their parent and all subsidiaries and affiliates

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1 thereof, their respective employees, agents and assigns, as well as all other upstream and
2 downstream entities in the distribution chain for any of the Covered Products, and the
3 predecessors, successors, and assigns of any of them (collectively, the "Released Parties").

4 5.2 Plaintiff on behalf of itself and its respective officers, directors, shareholders, employees, agents,
5 parent companies, subsidiaries, divisions, and affiliates and on behalf of the public interest fully
6 releases and discharges Released Parties from any and all claims, actions, cause of action, suits,
7 demands, liabilities, damages, penalties, fees costs, and expenses asserted, or that could have
8 been asserted based on or related to the handling, use, sale, distribution, or consumption of the
9 Covered Product in California, as to any alleged violation of Proposition 65 or its implementing
10 regulations up through the Effective Date, based on a failure to provide Proposition 65 warning
11 on the Covered Product with respect to lead as set forth in the Notice and Complaint.

12 5.3 It is possible that other claims not known to the Parties arising out of the facts contained in the
13 60-Day Notices, or alleged in the Complaint, relating to the Covered Products, will hereafter be
14 discovered or developed. Plaintiff, on behalf of itself only, on the one hand, and Defendant, on
15 the other hand, acknowledge that this Consent Judgment is expressly intended to cover and
16 include all such claims through and including the Effective Date, including all rights of action
17 thereon. Plaintiff and Defendant acknowledge that the claims released in Sections 5.1 and 5.2
18 may include unknown claims, and nevertheless intend to release such claims, and in doing so
19 waive California *Civil Code* § 1542 which reads as follows:

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

25 5.4 Plaintiff understands and acknowledges that the significance and consequence of this waiver of
26 California *Civil Code* § 1542 is that even if Plaintiff suffers future damages arising out of or
27 resulting from, or related directly or indirectly to, in whole or in part, the Covered Products,
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1 including but not limited to any exposure to, or failure to warn with respect to exposure to, the
2 Covered Products, Plaintiff will not be able to make any claim for those damages against any of
3 the Released Parties.

4 5.5 Compliance by Defendant with the terms of this Consent Judgment shall constitute compliance
5 with Proposition 65 with respect to exposure to Lead in the Covered Products as set forth in the
6 60-Day Notices and/or the Complaint.

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

8 6.1 Plaintiff and its attorneys agree to comply with the reporting form requirements referenced in
9 California *Health and Safety Code* § 25249.7(f)

10 **7. PROVISION NOTICE**

11 7.1 When any Party is entitled to receive any notice or writing under this Consent Judgment, the
12 notice or writing shall be sent by first class certified mail with return receipt requested, or by
13 electronic mail, as follows:

14 To Defendant:

15 Shant L. Vayvayan
16 Brown Bear Law APC
17 P.O. Box 573423
18 Tarzana, CA 91357

19 shant@brownbearlaw.com

20 To Plaintiff:

21 Joseph R. Manning, Jr.
22 Manning Law, APC
23 26100 Towne Centre Drive
24 Foothill Ranch, CA 92610
25 P65@manninglawoffice.com

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

28 **8. COURT APPROVAL**

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

1 this Consent Judgment is not entered by the Court, it shall be of no force or effect, and shall not
2 be introduced into evidence or otherwise used in any proceeding for any purpose.

3 8.2 This Consent Judgment may apply to and benefit the Parties and their respective officers,
4 directors, shareholders, employees, agents, parent companies, subsidiaries, divisions, franchisees,
5 licensees, customers, distributors, wholesalers, retailers, predecessors, successors, and assigns.
6 This Consent Judgment shall have no application to any Covered Products that are distributed or
7 sold exclusively outside the State of California and that is not intended for use by California
8 consumers.

9 **9. GOVERNING LAW AND CONSTRUCTION**

10 9.1 The terms of this Consent Judgment shall be governed by the laws of the State of California.

11 **10. ENTIRE AGREEMENT**

12 10.1 This Consent Judgment contains the sole and entire agreement and understanding of the Parties
13 with respect to the entire subject matter hereof, and any and all prior discussions, negotiations,
14 commitments, or understandings related thereto, if any, are hereby merged herein and therein.

15 10.2 There are no warranties, representations, or other agreements between the Parties except as
16 expressly set forth herein. No representations, oral or otherwise, express or implied, other than
17 those specifically referred to in this Consent Judgment have been made by any Party hereto.

18 10.3 No other agreements not specifically contained or referenced herein, oral or otherwise, shall be
19 deemed to exist or to bind any of the Parties hereto. Any agreements specifically contained or
20 referenced herein, oral or otherwise, shall be deemed to exist or to bind any of the Parties hereto
21 only to the extent that they are expressly incorporated herein.

22 10.4 No supplementation, modification, waiver, or termination of this Consent Judgment shall be
23 binding unless executed in writing by the Party to be bound thereby, and approved and ordered
24 by the Court.

25 10.5 No waiver of any of the provisions of this Consent Judgment shall be deemed or shall constitute a
26 waiver of any of the other provisions hereof whether or not similar, nor shall such waiver
27 constitute a continuing waiver.
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11. RETENTION OF JURISDICTION & ENFORCEMENT

11.1 This Court shall retain jurisdiction of this matter to implement, enforcer or modify the Consent Judgment. Any alleged breach of the terms of this Consent Judgment must be brought in this Court.

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 to 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

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.

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: 10/12/2023

By: 
 4D7E7F1FE86247B...

AGREED TO:

Overseas Food Distribution, LLC.

Dated:

By: 

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