

1 Michael Freund SBN 99687
2 Michael Freund & Associates
3 1919 Addison Street, Suite 104
4 Berkeley, CA 94704
5 Telephone: (510) 499-1992
6 Email: freund1@aol.com
7 Attorney for Plaintiff Environmental Research Center, Inc.

8 Matthew R. Orr (SBN 211097)
9 Amin Wasserman Gurnani, LLP
10 515 South Flower Street, 18th Floor
11 Los Angeles, CA 90071
12 Telephone: (213) 933-2330
13 Email: morr@awglaw.com

14 Attorney for Defendant Mitra-9 Brands LLC

15 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
16 **COUNTY OF ALAMEDA**

17 **ENVIRONMENTAL RESEARCH**
18 **CENTER, INC., a California non-profit**
19 **corporation**

20 **Plaintiff,**

21 **vs.**

22 **MITRA-9 BRANDS LLC; MARIJUANA**
23 **COMPANY OF AMERICA, INC.;**
24 **CDISTRO, INC.; CDISTRO, LLC; and**
25 **DOES 1-100**

26 **Defendants.**

CASE NO. 24CV073459

[PROPOSED] STIPULATED
CONSENT JUDGMENT

Health & Safety Code § 25249.5 *et seq.*

Action Filed: April 29, 2024

Trial Date: April 6, 2026

27 **1. INTRODUCTION**

28 **1.1** On April 29, 2024, Plaintiff Environmental Research Center, Inc. (“ERC”), a non-profit corporation, as a private enforcer and in the public interest, initiated this action by filing a Complaint for Injunctive and Declaratory Relief and Civil Penalties (the “Complaint”)

1 pursuant to the provisions of California Health and Safety Code section 25249.5 *et seq.*
2 (“Proposition 65”), against Mitra-9 Brands LLC (“Mitra-9”), Marijuana Company of America,
3 Inc., cDistro, Inc., cDistro, LLC and Does 1-100. In this action, ERC alleges that a number of
4 products manufactured, distributed, or sold by Mitra-9 contain lead, a chemical listed under
5 Proposition 65 as a carcinogen and reproductive toxin, and expose consumers to this chemical
6 at a level requiring a Proposition 65 warning. These products (referred to hereinafter
7 individually as a “Covered Product” or collectively as “Covered Products”) are: (1) Mitra 9
8 Relax Pak Kava Extract Strawberry Watermelon, (2) Mitra 9 Kratom Seltzer Sparkling Dragon
9 Fruit Flavor, (3) Mitra 9 Kratom Seltzer Sparkling Tangerine Flavor, (4) Mitra 9 Sparkling
10 Kandy Kava, (5) Mitra 9 Kratom Seltzer Sparkling Black Cherry Flavor, (6) Mitra 9 Kratom
11 Seltzer Sparkling Tropical Flavor, (7) Mitra 9 Sparkling Lemonade Kava, (8) Mitra 9
12 Sparkling Orange Dreamsicle Kava, and (9) Mitra 9 Sparkling Strawberry Watermelon Kava.

13 **1.2** ERC and Mitra-9 are hereinafter referred to individually as a “Party” or
14 collectively as the “Parties.”

15 **1.3** ERC is a 501 (c)(3) California non-profit corporation dedicated to, among other
16 causes, helping safeguard the public from health hazards by reducing the use and misuse of
17 hazardous and toxic chemicals, facilitating a safe environment for consumers and employees,
18 and encouraging corporate responsibility.

19 **1.4** For purposes of this Stipulated Consent Judgment (“Consent Judgment”), the
20 Parties agree that Mitra-9 is a business entity that has employed ten or more persons at all times
21 relevant to this action and qualifies as a “person in the course of doing business” within the
22 meaning of Proposition 65. Mitra-9 manufactures, distributes, and/or sells the Covered Products.

23 **1.5** The Complaint is based on allegations contained in ERC’s Notices of Violation
24 dated February 8, 2024 and February 15, 2024 that were served on the California Attorney
25 General, other public enforcers, and Mitra-9 (“Notices”). True and correct copies of the 60-Day
26 Notices dated February 8, 2024, and February 15, 2024, are attached hereto as **Exhibits A** and
27 **B** and each is incorporated herein by reference. More than 60 days have passed since the
28 Notices were served on the Attorney General, public enforcers, and Mitra-9 and no designated

1 governmental entity has filed a Complaint against Mitra-9 with regard to the Covered Products
2 or the alleged violations.

3 **1.6** ERC’s Notices and Complaint allege that use of the Covered Products by
4 California consumers exposes them to lead without first receiving clear and reasonable
5 warnings from Mitra-9, which is in violation of California Health and Safety Code section
6 25249.6. Mitra-9 denies all material allegations contained in the Notices and Complaint.

7 **1.7** The Parties have entered into this Consent Judgment in order to settle,
8 compromise, and resolve disputed claims and thus avoid prolonged and costly litigation.
9 Nothing in this Consent Judgment nor compliance with this Consent Judgment shall constitute
10 or be construed as an admission by any of the Parties or by any of their respective officers,
11 directors, shareholders, employees, agents, parent companies, subsidiaries, divisions,
12 franchisees, licensees, customers, suppliers, distributors, wholesalers, or retailers of any fact,
13 issue of law, or violation of law.

14 **1.8** Except as expressly set forth herein, nothing in this Consent Judgment shall
15 prejudice, waive, or impair any right, remedy, argument, or defense the Parties may have in
16 any current or future legal proceeding unrelated to these proceedings.

17 **1.9** The Effective Date of this Consent Judgment is five (5) days after the date on
18 which it is entered as a Judgment by this Court.

19 **2. JURISDICTION AND VENUE**

20 For purposes of this Consent Judgment and any further court action that may become
21 necessary to enforce this Consent Judgment, the Parties stipulate that this Court has subject matter
22 jurisdiction over the allegations of violations contained in the Complaint and personal jurisdiction
23 over Mitra-9 as to the acts alleged in the Complaint, that venue is proper in Alameda County, and
24 that this Court has jurisdiction to enter this Consent Judgment as a full and final resolution of all
25 claims up through and including the Effective Date that were or could have been asserted in this
26 action based on the facts alleged in the Notices and Complaint.

27 **3. INJUNCTIVE RELIEF, REFORMULATION, TESTING AND WARNINGS**

28 **3.1** Beginning fifty-five (55) days after the Effective Date (the “Compliance Date”),

1 Mitra-9 shall be permanently enjoined from manufacturing for sale in the State of California,
2 “Distributing into the State of California,” or directly selling in the State of California, any
3 Covered Product that exposes a person to a “Daily Lead Exposure Level” of more than 0.5
4 micrograms of lead per day unless it meets the warning requirements under Section 3.2.

5 **3.1.1** As used in this Consent Judgment, the term “Distributing into the State
6 of California” shall mean to directly ship a Covered Product into California for sale in
7 California or to sell a Covered Product to a distributor that Mitra-9 knows or has reason to
8 know will sell the Covered Product in California.

9 **3.1.2** For purposes of this Consent Judgment, the “Daily Lead Exposure
10 Level” shall be measured in micrograms, and shall be calculated using the following formula:
11 micrograms of lead per gram of product, multiplied by grams of product per serving of the
12 product (using the largest serving size appearing on the product label), multiplied by servings
13 of the product per day (using the largest number of recommended daily servings appearing on
14 the label), which equals micrograms of lead exposure per day. If the label contains no
15 recommended daily servings, then the number of recommended daily servings shall be one.

16 **3.2 Clear and Reasonable Warnings**


17 If Mitra-9 is required to provide a warning pursuant to Section 3.1, Mitra-9 shall provide
18 one of the following warning statements (“Warning”):

19 **OPTION 1:**

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

24 OR

25 **OPTION 2:**

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

27 Mitra-9 shall use the phrase “cancer and” in the Warning if Mitra-9 has reason to believe
28 that the “Daily Lead Exposure Level” is greater than 15 micrograms of lead as determined

1 pursuant to the quality control methodology set forth in Section 3.4 or if Mitra-9 has reason to
2 believe that another Proposition 65 chemical is present at a level requiring a cancer warning. If
3 there is a chemical present at a level that requires a cancer warning, the chemical requiring use of
4 the phrase “cancer and” in the Warning shall always be identified.

5 Beginning on the Compliance Date, for any Covered Product sold over the internet, the
6 Warning shall appear on the checkout page when a California delivery address is indicated for any
7 purchase of any Covered Product or on the Covered Product’s primary display page or another
8 place where a consumer is reasonably likely to encounter the Warning prior to completing the
9 purchase. An asterisk or other identifying method must be utilized to identify which products are
10 subject to the Warning. The Warning may be provided with a conspicuous hyperlink stating
11 “WARNING” in all capital and bold letters so long as the hyperlink goes directly to a page
12 prominently displaying the Warning without content that detracts from the Warning. A Warning
13 is not prominently displayed if the purchaser has to search for it in the general content of the
14 website. In addition, beginning on the Compliance Date, the Warning shall be securely affixed to
15 or printed upon the label of each Covered Product and it must be set off from other surrounding
16 information and enclosed in a box.

17 For the Option 2 Warning, a symbol consisting of a black exclamation point in a yellow
18 equilateral triangle with a bold black outline shall be placed to the left of the text of the Warning,
19 in a size no smaller than the height of the word “**WARNING.**” Where the label for the product is
20 not printed using the color yellow, the symbol may be printed in black and white. If the Option 2
21 Warning is displayed on the label of a Covered Product, it must be in a type size no smaller than
22 the largest type size used for other consumer information on the product, and in no event in a type
23 size smaller than 6-point type.

24 The Warning shall be at least the same size as the largest of any other health or safety
25 warnings also appearing on the website or on the label, and the word “**WARNING**” shall be in all
26 capital letters and in bold print. No statements intended to or likely to have the effect of
27 diminishing the impact of the Warning on the average lay person shall accompany the Warning.
28 Further, no statements may accompany the Warning that state or imply that the source of the

1 listed chemical has an impact on or results in a less harmful effect of the listed chemical.

2 Mitra-9 must display the above Warning with such conspicuousness, as compared with
3 other words, statements or designs on the label, or on its website, if applicable, to render the
4 Warning likely to be read and understood by an ordinary individual under customary conditions
5 of purchase or use of the product. Where a sign or label used to provide the Warning for a
6 Covered Product includes consumer information about the Covered Product in a language other
7 than English, the Warning must also be provided in that language in addition to English.

8 For purposes of this Consent Judgment, the term “label” means a display of written,
9 printed or graphic material that is printed on or affixed to a Covered Product or its immediate
10 container or wrapper.

11 So long as Mitra-9 can provide adequate documentation, if requested in writing by ERC,
12 Covered Products manufactured and not in the possession or under the control of Mitra-9 on or
13 prior to the Compliance Date, or that have been shipped or Distributed into the State of California
14 by Mitra-9 and are, therefore, not in the possession or under the control of Mitra-9 prior to the
15 Compliance Date, are not bound by the injunctive terms set forth in this Section 3, including but
16 not limited to the Daily Lead Exposure Level and the Warning and Testing Requirements, and are
17 instead permitted to be sold as is to California consumers and are expressly released by Section 8.

18 **3.3 Conforming Covered Products**

19 A Conforming Covered Product is a Covered Product for which the “Daily Lead Exposure
20 Level” is no greater than 0.5 micrograms of lead per day as determined by the exposure
21 methodology set forth in Section 3.1.2 and the quality control methodology described in Section
22 3.4, and that is not known by Mitra-9 to contain other chemicals that violate Proposition 65’s safe
23 harbor thresholds.

24 **3.4 Testing and Quality Control Methodology**

25 **3.4.1** Beginning within one year of the Effective Date, for Covered Products
26 that Mitra-9 manufactures for sale in the State of California, Distributes into the State of
27 California, or directly sells into the State of California, Mitra-9 shall arrange for lead testing of
28 the Covered Products at least once a year for a minimum of three consecutive years by

1 arranging for testing of three (3) randomly selected samples of each of the Covered Products,
2 in the form intended for sale to the California end-user, which Mitra-9 intends to sell or is
3 manufacturing for sale in California, directly selling to a consumer in California or
4 “Distributing into the State of California.” If tests conducted pursuant to this Section
5 demonstrate that no Warning is required for a Covered Product during each of three
6 consecutive years, then the testing requirements of this Section will no longer be required as to
7 that Covered Product. However, if during or after the three-year testing period, Mitra-9
8 reformulates any of the Covered Products, Mitra-9 shall test that Covered Product annually for
9 at least two (2) consecutive years after such change is made.

10 **3.4.2** For purposes of measuring the “Daily Lead Exposure Level,” the highest
11 lead detection result of the three (3) randomly selected samples of the Covered Products will
12 be controlling.

13 **3.4.3** All testing pursuant to this Consent Judgment shall be performed using a
14 laboratory method that complies with the performance and quality control factors appropriate
15 for the method used, including limit of detection and limit of quantification, sensitivity,
16 accuracy and precision that meets the following criteria: Inductively Coupled Plasma-Mass
17 Spectrometry (“ICP-MS”) achieving a limit of quantification of less than or equal to 0.005
18 mg/kg.

19 **3.4.4** All testing pursuant to this Consent Judgment shall be performed by an
20 independent third party laboratory certified by the California Environmental Laboratory
21 Accreditation Program or an independent third-party laboratory that is registered with the
22 United States Food & Drug Administration.

23 **3.4.5** Nothing in this Consent Judgment shall limit Mitra-9’s ability to
24 conduct, or require that others conduct, additional testing of the Covered Products, including
25 the raw materials used in their manufacture.

26 **3.4.6** Within thirty (30) days of ERC’s written request, Mitra-9 shall deliver
27 lab reports obtained pursuant to Section 3.4 to ERC. Mitra-9 shall retain all test results and
28 documentation for a period of three years from the date of each test. ERC shall treat all

1 documents provided by Mitra-9 pursuant to this Section as confidential.

2 **3.4.7** The testing and reporting requirements of Section 3.4 do not apply to
3 any Covered Product for which Mitra-9 is providing a Warning, continuously and without
4 interruption from the Compliance Date, pursuant to Section 3.2 of this Consent Judgment. In
5 the event a Warning is provided after the Compliance Date but Mitra-9 thereafter ceases to
6 provide the Warning, the testing and reporting requirements of Section 3.4 of this Agreement
7 shall apply beginning within 90-days after the date the Warning ceases to be provided, unless
8 Mitra-9 can show to the reasonable satisfaction of ERC that the cessation in providing the
9 Warning was a temporary error that was resolved when discovered.

10 **3.5** Nothing in Section 3 of this Consent Judgment shall prevent or preclude ERC
11 from obtaining and relying upon its own testing for purposes of enforcement, so long as such
12 testing meets the requirements of Sections 3.4.3 and 3.4.4. Nothing in Section 3.4 of this Consent
13 Judgment is intended by either party to set a precedent for the level of lead or other chemicals
14 that is permissible in consumer products under Proposition 65.

15 **4. SETTLEMENT PAYMENT**

16 **4.1** In full satisfaction of all potential civil penalties, additional settlement
17 payments, attorney's fees, and costs, Mitra-9 shall make a total payment of \$67,500.00 ("Total
18 Settlement Amount") to ERC within 5 days of the Effective Date ("Due Date"). Mitra-9 shall
19 make this payment by wire transfer to ERC's account, for which ERC will give Mitra-9 the
20 necessary account information. The Total Settlement Amount shall be apportioned as follows:

21 **4.2** \$7,500.00 shall be considered a civil penalty pursuant to California Health and
22 Safety Code section 25249.7(b)(1). ERC shall remit 75% (\$5,625.00) of the civil penalty to the
23 Office of Environmental Health Hazard Assessment ("OEHHA") for deposit in the Safe
24 Drinking Water and Toxic Enforcement Fund in accordance with California Health and Safety
25 Code section 25249.12(c). ERC will retain the remaining 25% (\$1,875.00) of the civil penalty.

26 **4.3** \$7,731.89 shall be distributed to ERC as reimbursement to ERC for reasonable
27 costs incurred in bringing this action.

28 **4.4** \$18,300.00 shall be distributed to Michael Freund & Associates as

1 reimbursement of ERC's attorney's fees, while \$33,968.11 shall be distributed to ERC for its
2 in-house legal fees. Except as explicitly provided herein, each Party shall bear its own fees and
3 costs.

4 **4.5** In the event that Mitra-9 fails to remit the Total Settlement Amount owed under
5 Section 4 of this Consent Judgment on or before the Due Date, Mitra-9 shall be deemed to be
6 in material breach of its obligations under this Consent Judgment. ERC shall provide written
7 notice of the delinquency to Mitra-9 via electronic mail. If Mitra-9 fails to deliver the Total
8 Settlement Amount within five (5) days from the written notice, the Total Settlement Amount
9 shall accrue interest at the statutory judgment interest rate provided in the California Code of
10 Civil Procedure section 685.010. Additionally, Mitra-9 agrees to pay ERC's reasonable
11 attorney's fees and costs for any efforts to collect the payment due under this Consent
12 Judgment.

13 **5. MODIFICATION OF CONSENT JUDGMENT**

14 **5.1** This Consent Judgment may be modified only as to injunctive terms (i) by
15 written stipulation of the Parties and upon entry by the Court of a modified consent judgment
16 or (ii) by motion of either Party pursuant to Section 5.3 and upon entry by the Court of a
17 modified consent judgment.

18 **5.2** If either Party seeks to modify this Consent Judgment under Section 5.1, then
19 the requesting party must provide written notice to the non-requesting party of its intent
20 ("Notice of Intent"). If the non-requesting party seeks to meet and confer regarding the
21 proposed modification in the Notice of Intent, then it must provide written notice to the
22 requesting party within thirty (30) days of receiving the Notice of Intent. If the non-requesting
23 party notifies the requesting party in a timely manner of its intent to meet and confer, then the
24 Parties shall meet and confer in good faith as required in this Section. The Parties shall meet in
25 person, via remote meeting, or by telephone within thirty (30) days of notification of an intent
26 to meet and confer. Within thirty (30) days of such meeting, if the non-requesting party
27 disputes the proposed modification, it shall provide to the requesting party a written basis for
28 its position. The Parties shall continue to meet and confer for an additional thirty (30) days in

1 an effort to resolve any remaining disputes. Should it become necessary, the Parties may agree
2 in writing to different deadlines for the meet-and-confer period.

3 **5.3** In the event that Mitra-9 initiates or otherwise requests a modification under
4 Section 5.1, and the meet and confer process leads to a joint motion or joint application for a
5 modification of the Consent Judgment, Mitra-9 shall reimburse ERC its costs and reasonable
6 attorney's fees for the time spent in the meet-and-confer process and filing and arguing the
7 motion or application.

8 **6. RETENTION OF JURISDICTION, ENFORCEMENT OF CONSENT** 9 **JUDGMENT**

10 **6.1** This Court shall retain jurisdiction of this matter to enforce, modify, or
11 terminate this Consent Judgment.

12 **6.2** If ERC alleges that any Covered Product, not including those Covered Products
13 that were not in the possession or under the control of Mitra-9 on or prior to the Compliance
14 Date, fails to qualify as a Conforming Covered Product (for which ERC alleges that no
15 Warning has been provided), then ERC shall inform Mitra-9 in a reasonably prompt manner of
16 its test results, including information sufficient to permit Mitra-9 to identify the Covered
17 Products at issue. Mitra-9 shall, within forty-five (45) days following such notice, provide ERC
18 with testing information, from an independent third-party laboratory meeting the requirements
19 of Sections 3.4.3 and 3.4.4 and/or otherwise demonstrating Mitra-9's compliance with the
20 Consent Judgment. The Parties shall first attempt to resolve the matter prior to ERC taking any
21 further legal action.

22 **7. APPLICATION OF CONSENT JUDGMENT**

23 This Consent Judgment may apply to, be binding upon, and benefit the Parties and their
24 respective officers, directors, shareholders, employees, agents, parent companies, subsidiaries,
25 divisions, franchisees, licensees, customers (excluding private labelers), distributors, wholesalers,
26 retailers, predecessors, successors, and assigns. This Consent Judgment shall have no
27 application to any Covered Product that is distributed or sold exclusively outside the State of
28 California and that is not used by California consumers.

1 **8. BINDING EFFECT, CLAIMS COVERED AND RELEASED**

2 **8.1** This Consent Judgment is a full, final, and binding resolution between ERC,
3 on behalf of itself and in the public interest, and Mitra-9 and its respective officers, directors,
4 shareholders, employees, agents, parent companies, subsidiaries, divisions, suppliers,
5 franchisees, licensees, customers (not including private label customers of Mitra-9),
6 distributors, wholesalers, retailers, and all other upstream and downstream entities in the
7 distribution chain of any Covered Product, and the predecessors, successors, and assigns of any
8 of them (collectively, “Released Parties”).

9 **8.2** ERC, acting in the public interest, releases the Released Parties from any
10 and all claims for violations of Proposition 65 up through the Effective Date based on exposure
11 to lead from the Covered Products as set forth in the Notices of Violation. ERC, on behalf of
12 itself only, hereby fully releases and discharges the Released Parties from any and all claims,
13 actions, causes of action, suits, demands, liabilities, damages, penalties, fees, costs, and
14 expenses asserted, or that could have been asserted from the handling, use, or consumption of
15 the Covered Products, as to any alleged violation of Proposition 65 or its implementing
16 regulations arising from the failure to provide Proposition 65 warnings on the Covered
17 Products regarding lead to and including the Effective Date.

18 **8.3** ERC on its own behalf only, and Mitra-9 on its own behalf only, further
19 waive and release any and all claims they may have against each other for all actions or
20 statements made or undertaken in the course of seeking or opposing enforcement of
21 Proposition 65 in connection with the Notices and Complaint up through and including the
22 Effective Date, provided, however, that nothing in Section 8 shall affect or limit any Party’s
23 right to seek to enforce the terms of this Consent Judgment.

24 **8.4** It is possible that other claims not known to the Parties, arising out of the facts
25 alleged in the Notices and Complaint, and relating to the Covered Products, will develop or be
26 discovered. ERC on behalf of itself only, and Mitra-9 on behalf of itself only, acknowledge
27 that this Consent Judgment is expressly intended to cover and include all such claims up
28 through and including the Effective Date, including all rights of action therefore. ERC and

1 Mitra-9 acknowledge that the claims released in Sections 8.2 and 8.3 above may include
2 unknown claims, and nevertheless waive California Civil Code section 1542 as to any such
3 unknown claims. California Civil Code section 1542 reads as follows:

4 A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE
5 CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO
6 EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE
7 AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY
8 AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED
9 PARTY.

10 ERC on behalf of itself only, and Mitra-9 on behalf of itself only, acknowledge and understand
11 the significance and consequences of this specific waiver of California Civil Code section
12 1542.

13 **8.5** Compliance with the terms of this Consent Judgment shall be deemed to
14 constitute compliance with Proposition 65 by any of the Released Parties regarding alleged
15 exposures to lead in the Covered Products as set forth in the Notices and Complaint.

16 **8.6** Nothing in this Consent Judgment is intended to apply to any occupational or
17 environmental exposures arising under Proposition 65, nor shall it apply to any of Mitra-9's
18 products other than the Covered Products that are manufactured for sale in California, sold to
19 consumers in California, or "Distributed into the State of California."

20 **9. SEVERABILITY OF UNENFORCEABLE PROVISIONS**

21 In the event that any of the provisions of this Consent Judgment are held by a court to be
22 unenforceable, the validity of the remaining enforceable provisions shall not be adversely
23 affected.

24 **10. GOVERNING LAW**

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

27 **11. PROVISION OF NOTICE**

28 All notices required to be given to either Party to this Consent Judgment by the other shall
be in writing and sent to the following agents listed below via first-class mail or via electronic
mail where required. Courtesy copies via email may also be sent.

1 **FOR ENVIRONMENTAL RESEARCH CENTER, INC.:**

2 Chris Heptinstall, Executive Director
3 Environmental Research Center
4 3111 Camino Del Rio North, Suite 400
5 San Diego, CA 92108
6 Ph: (619) 500-3090
7 Email: chris.heptinstall@erc501c3.org

8 With a copy to:

9 Michael Freund
10 Michael Freund & Associates
11 1919 Addison Street, Suite 104
12 Berkeley, CA 94704
13 Telephone: (510) 499-1992
14 Email: freund1@aol.com

15 **FOR MITRA-9 BRANDS LLC:**

16 Dallas Vasquez, Founder
17 Mitra-9 Brands LLC
18 2501 Alessio Drive,
19 Fort Myers, Florida 33905
20 Ph: (330) 620-2567
21 Email: dallas@mitra-9.com

22 With a copy to:

23 Matthew R. Orr (SBN 211097)
24 Amin Wasserman Gurnani, LLP
25 515 South Flower Street, 18th Floor
26 Los Angeles, CA 90071
27 Telephone: (213) 933-2330
28 Email: morr@awglaw.com

12. COURT APPROVAL

12.1 Upon execution of this Consent Judgment by the Parties, ERC shall notice a Motion for Court Approval. The Parties shall use their best efforts to support entry of this Consent Judgment.

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

12.3 If this Consent Judgment is not approved by the Court, it shall be void and have

1 no force or effect.

2 **13. EXECUTION AND COUNTERPARTS**

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

6 **14. DRAFTING**

7 The terms of this Consent Judgment have been reviewed by the respective counsel for
8 each Party prior to its signing, and each Party has had an opportunity to fully discuss the terms
9 and conditions with legal counsel. The Parties agree that, in any subsequent interpretation and
10 construction of this Consent Judgment, no inference, assumption, or presumption shall be drawn,
11 and no provision of this Consent Judgment shall be construed against any Party, based on the fact
12 that one of the Parties and/or one of the Parties' legal counsel prepared and/or drafted all or any
13 portion of the Consent Judgment. It is conclusively presumed that all of the Parties participated
14 equally in the preparation and drafting of this Consent Judgment.

15 **15. GOOD FAITH ATTEMPT TO RESOLVE DISPUTES**

16 If a dispute arises with respect to either Party's compliance with the terms of this Consent
17 Judgment entered by the Court, the Parties shall meet and confer in person, via remote meeting,
18 by telephone, and/or in writing and endeavor to resolve the dispute in an amicable manner. No
19 action or motion may be filed in the absence of such a good faith attempt to resolve the dispute
20 beforehand.

21 **16. ENFORCEMENT**

22 ERC may, by motion or order to show cause before the Superior Court of Alameda
23 County, enforce the terms and conditions contained in this Consent Judgment. In any action
24 brought by ERC to enforce this Consent Judgment, ERC may seek whatever fines, costs,
25 penalties, or remedies as are provided by law for failure to comply with the Consent Judgment.
26 To the extent the failure to comply with the Consent Judgment constitutes a violation of
27 Proposition 65 or other laws, ERC shall not be limited to enforcement of this Consent
28 Judgment, but may seek in another action whatever fines, costs, penalties, or remedies as are

1 provided by law for failure to comply with Proposition 65 or other laws.

2 **17. ENTIRE AGREEMENT, AUTHORIZATION**

3 **17.1** This Consent Judgment contains the sole and entire agreement and
4 understanding of the Parties with respect to the entire subject matter herein, including any and
5 all prior discussions, negotiations, commitments, and understandings related thereto. No
6 representations, oral or otherwise, express or implied, other than those contained herein have
7 been made by any Party. No other agreements, oral or otherwise, unless specifically referred to
8 herein, shall be deemed to exist or to bind any Party.

9 **17.2** Each signatory to this Consent Judgment certifies that he or she is fully
10 authorized by the Party he or she represents to stipulate to this Consent Judgment.

11 **18. REQUEST FOR FINDINGS, APPROVAL OF SETTLEMENT AND ENTRY OF**
12 **CONSENT JUDGMENT**

13 This Consent Judgment has come before the Court upon the request of the Parties. The
14 Parties request the Court to fully review this Consent Judgment and, being fully informed
15 regarding the matters which are the subject of this action, to:

16 (1) Find that the terms and provisions of this Consent Judgment represent a fair and
17 equitable settlement of all matters raised by the allegations of the Complaint that the matter has
18 been diligently prosecuted, and that the public interest is served by such settlement; and

19 (2) Make the findings pursuant to California Health and Safety Code section
20 25249.7(f)(4), approve the settlement, and approve this Consent Judgment.

21 (3) Retain jurisdiction, pursuant to Section 664.6 of the Code of Civil Procedure, after
22 the Consent Judgment is entered in order to enforce, modify, or terminate this Consent Judgment.

23 **IT IS SO STIPULATED:**

24 Dated: _____, 2025

ENVIRONMENTAL RESEARCH
CENTER, INC.

25
26 By: _____
27 Chris Heptinstall
28 Executive Director

1 Dated: 1/21/2025, 2025

MITRA-9 BRANDS LLC

DocuSigned by:

Dallas Vasquez

By: Dallas Vasquez

Its: Managing Officer & CEO

6 **APPROVED AS TO FORM:**

8 Dated: January 22, 2025

MICHAEL FREUND & ASSOCIATES

By: *Michael Freund*

Michael Freund
Attorney for Plaintiff Environmental
Research Center, Inc.

14 Dated: January 22, 2025

AMIN WASSERMAN GURNANI

By: *Matthew Orr*

Matthew Orr
Attorney for Defendant Mitra-9 Brands
LLC

[PROPOSED] ORDER AND JUDGMENT

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

IT IS SO ORDERED, ADJUDGED AND DECREED.

Dated: _____, 2025 _____
Judge of the Superior Court

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28