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**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO**

UNITED STATES OF AMERICA,

Plaintiff,

v.

TRADER JOE'S COMPANY,

Defendant.

Case No. 3:16-cv-3444
CONSENT DECREE

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1 WHEREAS, Plaintiff, the United States of America, on behalf of the United States
2 Environmental Protection Agency (“EPA”), has filed a Complaint in this action concurrently with
3 this Consent Decree alleging that Defendant Trader Joe’s Company (“Trader Joe’s”) violated
4 Section 608 of the Clean Air Act (“CAA” or the “Act”), 42 U.S.C. § 7671g, and the commercial
5 refrigerant repair and recordkeeping regulations at 40 C.F.R. Part 82, Subpart F, §§ 82.150-
6 82.169 (Recycling and Emissions Reduction);

7 WHEREAS, the Complaint alleges that Trader Joe’s has failed to comply with the leak
8 repair and/or recordkeeping requirements of 40 C.F.R. Part 82, Subpart F, at some or all of the
9 grocery stores identified in Appendix A to this Consent Decree;

10 WHEREAS, on November 1, 2007, EPA issued an information request (“Information
11 Request”) to Trader Joe’s pursuant to Section 114 of the Act, 42 U.S.C. § 7414, regarding the
12 repair of leaks from commercial refrigeration appliances normally containing more than 50
13 pounds of refrigerant that includes a class I or class II ozone-depleting substance, at 181 stores in
14 California, Arizona, and Nevada;

15 WHEREAS, on January 14, 2008, and February 20, 2008, Trader Joe’s submitted its
16 responses to the Information Request, including approximately 2,100 pages of equipment records;

17 WHEREAS, on December 3, 2008, pursuant to Section 113(a)(3)(B) of the Act, EPA
18 issued an administrative compliance order (“Compliance Order”) in which EPA made findings
19 that Trader Joe’s violated the requirements of the Information Request;

20 WHEREAS, in the Compliance Order EPA ordered Trader Joe’s to fully comply with the
21 Information Request;

22 WHEREAS, on February 9, 2009, February 19, 2009, and April 23, 2009, Trader Joe’s
23 submitted its responses to the Compliance Order, and on May 20, 2011, Trader Joe’s submitted
24 supplemental records, all comprising approximately 15,000 pages of equipment records;

25 WHEREAS, Trader Joe’s does not admit any liability to the United States arising out of
26 the transactions or occurrences alleged in the Complaint;

27 WHEREAS, the Parties recognize, and the Court by entering this Consent Decree finds,

1 that this Consent Decree has been negotiated by the Parties in good faith and will avoid litigation
2 between the Parties and that this Consent Decree is fair, reasonable, and in the public interest;

3 NOW, THEREFORE, before the taking of any testimony, without the adjudication of or
4 admission of any issue of fact or law except as provided in Section I, and with the consent of the
5 Parties, IT IS HEREBY ADJUDGED, ORDERED, AND DECREED as follows:

6 **I. JURISDICTION, VENUE, AND NOTICE**

7 1. This Court has jurisdiction over the subject matter of this action and over the
8 Parties pursuant to Section 113(b) of the Act, 42 U.S.C. § 7413(b), and 28 U.S.C. §§ 1331, 1345,
9 and 1355. Venue lies in this district pursuant to Section 113(b) of the Act, 42 U.S.C. § 7413(b),
10 and 28 U.S.C. §§ 1391(b) and (c) and 1395(a), because some of the violations alleged in the
11 Complaint occurred in, and Trader Joe's conducts business in, this judicial district. For purposes
12 of this Decree, or any action to enforce this Decree, Trader Joe's consents to the Court's
13 jurisdiction over this Decree and any such action and over Trader Joe's and consents to venue in
14 this district.

15 2. The United States has given notice of the commencement of this action to the
16 applicable air pollution control agencies as required by Section 113(b) of the Act, 42 U.S.C.
17 § 7413(b).

18 **II. APPLICABILITY**

19 3. The obligations of this Consent Decree apply to and are binding upon the United
20 States, and upon Trader Joe's and any successors, assigns, or other entities or persons otherwise
21 bound by law.

22 4. Trader Joe's shall provide a copy of this Consent Decree, which may be provided
23 electronically, to all officers, employees, and agents of Trader Joe's whose duties might
24 reasonably include compliance with any provision of this Consent Decree, as well as provide any
25 contractors retained to perform work required under this Consent Decree with a copy of the
26 Consent Decree. Defendant shall condition any such contract upon performance of the work in
27 conformity with the terms of this Consent Decree.

1 5. No transfer of ownership or operation of any Store by Defendant, whether in
2 compliance with the procedures of this Paragraph or otherwise, shall relieve Defendant of its
3 obligation to ensure that the terms of Paragraphs 12 and 13 the Decree are implemented with
4 respect to such Store, nor of Defendant's obligation to comply fully with the Consent Decree with
5 respect to all other Stores. At least 30 Days prior to any transfer of ownership or operation of one
6 or more Stores covered by this Consent Decree from Trader Joe's to another person, Trader Joe's
7 shall provide a copy of this Consent Decree to the proposed transferee. At least 30 Days prior to
8 the transfer, Trader Joe's shall provide written notice of the prospective transfer to the United
9 States in accordance with Section XV of this Decree (Notices), and shall submit to the United
10 States a plan to ensure that the Refrigerant Compliance Management System, or another
11 refrigerant compliance management system approved by EPA, continues to be implemented at all
12 such stores. Any attempt to transfer ownership or operation of a Store from Trader Joe's to
13 another person without complying with this Paragraph constitutes a violation of this Decree. This
14 Section shall not be construed to require written notice to the United States of (1) prospective
15 store closures, (2) prospective terminations of Store leases and/or relocations of Stores, or (3)
16 prospective changes in Store-level staffing and/or management.

17 6. In any action to enforce this Consent Decree, Trader Joe's shall not raise as a
18 defense the failure by any of its officers, directors, employees, agents, or contractors to take any
19 actions necessary to comply with the provisions of this Consent Decree.

20 **III. OBJECTIVES**

21 7. The objectives of this Consent Decree are: (a) to further the goals of ensuring
22 compliance with Subchapter VI of the Act, 42 U.S.C. §§ 7671-7671q, and EPA's commercial
23 refrigerant repair and recordkeeping regulations at 40 C.F.R. Part 82, Subpart F, through the
24 implementation of the injunctive relief set forth in Section VI (Compliance Requirements) by
25 improving Trader Joe's Refrigerant emissions management and recordkeeping systems, and (b) to
26 resolve the civil claims of the United States as provided in Section XIII (Effect of
27 Settlement/Reservation of Rights).

1 **IV. DEFINITIONS**

2 8. Terms used in this Consent Decree that are defined in the Act or in regulations
3 promulgated pursuant to the Act shall have the meanings assigned to them in the Act or such
4 regulations as of the date of lodging of this Decree, unless otherwise provided in this Decree.
5 Whenever the terms set forth below are used in this Consent Decree, the following definitions
6 shall apply:

7 a. “Advanced Refrigerants” shall mean any of the following refrigerants: R-
8 744, R-448A, R-449A, R-513A and/or R-450A;

9 b. “Advanced Refrigeration Store” shall mean a New Store or Major Remodel
10 in which all Covered Refrigeration Equipment use one or more of the Advanced Refrigerants;

11 c. “Complaint” shall mean the complaint filed by the United States in this
12 action;

13 d. “Company-Wide Average Leak Rate” for a given calendar year shall mean
14 the total number of pounds of Refrigerant added to all Covered Refrigeration Equipment at all
15 Stores during the period of Trader Joe’s ownership or operation in such calendar year divided by
16 the total Full Charge (in pounds) of all Covered Refrigeration Equipment at all Stores during such
17 calendar year. For purposes of this subparagraph, the “total number of pounds of Refrigerant
18 added to all Covered Refrigeration Equipment” shall not include (i) the initial charge of
19 Refrigerant added to any new Covered Refrigeration Equipment; (ii) where Refrigerant has been
20 recovered from an existing Covered Refrigeration Equipment, the amount of such Refrigerant
21 used to recharge such Covered Refrigeration Equipment, up to the amount of Refrigerant
22 recovered; (iii) the amount of substitutes, including carbon dioxide, in the end uses as set forth in
23 40 C.F.R. § 82.154(a)(1); or (iv) the amount of any Refrigerant added to a Covered Refrigeration
24 Equipment to replace Refrigerant released as the result of an event that is determined by EPA or
25 the Court to constitute a force majeure event under Section X of this Consent Decree (Force
26 Majeure);

27 e. “Consent Decree” or “Decree” shall mean this Decree and all appendices

1 attached hereto (listed in Section XXIV);

2 f. “Covered Refrigeration Equipment” shall mean refrigeration equipment,
3 including any refrigerator, chiller, freezer, or air conditioner, with a Full Charge of 50 pounds or
4 more of Refrigerant;

5 g. “Day” shall mean a calendar day. In computing any period of time under
6 this Consent Decree, where the last day would fall on a Saturday, Sunday, or federal holiday, the
7 period shall run until the close of business of the next business day;

8 h. “Effective Date” shall have the definition provided in Section XVI;

9 i. “EPA” shall mean the United States Environmental Protection Agency and
10 any successor departments or agencies of the United States;

11 j. “Full Charge” shall have the definition provided in 40 C.F.R. § 82.152,
12 except that “refrigerant” shall have the meaning of “Refrigerant” set forth in this Paragraph;

13 k. “GWP Value” of a Refrigerant shall be the global warming potential value
14 published by its manufacturer;

15 l. “Major Remodel” shall mean a Store remodel completed during the three
16 calendar years after the year of the Effective Date of existing retail space occupied by Trader
17 Joe’s with a general contract price of \$1,500,000 or more;

18 m. “New Store” shall mean any Store opened during the three calendar years
19 after the year of the Effective Date. A “New Store” includes any store that is closed and
20 relocated;

21 n. “Paragraph” shall mean a portion of this Decree identified by an Arabic
22 numeral or an upper or lower case letter;

23 o. “Parties” shall mean the United States and Trader Joe’s;

24 p. “Refrigerant” shall mean any substance used as a heat transfer fluid or gas
25 including ozone-depleting substances, and their substitutes found acceptable by EPA’s Significant
26 New Alternatives Policy Program set forth at 40 C.F.R. Part 82, Subpart G. For purposes of this
27 subparagraph, “Refrigerant” shall not include secondary loop fluid, such as propylene glycol, in a

1 secondary loop refrigeration system;

2 q. “Refrigerant Compliance Management System” shall mean the system
3 described in the Refrigerant Compliance Management Plan (attached as Appendix B and
4 incorporated into this Consent Decree) prepared by Trader Joe’s and approved by EPA that is
5 designed to ensure compliance with Subchapter VI of the Act, 42 U.S.C. §§ 7671-7671q, and
6 EPA’s commercial refrigerant repair and recordkeeping regulations at 40 C.F.R. Part 82, Subpart
7 F, by improving Trader Joe’s Refrigerant emissions management and recordkeeping systems.
8 The Refrigerant Compliance Management Plan includes any subsequent amendments or changes
9 to such plan made in accordance with Paragraph 13 of this Consent Decree;

10 r. “Section” shall mean a portion of this Decree identified by a Roman
11 numeral;

12 s. “Store” shall mean any grocery store that contains any Covered
13 Refrigeration Equipment and is owned or operated by Trader Joe’s in the United States (i) as of
14 the date of lodging of this Decree, or (ii) as of the date Trader Joe’s acquires or opens a grocery
15 store following the date of lodging;

16 t. “Store Leak Rate” for a given calendar year shall mean the total number of
17 pounds of Refrigerant added to all Covered Refrigeration Equipment at a Store during the period
18 of Trader Joe’s ownership or operation in such calendar year divided by the total Full Charge (in
19 pounds) of all Covered Refrigeration Equipment at a Store during such calendar year. For
20 purposes of this subparagraph, the “total number of pounds of Refrigerant added to all Covered
21 Refrigeration Equipment” shall not include (i) the initial charge of Refrigerant added to any new
22 Covered Refrigeration Equipment; (ii) where Refrigerant has been recovered from an existing
23 Covered Refrigeration Equipment, the amount of such Refrigerant used to recharge such Covered
24 Refrigeration Equipment, up to the amount of Refrigerant recovered; (iii) the amount of
25 substitutes, including carbon dioxide, in the end uses as set forth in 40 C.F.R. § 82.154(a)(1); or
26 (iv) the amount of any Refrigerant added to a Covered Refrigeration Equipment to replace
27 Refrigerant released as the result of an event that is determined by EPA or the Court to constitute

1 a force majeure event under Section X of this Consent Decree (Force Majeure);

2 u. “Trader Joe’s” shall mean Defendant Trader Joe’s Company; and

3 v. “United States” shall mean the United States of America, acting on behalf
4 of EPA.

5 **V. CIVIL PENALTIES**

6 9. Within 30 Days after the Effective Date of this Consent Decree, Trader Joe’s shall
7 pay the sum of \$500,000 as civil penalties.

8 10. Defendant shall pay the civil penalty due at <https://www.pay.gov> to the U.S.
9 Department of Justice account, in accordance with instructions provided to Defendant by the
10 Financial Litigation Unit (“FLU”) of the United States Attorney’s Office for the Northern District
11 of California after the Effective Date. The payment instructions provided by the FLU shall
12 include a Consolidated Debt Collection System (“CDCS”) number, which Defendant shall use to
13 identify all payments required to be made in accordance with this Consent Decree. The FLU will
14 provide the payment instructions to: Kathy Cipolla, Trader Joe’s Company, 800 S. Shamrock
15 Ave., Monrovia, CA 91016 (kcipolla@traderjoes.com), on behalf of Defendant. Defendant may
16 change the individual to receive payment instructions on their behalf by providing written notice
17 of such change to the United States and EPA in accordance with Section XV (Notices). At the
18 time of payment, Defendant shall send notice that payment has been made: (i) to EPA via email at
19 acctsreceivable.cinwd@epa.gov or via regular mail at EPA Cincinnati Finance Office, 26 Martin
20 Luther King Drive, Cincinnati, Ohio 45268; (ii) to the United States via email or regular mail in
21 accordance with Section XV; and (iii) to EPA in accordance with Section XV. Such notice shall
22 reference the CDCS Number and DOJ case number 90-5-2-1-10321.

23 11. Trader Joe’s shall not deduct any penalties paid under this Consent Decree
24 pursuant to this Section or Section IX (Stipulated Penalties) in calculating its federal income tax.

25 **VI. COMPLIANCE REQUIREMENTS**

26 **A. Refrigerant Compliance Management System**

27 12. Starting no later than 30 Days after the Effective Date, Trader Joe’s shall

1 implement the Refrigerant Compliance Management System at all Stores owned or operated by
2 Trader Joe's, subject to the provisions of Section G.2 of the Refrigeration Compliance
3 Management Plan, to the extent those provisions provide Trader Joe's with additional time to
4 implement the Quarterly Leak Monitoring Program detailed in the Refrigeration Compliance
5 Management Plan. A violation of the Refrigerant Compliance Management Plan shall be a
6 violation of this Consent Decree.

7 13. Prior to implementing any amendments or changes to its Refrigerant Compliance
8 Management Plan, Trader Joe's shall submit a revised Refrigerant Compliance Management Plan
9 to EPA along with a letter identifying the amendments or changes. Trader Joe's shall implement
10 its amended or changed Refrigerant Compliance Management Plan unless, within 30 days of
11 receiving Trader Joe's submission, EPA notifies Trader Joe's in writing that it declines to approve
12 such amendments or changes and provides written comments. Within 30 days of receiving EPA's
13 written notification, Trader Joe's shall either (i) revise the Refrigerant Compliance Management
14 Plan consistent with EPA's written comments and submit the revised Refrigerant Compliance
15 Management Plan to EPA, (ii) withdraw the submitted proposed amendments or changes to its
16 Refrigerant Compliance Management Plan, or (iii) invoke Dispute Resolution under Section XI of
17 this Consent Decree.

18 **B. Company-Wide Leak Rate Reduction**

19 14. Trader Joe's shall achieve a Company-Wide Average Leak Rate that is at or below
20 12.1 percent for the each of the first, second, and third calendar years after the year of the
21 Effective Date.

22 15. If Trader Joe's fails to achieve a Company-Wide Average Leak Rate that is at or
23 below 12.1 percent for any of the first, second, and third calendar years after the year of the
24 Effective Date in accordance with Paragraph 14, Trader Joe's shall take the following measures:

25 a. Trader Joe's shall pay stipulated penalties pursuant to Section IX of this
26 Consent Decree.

27 b. By March 1 following the calendar year in which Trader Joe's failed to

1 achieve a Company-Wide Average Leak Rate that is at or below 12.1 percent in accordance with
2 Paragraph 14, Trader Joe's shall submit to EPA a proposed Corrective Action Plan for approval
3 pursuant to this Consent Decree. The proposed Corrective Action Plan shall include a description
4 of all actions taken or to be taken to ensure that Trader Joe's achieves a Company-Wide Average
5 Leak Rate that is at or below 12.1 percent for the next calendar year, and, with respect to actions
6 not already completed, the schedule for their implementation. EPA shall, in writing, either
7 approve the proposed Corrective Action Plan or disapprove it and provide written comments.
8 Within 30 Days of receiving EPA's written comments, Trader Joe's shall either (i) revise the
9 Corrective Action Plan consistent with EPA's written comments and submit the revised
10 Corrective Action Plan to EPA for final approval, or (ii) invoke Dispute Resolution under Section
11 XI of this Consent Decree. To the extent the proposed Corrective Action Plan requires action
12 prior to receipt of EPA's approval or disapproval, Trader Joe's shall implement the proposed
13 Corrective Action Plan in accordance with the schedule set forth therein until EPA approves a
14 Corrective Action Plan or a Corrective Action Plan is completed pursuant to Dispute Resolution.

15 c. Upon receipt of EPA's approval of the Corrective Action Plan, or upon
16 completion of the Corrective Action Plan pursuant to Dispute Resolution, Trader Joe's shall
17 implement the Corrective Action Plan in accordance with the schedule set forth therein.

18 d. If Trader Joe's fails to achieve a Company-Wide Average Leak Rate that is
19 at or below 12.1 percent for the third calendar year after the Effective Date, Trader Joe's shall
20 continue to be subject to a Company-Wide Average Leak Rate that is at or below 12.1 percent
21 and shall continue to take the measures set forth in this Paragraph each subsequent year until it
22 achieves a Company-Wide Average Leak Rate that is at or below 12.1 percent for a calendar
23 year.

24 **C. New Stores and Major Remodels**

25 16. Trader Joe's shall ensure that all Covered Refrigeration Equipment in any New
26 Store or Major Remodel use only Refrigerant that a) is non-ozone depleting; b) found acceptable
27 by EPA's Significant New Alternatives Policy Program set forth at 40 C.F.R. Part 82, Subpart G

1 (except for the Stores identified in the next Paragraph); and c) has a GWP Value of less than or
2 equal to 2150.

3 **D. Advanced Refrigeration at New Stores or Major Remodels**

4 17. Trader Joe's shall open (or in the case of a Major Remodel – complete) at least
5 five Advanced Refrigeration Stores each year for three years starting the year of the Effective
6 Date. Trader Joe's shall use only Advanced Refrigerants for each Advanced Refrigeration Store.

7 18. If Trader Joe's does not open or complete five New Stores or Major Remodels
8 respectively, or any combination thereof, in any calendar year among the three years starting the
9 year of the Effective Date, Trader Joe's shall submit, by March 1 of the following year, a plan for
10 EPA approval to provide an equivalent amount of environmental benefit in lieu of installing
11 equipment compatible with and using only one or more of the Advanced Refrigerant(s) identified.
12 Trader Joe's shall implement its plan unless, within 30 days of receiving Trader Joe's submission,
13 EPA notifies Trader Joe's in writing that it declines to approve such plan and provides written
14 comments. Within 30 days of receiving EPA's written notification, Trader Joe's shall either (i)
15 revise the plan consistent with EPA's written comments and submit the revised plan to EPA, or
16 (ii) invoke Dispute Resolution under Section XI of this Consent Decree.

17 **VII. PARTICIPATION IN RECOGNITION PROGRAMS**

18 19. Trader Joe's shall not seek store certification from, or partnership in, any federal or
19 state recognition program designed primarily to reduce the use or release of ozone-depleting
20 substances, including EPA's GreenChill Advanced Refrigeration Partnership, until termination of
21 this Consent Decree. This Paragraph shall not be construed to prohibit Trader Joe's exchange of
22 data or information with or through any such recognition program.

23 **VIII. REPORTING REQUIREMENTS**

24 20. No later than March 1 of each year after the year of the Effective Date, continuing
25 until the Parties have submitted for the Court's approval a joint stipulation terminating the
26 Consent Decree pursuant to Paragraph 73, Trader Joe's shall submit to the United States a
27 Compliance Report that includes the following information for the prior calendar year:

1 a. a list of all Trader Joe's Stores, specially noting all openings, closings, and
2 Major Remodels;

3 b. a list of all Covered Refrigeration Equipment at each Store, which includes
4 manufacturer, model, and year of Covered Refrigeration Equipment, Refrigerant used in such
5 Covered Refrigeration Equipment, and its Full Charge, in pounds;

6 c. beginning with the first calendar year after the year of the Effective Date ,
7 the number of pounds of Refrigerant added to each piece of Covered Refrigeration Equipment
8 and the Store Leak Rate at each Store;

9 d. the Company-Wide Average Leak Rate;

10 e. a description of the Quarterly Leak Monitoring Program implemented
11 pursuant to the Refrigerant Compliance Management Plan;

12 f. a certification that Trader Joe's has complied with the Refrigerant
13 Compliance Management Plan during the prior calendar year, or a description of all incidences of
14 noncompliance with the Refrigerant Compliance Management Plan during the prior calendar year
15 and a certification that Trader Joe's has otherwise complied with the Refrigerant Compliance
16 Management Plan;

17 g. a description of any non-compliance with the requirements of this Consent
18 Decree and an explanation of the violation's likely cause and of the remedial steps taken, or to be
19 taken, to prevent or minimize such violation. If the cause of a violation cannot be fully explained
20 at the time the Compliance Report is due, Trader Joe's shall so state in the report. Trader Joe's
21 shall investigate the cause of the violation and shall then submit an amendment to the Compliance
22 Report, including a full explanation of the cause of the violation, within 60 Days of the day
23 Trader Joe's becomes aware of the cause of the violation;

24 h. an affirmative statement regarding Trader Joe's compliance or
25 noncompliance with 40 C.F.R. Part 82, Subpart F, at the Stores during the prior calendar year (not
26 required for Trader Joe's initial Compliance Report); and

27 i. beginning with the first calendar year after the year of the Effective Date,

1 the following information regarding Advanced Refrigerants in Covered Refrigeration Equipment
2 at each New Store and store containing a Major Remodel pursuant to Section VI.D: (1) Store
3 location; (2) Refrigerant used; (3) Full Charge; (4) Store Leak Rate; (5) details of where/how
4 leaks occurred; and (6) a brief summary of monthly energy use by such equipment and in
5 comparison to refrigeration systems with similar age, capacity, component efficiencies, and
6 ambient conditions, as evidenced by monthly utility bills.

7 21. Data in each Compliance Report submitted by Trader Joe's under this Section
8 shall be submitted both in hardcopy form along with a courtesy copy in Microsoft Excel or
9 equivalent spreadsheet form. Trader Joe's shall submit each Compliance Report to the United
10 States in hardcopy form along with a courtesy copy in electronic form in accordance with the
11 requirements of Section XV of this Consent Decree. Trader Joe's hardcopy submissions of each
12 hardcopy Compliance Report, including data, will serve as the official copies of Trader Joe's
13 submissions and will be used to determine compliance with the terms of this Consent Decree.

14 22. Each Compliance Report submitted by Trader Joe's under this Section shall be
15 signed by a Trader Joe's official and shall include the following certification:

16 I certify under penalty of law that this document and all
17 attachments were prepared under my direction or supervision in
18 accordance with a system designed to assure that qualified
19 personnel properly gather and evaluate the information submitted.
20 Based on my inquiry of the person or persons who manage the
21 system, or those persons directly responsible for gathering the
22 information, the information submitted is, to the best of my
23 knowledge and belief, true, accurate, and complete. I am aware
24 that there are significant penalties for submitting false information,
25 including the possibility of fine and imprisonment for knowing
26 violations.

27 23. Whenever any violation of this Consent Decree or any other event affecting Trader
28 Joe's performance under this Decree, or the performance of its Stores, may pose an immediate
29 threat to the public health or welfare or the environment, Trader Joe's shall notify EPA and the
30 National Response Center orally or by electronic or facsimile transmission as soon as possible,
31 but no later than 24 hours after Trader Joe's first knew of the violation or event. This procedure

1 is in addition to the requirements set forth in Paragraphs 20 through 22.

2 24. The reporting requirements of this Consent Decree do not relieve Trader Joe's of
3 any reporting obligations required by the Clean Air Act or implementing regulations, or by any
4 other federal, state, or local law, regulation, permit, or other requirement.

5 25. Any information provided pursuant to this Consent Decree may be used by the
6 United States in any proceeding to enforce the provisions of this Consent Decree and as otherwise
7 permitted by law.

8 26. Trader Joe's may request an extension of the March 1 deadline for submitting a
9 Compliance Report pursuant to this Section, provided that such request is made by January 15 of
10 the same calendar year. The United States may grant or reject the request in its sole unreviewable
11 discretion.

12 **IX. STIPULATED PENALTIES**

13 27. Trader Joe's shall be liable for stipulated penalties to the United States for
14 violations of this Consent Decree as specified below, unless excused under Section X (Force
15 Majeure). A violation includes failing to perform any obligation required by the terms of this
16 Decree, including any work plan or schedule approved under this Decree, according to all
17 applicable requirements of this Decree and within the specified time schedules established by or
18 approved under this Decree.

19 28. Payment of Civil Penalties. If Trader Joe's fails to pay the civil penalties required
20 to be paid under Section V of this Decree (Civil Penalties) when due, Trader Joe's shall pay a
21 stipulated penalty of \$2,500 for each Day that the payment is late.

22 29. Refrigerant Compliance Management System. For each failure to implement the
23 Refrigerant Compliance Management System at a Store as required by Paragraph 12, Trader Joe's
24 shall pay a stipulated penalty of \$500 per violation.

25 30. Company-Wide Average Leak Rate. If Trader Joe's fails to achieve a Company-
26 Wide Average Leak Rate that is at or below 12.1 percent in accordance with Paragraphs 14 and
27 15, Trader Joe's shall pay stipulated penalties as follows:

Company-Wide Average Leak Rate	First year after year of Effective Date	Second year after year of Effective Date	Third year after year of Effective Date	Each subsequent year after year of Effective Date
Greater than 12.1% but equal to or less than 15.0%	\$25,000	\$50,000	\$75,000	\$100,000
Greater than 15.0% but equal to or less than 18.0%	\$50,000	\$75,000	\$100,000	\$125,000
Greater than 18.0%	\$100,000	\$150,000	\$200,000	\$250,000

1 31. Advanced Refrigeration at New Stores and Major Remodels. If, during any of the
2 three years starting the year of the Effective Date, Trader Joe's uses a refrigerant other than an
3 Advanced Refrigerant in any Advanced Refrigeration Store, Trader Joe's shall pay a stipulated
4 penalty of \$1,000 per Advanced Refrigeration Store per Day of such use. Further, if during any
5 of the three years starting the year of the Effective Date, Trader Joe's (i) does not open (or in the
6 case of a Major Remodel – complete) at least five Advanced Refrigeration Stores; and (ii) fails to
7 submit, no later than March 1 of the following year, the plan (or revised plan) outlined in
8 Paragraph 18, Trader Joe's shall pay a stipulated penalty of \$1,000 per Advanced Refrigeration
9 Store per Day, calculated from January 1 of the following year until Trader Joe's opens (or in the
10 case of a Major Remodel – completes) such Advanced Refrigeration Store(s) or submits a plan or
11 revised plan in accordance with Paragraph 18. As an example, if the Effective Date occurs in
12 2016 and, in 2017, Trader Joe's (i) opens or completes only three Advanced Refrigeration Stores;
13 and (ii) does not submit the plan (or revised plan) outlined in Paragraph 18 no later than March 1,
14 2018, Trader Joe's shall pay a stipulated penalty of \$2,000 per Day, calculated from January 1,
15 2018 until such Day that Trader Joe's submits a plan (or revised plan) in accordance with
16 Paragraph 18.

17 32. Reporting Requirements. For each failure to comply with the requirements of
18 Section VIII of this Consent Decree within the specified time schedules established by this
19 Decree, Trader Joe's shall pay a stipulated penalty of \$1,000 per violation per Day unless an
20 extension of the deadline is requested from the EPA in advance of the deadline and EPA grants

1 such request. A Compliance Report that does not meet of the requirements in Paragraphs 20-22 is
2 not considered timely until all of the requirements are met.

3 33. Stipulated penalties under this Section shall begin to accrue on the Day after
4 performance is due or on the Day a violation occurs, whichever is applicable, and shall continue
5 to accrue until performance is satisfactorily completed or until the violation ceases. Stipulated
6 penalties shall accrue simultaneously for separate violations of this Consent Decree.

7 34. Trader Joe's shall pay any stipulated penalty within 30 Days of receiving the
8 United States' written demand.

9 35. The United States may, in the unreviewable exercise of its discretion, reduce or
10 waive stipulated penalties otherwise due it under this Consent Decree.

11 36. Stipulated penalties shall continue to accrue as provided in Paragraph 33 during
12 any Dispute Resolution, but need not be paid until the following:

13 a. If the dispute is resolved by agreement or by a decision of EPA that is not
14 appealed to the Court, Trader Joe's shall pay accrued penalties determined to be owing, together
15 with interest, to the United States within 30 Days of the effective date of the agreement or the
16 receipt of EPA's decision or order.

17 b. If the dispute is appealed to the Court and the United States prevails in
18 whole or in part, Trader Joe's shall pay all accrued penalties determined by the Court to be owing,
19 together with interest, within 60 Days of receiving the Court's decision or order, except as
20 provided in subparagraph (c), below.

21 c. If any Party appeals the District Court's decision, Trader Joe's shall pay all
22 accrued penalties determined to be owing, together with interest, within 15 Days of receiving the
23 final appellate court decision.

24 37. Trader Joe's shall pay stipulated penalties owing to the United States in the
25 manner set forth and with the confirmation notices required by Paragraph 10, except that the
26 transmittal letter shall state that the payment is for stipulated penalties and shall state for which
27 violation(s) the penalties are being paid.

1 38. If Trader Joe's fails to pay stipulated penalties according to the terms of this
2 Consent Decree, Trader Joe's shall be liable for interest on such penalties, as provided for in
3 28 U.S.C. § 1961, accruing as of the date payment became due. Nothing in this Paragraph shall
4 be construed to limit the United States from seeking any remedy otherwise provided by law for
5 Trader Joe's failure to pay any stipulated penalties.

6 39. Subject to the provisions of Section XIII of this Consent Decree (Effect of
7 Settlement/Reservation of Rights), the stipulated penalties provided for in this Decree shall be in
8 addition to any other rights, remedies, or sanctions available to the United States for Trader Joe's
9 violation of this Decree or applicable law. Where a violation of this Consent Decree is also a
10 violation of Section 608 of the Act or 40 C.F.R. Part 82, Subpart F, Trader Joe's shall be allowed
11 a credit, for any stipulated penalties paid, against any statutory penalties imposed for such
12 violation.

13 **X. FORCE MAJEURE**

14 40. "Force majeure," for purposes of this Consent Decree, is defined as any event
15 arising from causes beyond the control of Trader Joe's, of any entity controlled by Trader Joe's,
16 or of Trader Joe's contractors, that impedes – i.e., delays or prevents – the performance of any
17 obligation under this Consent Decree despite Trader Joe's best efforts to fulfill the obligation.
18 The requirement that Trader Joe's exercise "best efforts to fulfill the obligation" includes using
19 best efforts to anticipate any potential force majeure event and best efforts to address the effects
20 of any such event (a) as it is occurring and (b) after it has occurred to prevent or minimize any
21 resulting impediment to the greatest extent possible. "Force Majeure" does not include Trader
22 Joe's financial inability to perform any obligation under this Consent Decree.

23 41. If any event occurs or has occurred that may impede the performance of any
24 obligation under this Consent Decree, whether or not caused by a force majeure event, Trader
25 Joe's shall provide notice orally or by electronic or facsimile transmission to EPA, within seven
26 Days of when Trader Joe's first knew that the event might cause an impediment. Within 30 Days
27 thereafter, Trader Joe's shall provide in writing to EPA an explanation and description of the

1 reasons for the impediment; the duration or anticipated duration of the impediment; all actions
2 taken or to be taken to prevent or minimize the impediment; a schedule for implementation of any
3 measures taken or to be taken to prevent or mitigate the impediment or the effect of the
4 impediment; Trader Joe's rationale for attributing such impediment to a force majeure event if it
5 intends to assert such a claim; and a statement as to whether, in the opinion of Trader Joe's, such
6 event may cause or contribute to an endangerment to public health, welfare, or the environment.
7 Trader Joe's shall include with any notice all available documentation supporting the claim that
8 the impediment was attributable to a force majeure. Failure to comply with the above
9 requirements shall preclude Trader Joe's from asserting any claim of force majeure for that event
10 for the period of time of such failure to comply, and for any additional impediment caused by
11 such failure. Trader Joe's shall be deemed to know of any circumstance of which Trader Joe's,
12 any entity controlled by Trader Joe's, or Trader Joe's contractors knew or should have known.

13 42. If EPA agrees that the impediment or anticipated impediment is attributable to a
14 force majeure event, EPA will extend the time for performance of the obligations under this
15 Consent Decree that are affected by the force majeure event for such time as is necessary to
16 complete those obligations and/or reduce or waive stipulated penalties otherwise due under this
17 Decree as a result of Trader Joe's failure to perform such obligations. An extension of the time
18 for performance of the obligations affected by the force majeure event shall not, of itself, extend
19 the time for performance of any other obligation. EPA will notify Trader Joe's in writing of its
20 decision, including the length of any extension for performance of the obligations affected by the
21 force majeure event.

22 43. If EPA does not agree that the impediment or anticipated impediment has been or
23 will be caused by a force majeure event, EPA will notify Trader Joe's in writing of its decision.

24 44. If Trader Joe's elects to invoke the dispute resolution procedures set forth in
25 Section XI (Dispute Resolution), it shall do so no later than 30 Days after receipt of EPA's notice.
26 In any such proceeding, Trader Joe's shall have the burden of demonstrating by a preponderance
27 of the evidence that the impediment or anticipated impediment has been or will be caused by a

1 force majeure event, that the duration of the impediment, or the relief sought was or will be
2 warranted under the circumstances, that best efforts were exercised to avoid and mitigate the
3 effects of the impediment, and that Trader Joe's complied with the requirements of Paragraphs 40
4 and 41, above. If Trader Joe's carries this burden, the impediment at issue shall be deemed not to
5 be a violation by Trader Joe's of the affected obligation of this Consent Decree identified to EPA
6 and the Court.

7 **XI. DISPUTE RESOLUTION**

8 45. Unless otherwise expressly provided for in this Consent Decree, the dispute
9 resolution procedures of this Section shall be the exclusive mechanism to resolve disputes arising
10 under or with respect to this Consent Decree. Trader Joe's failure to seek resolution of a dispute
11 under this Section shall preclude Trader Joe's from raising any such issue as a defense to an
12 action by the United States to enforce any obligation of Trader Joe's arising under this Decree.

13 46. Informal Dispute Resolution. Any dispute subject to Dispute Resolution under
14 this Consent Decree shall first be the subject of informal negotiations. The dispute shall be
15 considered to have arisen when Trader Joe's sends the United States a written Notice of Dispute.
16 Such Notice of Dispute shall state clearly the matter in dispute. The period of informal
17 negotiations shall not exceed 20 Days from the date the dispute arises, unless that period is
18 modified by written agreement. If the Parties cannot resolve a dispute by informal negotiations,
19 then the position advanced by the United States shall be considered binding unless, within 30
20 Days after the conclusion of the informal negotiation period, Trader Joe's invokes formal dispute
21 resolution procedures as set forth below.

22 47. Formal Dispute Resolution. Trader Joe's shall invoke formal dispute resolution
23 procedures, within the time period provided in the preceding Paragraph, by serving on the United
24 States a written Statement of Position regarding the matter in dispute. The Statement of Position
25 shall include, but need not be limited to, any factual data, analysis, or opinion supporting Trader
26 Joe's position and any supporting documentation relied upon by Trader Joe's.

27 48. The United States shall serve its Statement of Position within 45 Days of receipt of

1 Trader Joe's Statement of Position. The United States' Statement of Position shall include, but
2 need not be limited to, any factual data, analysis, or opinion supporting that position and any
3 supporting documentation relied upon by the United States. The United States' Statement of
4 Position shall be binding on Trader Joe's, unless Trader Joe's files a motion for judicial review of
5 the dispute in accordance with the following Paragraph.

6 49. Trader Joe's may seek judicial review of the dispute by filing with the Court and
7 serving on the United States, in accordance with Section XV of this Consent Decree (Notices), a
8 motion requesting judicial resolution of the dispute. The motion must be filed within 14 Days of
9 receipt of the United States' Statement of Position pursuant to the preceding Paragraph. The
10 motion shall contain a written statement of Trader Joe's position on the matter in dispute,
11 including any supporting factual data, analysis, opinion, or documentation, and shall set forth the
12 relief requested and any schedule within which the dispute must be resolved for orderly
13 implementation of the Consent Decree.

14 50. The United States shall respond to Trader Joe's motion within the time period
15 allowed by the Local Rules of this Court. Trader Joe's may file a reply memorandum, to the
16 extent permitted by the Local Rules.

17 51. Standard of Review. Except as otherwise provided in this Consent Decree, in any
18 dispute brought under Paragraph 47, Trader Joe's shall bear the burden of demonstrating that its
19 position fulfills the terms, conditions, and requirements and objectives (as set forth in Section III
20 of this Consent Decree) of this Consent Decree and that it is entitled to relief under applicable
21 principles of law. In their initial filings with the Court, under Paragraphs 49 and 50, the Parties
22 shall state their respective positions as to the applicable standard of law for resolving the dispute.

23 52. The invocation of dispute resolution procedures under this Section shall not, by
24 itself, extend, postpone, or affect in any way any obligation of Trader Joe's under this Consent
25 Decree, unless and until final resolution of the dispute so provides. Stipulated penalties with
26 respect to the disputed matter shall continue to accrue from the first Day of noncompliance, but
27 payment shall be stayed pending resolution of the dispute as provided in Paragraph 36. If Trader

1 Joe's does not prevail on the disputed issue, stipulated penalties shall be assessed and paid as
2 provided in Section IX (Stipulated Penalties).

3 **XII. INFORMATION COLLECTION AND RETENTION**

4 53. The United States and its representatives, including attorneys, contractors, and
5 consultants, shall have the right of entry into any Store covered by this Consent Decree, at all
6 reasonable times, upon presentation of credentials, to:

- 7 a. monitor the progress of activities required under this Consent Decree;
- 8 b. verify any data or information submitted to the United States in accordance
9 with the terms of this Consent Decree;
- 10 c. obtain documentary evidence, including photographs and similar data; and
- 11 d. assess Trader Joe's compliance with this Consent Decree.

12 54. Until five years after the termination of this Consent Decree, Trader Joe's shall
13 retain, and shall instruct its contractors and agents to preserve, all documents, records, or other
14 information (including documents, records, or other information in electronic form) necessary to
15 demonstrate Trader Joe's performance of its obligations under this Consent Decree. This
16 information-retention requirement shall apply regardless of any contrary corporate or institutional
17 policies or procedures. At any time during this information-retention period, upon request by the
18 United States, Trader Joe's shall provide copies of any documents, records, or other information
19 required to be maintained under this Paragraph.

20 55. At the conclusion of the information-retention period provided in the preceding
21 Paragraph, Trader Joe's shall notify the United States at least 90 Days prior to the destruction of
22 any documents, records or other information subject to the requirements of the preceding
23 Paragraph and, upon request by the United States, Trader Joe's shall deliver any such documents,
24 records, or other information to EPA. Trader Joe's may assert that certain documents, records, or
25 other information is privileged under the attorney-client privilege or any other privilege
26 recognized by federal law. If Trader Joe's asserts such a privilege, it shall provide the following:
27 (1) the title of the document, record, or information; (2) the date of the document, record, or

1 information; (3) the name and title of each author of the document, record, or information; (4) the
2 name and title of each addressee and recipient; (5) a description of the subject of the document,
3 record, or information; and (6) the privilege asserted by Trader Joe's. However, no documents,
4 records, or other information required to be created or generated under this Consent Decree shall
5 be withheld on grounds of privilege.

6 56. Trader Joe's may also assert that information required to be provided under this
7 Section is protected as Confidential Business Information ("CBI") under 40 C.F.R. Part 2. As to
8 any information that Trader Joe's seeks to protect as CBI, Trader Joe's shall follow the
9 procedures set forth in 40 C.F.R. Part 2.

10 57. This Consent Decree in no way limits or affects any right of entry and inspection,
11 or any right to obtain information, held by the United States pursuant to applicable federal laws,
12 regulations, or permits, nor does it limit or affect any duty or obligation of Trader Joe's to
13 maintain documents, records, or other information imposed by applicable federal or state laws,
14 regulations, or permits.

15 **XIII. EFFECT OF SETTLEMENT/RESERVATION OF RIGHTS**

16 58. This Consent Decree resolves the civil claims of the United States against Trader
17 Joe's for any violations of 40 C.F.R. §§ 82.156(i), 82.166(k), or 82.166(m) at the Stores arising
18 out of facts and events that occurred prior to the date of lodging, including the civil claims of the
19 United States for the violations alleged in the Complaint through the date of lodging.

20 59. The United States reserves all legal and equitable remedies available to enforce the
21 provisions of this Consent Decree, except as expressly stated in Paragraph 58. This Consent
22 Decree shall not be construed to limit the rights of the United States to obtain penalties or
23 injunctive relief under the Act or implementing regulations, or under other federal laws,
24 regulations, or permit conditions, except as expressly specified in Paragraph 58.

25 60. In any subsequent administrative or judicial proceeding initiated by the United
26 States for injunctive relief, civil penalties, other appropriate relief relating to the Stores, Trader
27 Joe's shall not assert, and may not maintain, any defense or claim based upon the principles of

1 waiver, res judicata, collateral estoppel, issue preclusion, claim preclusion, claim-splitting, or
2 other defenses based upon any contention that the claims raised by the United States in the
3 subsequent proceeding were or should have been brought in the instant case, except with respect
4 to claims that have been specifically resolved pursuant to Paragraph 58.

5 61. This Consent Decree is not a permit, or a modification of any permit, under any
6 federal, state, or local laws or regulations. Trader Joe's is responsible for achieving and
7 maintaining complete compliance with all applicable federal, state, and local laws, regulations,
8 and permits; and Trader Joe's compliance with this Consent Decree shall be no defense to any
9 action commenced pursuant to any such laws, regulations, or permits, except as set forth herein.
10 The United States does not, by its consent to the entry of this Consent Decree, warrant or aver in
11 any manner that Trader Joe's compliance with any aspect of this Consent Decree will result in
12 compliance with provisions of the Act, 42 U.S.C. § 7401 *et seq.*, or with any other provisions of
13 federal, state, or local laws, regulations, or permits.

14 62. This Consent Decree does not limit or affect the rights of Trader Joe's or of the
15 United States against any third parties, not party to this Consent Decree, nor does it limit the
16 rights of third parties, not party to this Consent Decree, against Trader Joe's, except as otherwise
17 provided by law.

18 63. This Consent Decree shall not be construed to create rights in, or grant any cause
19 of action to, any third party not party to this Consent Decree.

20 **XIV. COSTS**

21 64. The Parties shall bear their own costs of this action, including attorney's fees,
22 except that the United States shall be entitled to collect the costs (including attorney's fees)
23 incurred in any judicial enforcement action necessary to collect any portion of the civil penalties
24 or any stipulated penalties due but not paid by Trader Joe's.

25 **XV. NOTICES**

26 65. Unless otherwise specified herein, whenever notifications, submissions, or
27 communications are required by this Consent Decree, they shall be made in writing and addressed

1 as follows:

2 As to the United States by email:

3 Eescdcopy.enrd@usdoj.gov

4 Re: DJ # 90-5-2-1-10321

5

6 As to the United States by mail:

7

8 EES Case Management Unit

9 Environment and Natural Resources Division

10 U.S. Department of Justice

11 P.O. Box 7611

12 Washington, DC 20044-7611

13 Re: DOJ No. 90-5-2-1-10321

14 and

15 Brian Riedel (riedel.brian@epa.gov)

16 Andrew Chew (chew.andrew@epa.gov)

17 U.S. Environmental Protection Agency

18 Region IX

19 75 Hawthorne Street

20 San Francisco, CA 94105

21 As to EPA:

22 Brian Riedel (riedel.brian@epa.gov)

23 Andrew Chew (chew.andrew@epa.gov)

24 U.S. Environmental Protection Agency

25 Region IX

26 75 Hawthorne Street

27 San Francisco, CA 94105

28 As to Trader Joe's:

29 Kathryn Cahan (kcahan@traderjoes.com)

30 Senior Vice President, General Counsel

31 Trader Joe's Company

32 800 South Shamrock Ave.

33 Monrovia, CA 91016

34 and

35 Dawn Sestito (dsestito@omm.com)

36 O'Melveny & Myers LLP

37 400 S. Hope St.

38 Los Angeles, CA 90071

39 66. Any Party may, by written notice to the other Parties, change its designated notice

1 recipient or notice address provided in Paragraph 65 of this Consent Decree.

2 67. Notices submitted pursuant to this Section shall be deemed submitted upon
3 mailing or electronic mailing, as applicable, unless otherwise provided in this Consent Decree or
4 by mutual agreement of the Parties in writing.

5 **XVI. EFFECTIVE DATE**

6 68. The Effective Date of this Consent Decree shall be the date upon which this
7 Decree is entered by the Court or a motion to enter the Decree is granted, whichever occurs first,
8 as recorded on the Court's docket.

9 **XVII. RETENTION OF JURISDICTION**

10 69. The Court shall retain jurisdiction over this case until termination of this Consent
11 Decree, for the purpose of resolving disputes arising under this Decree or entering orders
12 modifying this Decree, pursuant to Sections XI and XVIII, or effectuating or enforcing
13 compliance with the terms of this Decree.

14 **XVIII. MODIFICATION**

15 70. The terms of this Consent Decree, including any attached appendices, may be
16 modified only by a subsequent written agreement signed by the Parties. Where the modification
17 constitutes a material change to this Decree, it shall be effective only upon approval by the Court.

18 71. Any disputes concerning modification of this Decree shall be resolved pursuant to
19 Section XI of this Decree (Dispute Resolution), provided, however, that, instead of the burden of
20 proof provided by Paragraph 51, the Party seeking the modification bears the burden of
21 demonstrating that it is entitled to the requested modification in accordance with Federal Rule of
22 Civil Procedure 60(b).

23 **XIX. TERMINATION**

24 72. No sooner than three years after the Effective Date, after Trader Joe's has
25 completed the requirements of Section VI (Compliance Requirements) of this Consent Decree,
26 has complied with all other requirements of this Decree, and has paid the civil penalties and any
27 accrued stipulated penalties as required by this Decree, Trader Joe's may serve upon the United

1 States a Request for Termination, stating that Trader Joe's has satisfied those requirements,
2 together with all necessary supporting documentation.

3 73. Following receipt by the United States of Trader Joe's Request for Termination,
4 the Parties shall confer informally concerning the Request and any disagreement that the Parties
5 may have as to whether Trader Joe's has satisfactorily complied with the requirements for
6 termination of this Consent Decree. If the United States agrees that the Consent Decree may be
7 terminated, the Parties shall submit, for the Court's approval, a joint stipulation terminating the
8 Decree.

9 74. If the United States does not agree that the Consent Decree may be terminated,
10 Trader Joe's may invoke Dispute Resolution under Section XI of this Decree. However, Trader
11 Joe's shall not seek Dispute Resolution of any dispute regarding termination, under Paragraph 47
12 of Section XI, until 60 Days after service of its Request for Termination.

13 **XX. PUBLIC PARTICIPATION**

14 75. This Consent Decree shall be lodged with the Court for a period of not less than 30
15 Days for public notice and comment in accordance with 28 C.F.R. § 50.7. The United States
16 reserves the right to withdraw or withhold its consent if the comments regarding the Consent
17 Decree disclose facts or considerations indicating that the Consent Decree is inappropriate,
18 improper, or inadequate. Trader Joe's consents to entry of this Consent Decree without further
19 notice and agrees not to withdraw from or oppose entry of this Consent Decree by the Court or to
20 challenge any provision of the Decree, unless the United States has notified Trader Joe's in
21 writing that it no longer supports entry of the Decree.

22 **XXI. SIGNATORIES/SERVICE**

23 76. Each undersigned representative of Trader Joe's and the Assistant Attorney
24 General for the Environment and Natural Resources Division of the Department of Justice
25 certifies that he or she is fully authorized to enter into the terms and conditions of this Consent
26 Decree and to execute and legally bind the Party he or she represents to this document.

27 77. This Consent Decree may be signed in counterparts, and its validity shall not be

1 challenged on that basis. Trader Joe’s agrees to accept service of process by mail with respect to
2 all matters arising under or relating to this Consent Decree and to waive the formal service
3 requirements set forth in Rules 4 and 5 of the Federal Rules of Civil Procedure and any applicable
4 Local Rules of this Court including, but not limited to, service of a summons.

5 **XXII. INTEGRATION**

6 78. This Consent Decree constitutes the final, complete, and exclusive agreement and
7 understanding among the Parties with respect to the settlement embodied in the Decree and
8 supersedes all prior agreements and understandings, whether oral or written, concerning the
9 settlement embodied herein. Other than deliverables that are subsequently submitted and
10 approved pursuant to this Consent Decree, no other document, nor any representation,
11 inducement, agreement, understanding, or promise, constitutes any part of this Decree or the
12 settlement it represents, nor shall it be used in construing the terms of this Decree.

13 **XXIII. FINAL JUDGMENT**

14 79. Upon approval and entry of this Consent Decree by the Court, this Consent Decree
15 shall constitute a final judgment of the Court as to the United States and Trader Joe’s.

16 **XXIV. APPENDICES**

17 80. The following appendices are attached to and part of this Consent Decree:
18 “Appendix A” is the list of Stores as of the date of lodging of the Consent Decree.
19 “Appendix B” is the Refrigerant Compliance Management Plan.

20 Dated and entered this _____ day of _____, 2016.

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United States District Judge
Northern District of California

1 THE UNDERSIGNED PARTIES enter into this Consent Decree in the matter of United States v.
2 Trader Joe's Company (N.D. Cal.):

3 FOR PLAINTIFF UNITED STATES OF AMERICA:

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JOHN C. CRUDEN
Assistant Attorney General
Environment and Natural Resources Division



STEVEN D. ELLIS
Senior Counsel
Environmental Enforcement Section
Environment and Natural Resources Division
U.S. Department of Justice
P.O. Box 7611
Washington, DC 20044-7611
(202) 514-3163 (voice)
steven.ellis@usdoj.gov

1 THE UNDERSIGNED PARTIES enter into this Consent Decree in the matter of United States v.
2 Trader Joe's Company (N.D. Cal.):

3 FOR PLAINTIFF UNITED STATES OF AMERICA:

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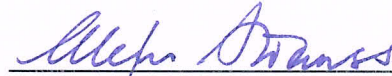


SUSAN SHINKMAN
Director
Office of Civil Enforcement
Office of Enforcement and Compliance Assurance
U.S. Environmental Protection Agency

1 THE UNDERSIGNED PARTIES enter into this Consent Decree in the matter of United States v.
2 Trader Joe's Company (N.D. Cal.):

3 FOR PLAINTIFF UNITED STATES OF AMERICA:

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ALEXIS STRAUSS
Acting Regional Administrator
U.S. Environmental Protection Agency, Region IX
75 Hawthorne Street
San Francisco, CA 94105




BRIAN P. RIEDEL
Assistant Regional Counsel
U.S. Environmental Protection Agency, Region IX
75 Hawthorne Street
San Francisco, CA 94105

1 THE UNDERSIGNED PARTIES enter into this Consent Decree in the matter of United States v.
2 Trader Joe's Company (N.D. Cal.):

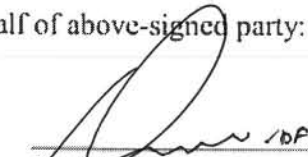
3 FOR DEFENDANT TRADER JOE'S COMPANY:

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KATHRYN CAHAM
Senior Vice President, General Counsel
Trader Joe's Company
800 South Shamrock Ave.
Monrovia, CA 91016

12 Agent authorized to accept service on behalf of above-signed party:

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DAWN SESTITO
O'Melveny & Myers, LLP
400 S. Hope St.
Los Angeles, CA 90071