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Attorney for Plaintiff
Calsafe Research Center, Inc.

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES

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

Plaintiff,

v.

3 LITTLE PIGS, LLC, a New York Domestic
Limited Liability Company; and DOES 1 to
10,

Defendants.

Case No.: 23TRCV01509

[PROPOSED] STIPULATED
CONSENT JUDGMENT

(Health & Safety Code § 25249, et seq.)

Complaint filed: May 12, 2023
Trial Date: TBD

1 **I. INTRODUCTION**

2 **1.1 The Parties.** This Consent Judgment is entered into by and between Calsafe
3 Research Center, Inc. (“Calsafe” or “Plaintiff”), a California non-profit corporation, and 3 Little
4 Pigs, LLC, a New York domestic limited liability company (“3LP” or “Defendant”), a California
5 limited liability company (collectively, the “Parties”).

6 **1.2 General Allegations.** On May 12, 2023, CalSafe initiated this action by filing a
7 Complaint for Civil Penalties and Injunctive Relief (the “Complaint”) pursuant to *Health &*
8 *Safety Code* § 25249.5 *et seq.* (“Proposition 65”) against 3LP. In this action, Calsafe alleges that
9 3LP’s “Cornichons Piquants (UPC# 045885256005)” (the “Covered Product”) contains lead, a
10 chemical listed under Proposition 65 as a carcinogen and reproductive toxin. Calsafe alleges that
11 the Covered Product exposes consumers to lead at a level requiring a Proposition 65 warning.
12 Calsafe alleges that 3LP qualifies as a “Person” within the meaning of Proposition 65, and that
13 3LP manufactures, distributes, and/or offers for sale in the State of California the Covered
14 Product.

15 **1.3 Notice of Violation.** The Complaint is based on allegations contained in Calsafe’s
16 Notice of Violation dated March 10, 2023 (the “Notice”), that was served on the California
17 attorney General, other public enforcers, and 3LP. A true and correct copy of the Notice is
18 attached hereto as **Exhibit A** and incorporated by reference. More than 60 days have passed
19 since the Notice was served on the Attorney General, public enforcers, and 3LP; no designated
20 governmental entity has filed a Complaint against 3LP with regard to the Covered Product or the
21 alleged violations.

22 **1.4** Calsafe’s Notice and Complaint allege that the use of the Product by California
23 consumers exposes them to lead without first receiving a clear and reasonable warning from
24 3LP, which is a violation of California *Health & Safety Code* § 25249.6. 3LP denies all material
25 allegations contained in the Notice and Complaint.

26 **1.5** The Parties have entered into this Consent Judgment in order to settle,
27 compromise, and resolve disputed claims and thus avoid prolonged and costly litigation. 3LP
28 denies the material, factual, and legal allegations in the Notice and Complaint and maintains that

1 all of the products, including the Covered Product, that it sold and/or distributed for sale in
2 California have been and are in compliance with all laws. Nothing in this Consent Judgment nor
3 compliance with this Consent Judgment shall constitute or be construed as an admission by 3LP
4 or by any of their respective officers, directors, shareholders, employees, agents, parent
5 companies, subsidiaries, divisions, affiliates, franchisees, licensees, customers, suppliers,
6 distributors, wholesalers, or retailers of any fact, finding, conclusion, issue of law, or violation
7 of law, such specifically denied by the 3LP. This Section shall not, however, diminish or
8 otherwise affect 3LP's obligations, responsibilities, and duties under this Consent Judgment.

9 **1.6** Except as expressly set forth herein, nothing in this Consent Judgment shall
10 prejudice, waive, or impair any right, remedy, argument, or defense the Parties may have in any
11 current or future legal proceeding unrelated to this proceeding.

12 **1.7 Effective Date.** For purposes of this Consent Judgment, the "Effective Date"
13 shall be the date the Consent Judgment has been approved and entered by the Court.

14 **II. JURISDICTION AND VENUE**

15 **2.1** For purposes of this Consent Judgment and any further court action that may
16 become necessary to enforce this Consent Judgment only, the Parties stipulate that this Court has
17 subject matter jurisdiction over the allegations of violations contained in the Complaint and
18 personal jurisdiction over 3LP as to the acts alleged in the Complaint.

19 **2.2** For purposes of this Consent Judgment, the Parties stipulate that venue is proper
20 in Los Angeles County, California, and that this Court has jurisdiction to enter this Consent
21 judgment as a full and final resolution of all claims up through and including the Effective Date
22 that were or could have been asserted in this action based on the facts alleged in the Notice and
23 Complaint.

24 **III. INJUNCTIVE RELIEF**

25 **3.1 Lead Reduction, Target Level, Compliance Date.** Beginning on the Effective
26 Date, 3LP shall monitor the level of lead in the Covered Product, and prevent the shipment for
27 sale in California any covered product with an exposure level of more than 0.5 micrograms of
28

1 lead per serving, with serving size measured by the serving size specified on the label of the
2 Covered Product (the “Target Level”).

3 **3.2 Shipped for Sale in California.** “Shipped for Sale in California” means the
4 Covered Product that 3LP either directly ships to California for sale in California, or that it sells
5 to a distributor or retailer who 3LP knows will sell the Covered Product to consumers in
6 California. Where a retailer or distributor sells the Covered Product both in California and other
7 states, 3LP shall take commercially reasonable steps to ensure that the only Covered Product that
8 is sold in California is in compliance with Paragraph 3.1.

9 **3.3 Grace Period of Existing Inventory.** The injunctive requirements of Section III
10 shall not apply to the Covered Product that is already in the stream of commerce as of the
11 Effective Date, which Covered Product is expressly subject to the releases provided in Section V.

12 **3.4 Entry of Consent Judgment.** Upon execution of this Consent Judgment by the
13 Parties, CalSafe shall notice a Motion for Court Approval and, within ten (10) days of approval
14 of the Consent Judgment by the Court, comply with the requirements set forth in California
15 *Health & Safety Code* § 25249.7(f).

16 **3.5 Attorney General Objection.** If the California Attorney General objects to any
17 term in this Consent Judgment, the Parties shall use their best efforts to resolve the concern in a
18 timely manner, and if possible, prior to the hearing on the motion.

19 **3.6 Void if Not Approved.** If this Consent Judgment is not approved by the Court, it
20 shall be void and have no force or effect.

21 **3.7 Release of Related Claims.** In consideration of the settlement agreed upon in
22 this matter, Calsafe hereby accepts this settlement and acknowledges the release of 3LP's
23 retailers, wholesale distributors, and its other commercial partners from any and all claims,
24 liabilities, demands, actions, causes of action, suits, costs, expenses, and damages, whether
25 known or unknown, as to any alleged violation of Proposition 65 or its implementing regulations,
26 up through the Effective Date, based on a failure to provide Proposition 65 warning on the
27 Covered Product with respect to lead as set forth in the Notice and Complaint. This release shall
28 be binding upon Calsafe and their respective agents, representatives, successors, and assigns.

1
2 **IV. MONETARY TERMS**

3 **4.1 Total Settlement Amount.** In full satisfaction of all potential civil penalties,
4 additional settlement payments, attorney fees, and costs, 3LP shall make a total payment of
5 Thirty-Two Thousand Dollars (\$32,000.00) (the “Total Settlement Amount”), apportioned into
6 a Civil Penalty, and Attorney Fees and Costs as set forth in Paragraphs 4.2 and 4.3, below.

7 **4.2 Civil Penalty Payment.** Pursuant to California *Health & Safety Code*
8 § 25249.7(b)(2) and in settlement of all claims alleged in the Notice and Complaint, 3LP agrees
9 to pay Three Thousand Two Hundred Dollars (\$3,200.00) in Civil Penalties. The Civil Penalty
10 payment will be apportioned in accordance with California *Health & Safety Code* §§
11 25249(c)(1), (d), with seventy-five (75) percent of these funds remitted to OEHHA, and the
12 remaining twenty-five (25) percent of the funds retained by CalSafe. Within ten (10) days of the
13 Effective Date, 3LP shall issue a check to “OEHHA” in the amount of Two Thousand Four
14 Hundred Dollars (\$2,400.00), with “Prop 65 Penalties” written in the Memo Line; and 3LP shall,
15 pursuant to the instructions below, wire to CalSafe the amount of Eight Hundred Dollars
16 (\$800.00).

17 All payments made to OEHHA (EIN: 68-0284486) pursuant to this Paragraph shall be
18 delivered directly to OEHHA at the following address:

19 For United States Postal Delivery Service:

20 Mike Gyurics
21 Fiscal Operations Branch Chief
22 Office of Environmental Health Hazard Assessment
P.O. Box 4010
Sacramento, CA 95812-4010

23 For Non-United States Postal Delivery Service:

24 Mike Gyurics
25 Fiscal Operations Branch Chief
26 Office of Environmental Health Hazard Assessment
27 1001 I Street MS #19B
28 Sacramento, CA 95814

All penalty payments owed to CalSafe shall be sent via wire to:

1 **Wire & ACH Instructions:**

2
3 Account Name: The Law Offices of Joseph R. Manning
4 Bank Name: J.P. Morgan Chase Bank, N.A.
5 Bank Address: 270 Park Ave. New York, NY. 10017
6 ACH Routing / ABA Number: 322271627
7 Wire Routing / ABA Number: 021000021
8 Account Number: 802922919

9 For further benefit of: Civil Penalty Payment Case No. 23TRCV01509

10 **4.3 Attorney Fees and Costs.** Within ten (10) days of the Effective Date, 3LP agrees
11 to pay Twenty-Eight Thousand Eight Hundred Dollars (\$28,800.00) to CalSafe and its counsel of
12 record for all fees and costs incurred in investigating, bringing this matter to the attention of 3LP,
13 litigating, negotiation, and obtaining judicial approval of a settlement in the public interest.

14 **Wire & ACH Instructions:**

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

21 For further benefit of: Attorney's Fees Case No. 23TRCV01509

22 **4.4** In the event that 3LP fails to remit the Total Settlement Amount or any portion
23 thereof owed under Paragraphs 4.1 through 4.3 of this Consent Judgment before the due date,
24 3LP shall be deemed to be in material breach of its obligations under this Consent Judgment.
25 CalSafe shall provide written notice of delinquency to 3LP via electronic mail to 3LP's counsel
26 of record. If 3LP fails to deliver any portion of or all of the Total Settlement Amount within five
27 (5) days from the written notice, the Total Settlement Amount shall accrue interest at the statutory
28 judgment interest rate provided in California *Code of Civil Procedure* § 685.010.

1 Additionally, 3LP agrees to pay Calsafe's reasonable attorney fees and costs for any
2 efforts to collect the payment due under this Consent Judgment.

3 **V. RETENTION OF JURISDICTION**

4 **5.1** This Court shall retain jurisdiction over this matter to enforce, modify, or terminate
5 this Consent Judgment.

6 **VI. MODIFICATION OF CONSENT JUDGMENT**

7 **6.1** This Consent Judgment may be modified only as to the injunctive terms by
8 (A) written stipulation of the Parties and upon entry by the Court of a modified consent judgment,
9 or (B) by motion of either Party pursuant to Paragraph 5.1 and upon entry by the Court of a
10 modified consent judgment.

11 **6.2** If 3LP seeks to modify this Consent Judgment under Paragraph 5.1, then 3LP must
12 provide written notice to Calsafe of its intent ("Notice of Intent"). If Calsafe seeks to meet and
13 confer regarding the proposed modification in the Notice of Intent, then Calsafe shall provide
14 written notice of intent to meet and confer to 3LP within thirty (30) days of receiving the Notice
15 of Intent. The Parties shall then meet and confer in good faith in person, via telephone, or via
16 video conference within thirty (30) days of Calsafe's written notice of intent to meet and confer.
17 Within thirty (30) days of such a meeting, if Calsafe disputes the proposed modification, Calsafe
18 shall provide 3LP a written basis for its opposition. The Parties shall continue to meet and confer
19 for an additional thirty (30) days in an effort to resolve any remaining disputes. Should it become
20 necessary, the Parties may agree in writing to different deadlines for the meet-and-confer period.

21 **6.3** In the event that 3LP initiates or otherwise requests a modification under
22 Paragraph 5.1, and the meet and confer process leads to a joint motion or application for a
23 modification of the Consent Judgment, 3LP shall reimburse Calsafe its costs and reasonable
24 attorney fees for the time spent in the meet-and-confer process and filing and arguing the motion.

25 **VII. BINDING EFFECT, CLAIMS COVERED, CLAIMS RELEASED**

26 **7.1** This Consent Judgment shall have no application to any Covered Product that is
27 distributed or sold exclusively outside the State of California and/or that is not used by California
28 consumers. Nothing in this Consent Judgment is intended to apply to any occupational or

1 environmental exposures arising under Proposition 65, nor shall it apply to any other 3LP
2 products other than the Covered Product.

3 **7.2 Binding Effect.** This Consent Judgment is a full, final, and binding resolution
4 between Calsafe, on behalf of itself and its respective officers, directors, shareholders, employees,
5 agents, parent companies, subsidiaries, divisions, and affiliates and on behalf of the public
6 interest, and 3LP and its respective officers, directors, shareholders, employees, agents, parent
7 companies, subsidiaries, divisions, affiliates, franchisees, licensees, customers, suppliers,
8 distributors, wholesalers, or retailers, and all other upstream and downstream entities in the
9 distribution chain of the Covered Product and the predecessors, successors, and assigns of any of
10 them (collectively, “Released Parties”).

11 **7.3** Compliance with the terms of this Consent Judgment shall be deemed to constitute
12 compliance with Proposition 65 by any of the Released Parties regarding alleged exposures to the
13 Covered Product as set forth in the Notice and Complaint.

14 **7.4 Calsafe Release of 3LP(s).** Calsafe, on behalf of itself and its respective officers,
15 directors, shareholders, employees, agents, parent companies, subsidiaries, divisions, and
16 affiliates and on behalf of the public interest fully releases and discharges Released Parties from
17 any and all claims, actions, cause of action, suits, demands, liabilities, damages, penalties, fees
18 costs, and expenses asserted, or that could have been asserted based on or related to the handling,
19 use, sale, distribution, or consumption of the Covered Product in California, as to any alleged
20 violation of Proposition 65 or its implementing regulations up through the Effective Date, based
21 on a failure to provide Proposition 65 warning on the Covered Product with respect to lead as set
22 forth in the Notice and Complaint.

23 **7.5** Calsafe on its own behalf only, and 3LP on its own behalf only, further waives and
24 releases any and all claims they, their attorneys, or their representatives may have against each
25 other for all actions or statements made or undertaken in the course of seeking or opposing
26 enforcement of Proposition 65 in connection with the Notice and Complaint up through and
27 including the Effective Date, provided, however, that nothing in this Section shall affect or limit
28 any Party’s right to seek to enforce the terms of the Consent Judgment.

1 **7.6 California Civil Code Section 1542.** It is possible that other claims not known to
2 the Parties, arising out of the facts alleged in the Notice and Complaint, and relating to the
3 Covered Product, will develop or be discovered. Calsafe on behalf of itself only, and 3LP on
4 behalf of itself only, acknowledge that this Consent Judgment is expressly intended to cover and
5 include all Such claims up through and including the Effective Date, including all rights of action
6 therefore. Calsafe and 3LP acknowledge that the claims released in Section VII above may
7 include unknown claims, and nevertheless waive California Civil Code § 1542 as to any such
8 unknown claims. California *Civil Code* § 1542 reads as follows:

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

16 **VIII. SEVERABILITY**

17 **8.1** In the event that any of the provisions of this Consent Judgment are held by a court
18 of competent jurisdiction to be unenforceable, the validity of the remaining enforceable
19 provisions shall not be adversely affected.

20 **IX. GOVERNING LAW**

21 **9.1** The terms and conditions of this Consent Judgment shall be governed by and
22 construed in accordance with the laws of the State of California.

23 **X. PROVISION OF NOTICE**

24 **10.1** All notices required to be given to either Party to this Consent Judgment by the
25 other shall be in writing and sent to the following agents listed below via first-class mail or
26 electronic mail. Any Party may modify the person/entity or address to whom the notice is to be
27 sent by sending the other Party notice by certified mail, return receipt requested. Said change shall
28 take effect on the date the return receipt is signed by the Party receiving the change.

Notice for Calsafe shall be sent to:

Joseph R. Manning, Jr.
26100 Towne Center Drive
Foothill Ranch, CA 92610
Tel: Office (949) 200-8757 Fax: (866) 843-8309
p65@manninglawoffice.com

Notice for 3LP shall be sent to:

Jason Foscolo
Jason Foscolo PLLC
123 Garden Wood Drive
Ponte Vedra, Florida 32081
Tel (800) 559 – 4628
jason@foodlawfirm.com

XI. EXECUTED IN 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 page shall be construed to be as valid as the original signature.

XII. 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 the opportunity to fully discuss the terms and conditions with legal counsel. The Parties agree that, in any subsequent interpretation and construction of this Consent Judgment, no inference, assumption, or presumption shall be drawn, and no provision of this Consent Judgment shall be construed against any Party, based on the fact that one of the Parties and/or one of the Parties' legal counsel prepared and/or drafted all or any portion of the Consent Judgment. It is conclusively presumed that all of the Parties participate equally in the preparation and drafting of this Consent Judgment.

XIII. GOOD FAITH ATTEMPT TO RESOLVE DISPUTES

13.1 If a dispute with respect to either Party's compliance with the terms of this Consent Judgment entered by the Court, the Parties shall meet and confer in person, by telephone, by video conference, and/or in writing and endeavor to resolve the dispute in an

1 amicable manner. No action or motion may be filed with the Court in the absence of such a good
2 faith attempt to resolve the dispute beforehand.

3 **XIV. ENFORCEMENT**

4 **14.1** The Parties may, by motion or order to show cause before the Superior Court of
5 Los Angeles County, enforce the terms and conditions of this Consent Judgment. In any
6 successful action brought by Calsafe to enforce this Consent Judgment, Calsafe may seek
7 whatever fines, costs, penalties, or remedies as are provided by law for failure to comply with
8 this Consent Judgment.

9 **XV. ENTIRE AGREEMENT, AUTHORIZATION**

10 **15.1** This Consent Judgment contains the sole and entire agreement and understanding
11 of the Parties with respect to the entire subject matter herein, including any and all prior
12 discussions, negotiations, commitments, and understandings related thereto. No representations,
13 oral or otherwise, express or implied, other than those contained herein have been made by any
14 party. No other agreements, oral or otherwise, unless specifically referred to herein, shall be
15 deemed to exist or to bind any Party.

16 **15.2** Each signatory to this Consent Judgment certifies that he or she is fully authorized
17 by the Party he or she represents to stipulate to this Consent Judgment.

18 **XVI. REQUEST FOR FINDINGS, APPROVAL, AND ENTRY.**

19 **16.1** This Consent Judgment has come before the Court upon the request of the Parties.
20 The Parties request the Court to fully review this Consent Judgment and, being fully informed
21 regarding the matters which are the subject of this action, make the findings pursuant to
22 California *Health and Safety Code* § 25249(f)(4) and approve this Consent Judgment.

23
24 **IT IS SO STIPULATED.**

25
26 DATED: November 27, 2023

MANNING LAW, APC

27 By: 
28 Joseph Manning, Jr.

*Attorney for Plaintiff
Calsafe Research Center, Inc.*

CALSAFE RESEARCH CENTER, INC.

DATED: 11/27/2023, 2023

By: 
Eric Fairon, CEO
Calsafe Research Center, Inc.

DATED: _____, 2023

By: _____

Jason Foscolo
*Attorney for Defendant
3 Little Pigs, LLC*

3 LITTLE PIGS, LLC

DATED: _____, 2023

By: _____

David Kemp
Chief Executive Officer
3 Little Pigs, LLC

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

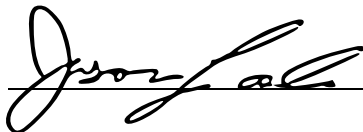
1 *Attorney for Plaintiff*
2 *Calsafe Research Center, Inc.*

3 **CALSAFE RESEARCH CENTER, INC.**

4 DATED: _____, 2023

5 By: _____
6 Eric Fairon, CEO
7 Calsafe Research Center, Inc.

8 DATED: _____, 2023

9 By: 
10
11 Jason Foscolo
12 *Attorney for Defendant*
13 *3 Little Pigs, LLC*

14
15
16 DATED: December 20th, 2023

17 **3 LITTLE PIGS, LLC**

18 By: 
19 David Kemp
20 Chief Executive Officer
21 3 Little Pigs, LLC

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

24 Dated: _____

25 _____
26 JUDGE OF THE SUPERIOR COURT
27
28