

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

LEXINGTON LAW GROUP  
ERIC S. SOMERS, STATE BAR NO. 139050  
HOWARD HIRSCH, STATE BAR NO. 213209  
LISA BURGER, STATE BAR NO. 239676  
503 Divisadero Street  
San Francisco, CA 94117  
*Telephone:* (415) 913-7800  
*Facsimile:* (415) 759-4112  
esomers@lexlawgroup.com  
hhirsch@lexlawgroup.com  
lburger@lexlawgroup.com

Attorneys for Plaintiff  
CENTER FOR ENVIRONMENTAL HEALTH

SUPERIOR COURT OF THE STATE OF CALIFORNIA  
COUNTY OF MARIN

CENTER FOR ENVIRONMENTAL  
HEALTH, a non-profit corporation,

Plaintiff,

v.

CRYSTAL QUEST MFG.; QUEST  
TECHNOLOGIES, INC.; RESINTECH,  
INC.; WATER FILTERS DIRECT LLC;  
WATER FILTERS LLC;  
WATERFILTERS.NET, LLC; WATTS  
PREMIER, INC.; WATTS WATER  
TECHNOLOGIES, INC.; and Defendant  
DOES 1 through 500, inclusive,

Defendants.

**FILED**

DEC 12 2012

KIM TURNER, Court Executive Officer  
MARIN COUNTY SUPERIOR COURT  
*By: J. Chen, Deputy*

CASE NO. CIV 1104806

**[PROPOSED] CONSENT JUDGMENT  
AS TO RESINTECH, INC.**

1       **1.     INTRODUCTION**

2           1.1     On September 28, 2011, plaintiff the Center for Environmental Health (hereinafter  
3       “CEH”), a non-profit corporation, filed a complaint in Marin County Superior Court entitled  
4       *Center for Environmental Health v. Crystal Quest Mfg., et al.*, for civil penalties and injunctive  
5       relief pursuant to the provisions of Cal. Health & Safety Code (“Health & Safety Code”)  
6       §25249.5, *et seq.* (“Proposition 65”) (the “Action”). CEH’s complaint (the “Complaint”) in the  
7       Action named Resintech, Inc. (“Defendant”) as a party. CEH and Defendant are referred to  
8       collectively as the “Parties.”

9           1.2     Defendant is a corporation that employs more than 10 persons and that  
10       manufactured, distributed and/or sold residential and commercial point of entry and point of use  
11       drinking water filtration systems utilizing activated carbon filters. Arsenic is alleged to be present  
12       in the activated carbon used in the filters and replacement filters of Defendant’s drinking water  
13       filtration systems. This Consent Judgment resolves CEH’s claims against Defendant, as  
14       described further herein, with respect to drinking water filtration systems utilizing activated  
15       carbon filters and replacement filters used in such systems (excluding any industrial filters),  
16       which are referred to herein as the “Products.”

17          1.3     On July 1, 2011, CEH served Defendant and the appropriate public enforcement  
18       agencies with the requisite 60-day notice (the “Notice”) alleging that Defendant is in violation of  
19       Proposition 65. CEH’s Notice and its Complaint allege that Defendant discharges and releases  
20       arsenic (inorganic arsenic compounds) and arsenic (inorganic oxides) (referred to collectively  
21       herein as “Arsenic”), chemicals known to the State of California to cause cancer and birth defects  
22       or other reproductive harm, into sources of drinking water through the sale and use of the  
23       Products, in violation of Cal. Health & Safety Code §25249.5. Defendant contends that there has  
24       been no violation of Proposition 65 or Health & Safety Code §25249.5.

25          1.4     CEH’s Notice and its Complaint also allege that Defendant did not provide a clear  
26       and reasonable warning to purchasers of the Products regarding the carcinogenicity and  
27       reproductive toxicity of Arsenic, in violation of Health & Safety Code §25249.6. Defendant  
28       contends that there has been no violation of Health & Safety Code §25249.6.

1           1.5     For purposes of this Consent Judgment only, the Parties stipulate that this Court  
2 has jurisdiction over the allegations of violations contained in CEH's Complaint and personal  
3 jurisdiction over Defendant as to the acts alleged in CEH's Complaint, that venue is proper in the  
4 County of Marin, and that this Court has jurisdiction to enter this Consent Judgment as a full and  
5 final resolution of all claims which were or could have been raised in the Complaint against  
6 Defendant based on the facts alleged therein.

7           1.6     For the purposes of resolving this dispute by compromise and avoiding prolonged  
8 litigation, CEH and Defendant enter into this Consent Judgment as a full and final settlement of  
9 all claims that were raised in the Notice and Complaint, or which could have been raised in the  
10 Complaint, arising out of the facts or conduct alleged therein. By execution of this Consent  
11 Judgment and agreeing to provide the relief and remedies specified herein, Defendant does not  
12 admit any issue of fact or law, including but not limited to any violations of Proposition 65 or any  
13 other law or legal duty, and in fact denies that any violations whatsoever have occurred. By  
14 execution of this Consent Judgment and agreeing to the injunctive relief set forth herein, CEH  
15 does not admit any issue of fact or law. Nothing in this Consent Judgment shall prejudice, waive  
16 or impair any right, remedy, argument or defense the Parties may have in this or any other or  
17 future legal proceedings. This Consent Judgment is the product of negotiation and is accepted by  
18 the Parties for purposes of settling and resolving issues disputed in this Action, including future  
19 compliance by Defendant with Section 2 of this Consent Judgment, and shall not be used for any  
20 other purpose, or in any other matter. Nothing in this Consent Judgment shall prohibit CEH from  
21 seeking, or the Court from ordering, different injunctive or other relief from entities that are not  
22 party to this Consent Judgment.

23           2.       **COMPLIANCE**

24           2.1.     **Arsenic Reformulation.** As of the date of entry of this Consent Judgment (the  
25 "Final Compliance Date"), Defendant shall not manufacture, distribute, ship or sell, or cause to be  
26 manufactured, distributed, shipped or sold, any Products that leach Arsenic in concentrations  
27 greater than 5 parts per billion ("ppb") using NSF Standard 42, 53 or the appropriate NSF  
28

1 Standard applicable to the Product being tested (in any case, using the latest edition) (the “Test  
2 Protocol”). The reformulation requirement of this Section does not require Defendant to recall or  
3 otherwise address any inventory of Product that was distributed, shipped or sold by Defendant  
4 prior to the Final Compliance Date.

5           **2.1.1. Validation Testing.** After the Final Compliance Date, to ensure  
6 compliance with Section 2.1, and to validate the reliability of the Raw Material Testing conducted  
7 pursuant to Section 2.1.2, Defendant shall select two of its Products (the “Validation Products”)  
8 to be tested using the Test Protocol according to the criteria set forth below.

9                   **2.1.1.1. Products To Be Tested:** The Validation Products shall be  
10 selected according to the following criteria:

11                   (b)           **Water To Carbon Ratio:** The first Validation Product for  
12 Validation Testing shall be selected based on the void volume (*i.e.* amount of water that fills the  
13 end product) to carbon content ratio. Defendant shall select the Product with the lowest water to  
14 carbon ratio that it sold in the United States during the prior year. The void volume shall be  
15 determined by the difference in the weight of the dry (unused) Product and the fully wetted out  
16 (flushed) Product using the conversion factor of 1 gram of water = 1 mL.

17                   (b)           **Sales:** The second Validation Product for Validation Testing  
18 shall be selected based on the unit sales volume of the Product in the United States. Defendant  
19 shall select the Product that it sold that had the highest sales in the United States in the year prior  
20 to the testing that Defendant still offers for sale in the United States. If the Validation Product  
21 selected under this Section 2.1.1.1(b) is the same as that selected under Section 2.1.1.1(a), then  
22 the second Validation Product shall be the Product with the second highest sales in the United  
23 States in the year prior to the testing that Defendant still offers for sale in the United States.

24                   **2.1.1.2. Frequency Of Testing:** Following the Final Compliance Date,  
25 Defendant shall conduct Validation Testing on a representative unit or units of each Validation  
26 Product in accordance with the Test Protocol and Section 2.1.1.1 at least one time per calendar  
27 quarter. In the event that the Validation Testing demonstrates one year of continuous compliance  
28 with the 5 ppb reformulation standard for both Validation Products, Defendant may reduce the

1 frequency of testing thereafter for both Validation Products to one time every six months. In the  
2 event that the Validation Testing demonstrates six years of continuous compliance with the 5 ppb  
3 reformulation standard for both Validation Products, Defendant shall no longer be required to  
4 conduct the Validation Testing pursuant to Section 2.1.1. Each Validation Product shall contain  
5 carbon from a lot that has already passed the Raw Material Testing conducted pursuant to  
6 Section 2.1.2. For avoidance of doubt, the fact that application of the criteria in Section 2.1.1.1  
7 may result in different Validation Products tested from time to time does not affect the nature or  
8 frequency of such testing.

9                                   2.1.1.3. Products That Exceed Reformulation Standard: After the Final  
10 Compliance Date, if Defendant obtains test results indicating that a Validation Product leaches  
11 Arsenic in concentrations greater than 5 ppb, Defendant shall, within 45 days of receiving such  
12 results, provide to CEH: (a) a copy of the test results and any related QA/QC or other  
13 documentation regarding the testing; (b) an itemization of all Products, if any, that Defendant  
14 offered for direct sale in California and that contain carbon from the same lot as the Validation  
15 Product that failed the Validation Test, including the model name and number, number of units  
16 affected, and distribution status of those units; (c) with respect to Products, if any, that were  
17 offered for direct sale in California by Defendant and that contain carbon from the same lot as the  
18 Validation Product that failed the Validation test, a plan of correction to remedy the violation,  
19 including a detailed description of the specific corrective actions to be taken, the dates such  
20 actions will be completed, and the scope of such actions (including, but not limited to, which  
21 Products will be addressed by the action); and (d) a description of what changes, if any,  
22 Defendant proposes to make to the Raw Material Testing procedure set forth in Exhibit A to  
23 ensure that the procedure is adequately screening Arsenic levels in the Products' activated carbon.  
24 If Defendant knows or has reason to know that there were material indirect sales in California of  
25 Products that contain carbon from the same lot as the Validation Product that failed the Validation  
26 Test, Defendant shall include all such Products sold nationally in its itemization of affected  
27 Products. The Parties shall meet and confer regarding the scope of any corrective action,  
28 including but not limited to corrective action to remedy violations regarding material indirect

1 sales to California. If CEH disagrees with the sufficiency or timing of Defendant's proposed  
2 corrective action, or if the Parties are unable to agree as to what changes, if any, need to be made  
3 to the Raw Material Testing procedure, CEH may seek enforcement of this Consent Judgment in  
4 accordance with Section 5.

5           **2.1.2. Raw Material Arsenic Level And Testing.** Beginning on the Final  
6 Compliance Date, and to further ensure compliance with Section 2.1, Defendant shall not use  
7 activated carbon that leaches Arsenic in concentrations greater than 5 ppb using the Raw Material  
8 Testing procedure set forth in Exhibit A in any Products or Components (as that term is defined in  
9 Section 7.1). Defendant shall test or cause to be tested each lot (as that term is defined in the Raw  
10 Material Testing procedure) of raw activated carbon used in the Products or Components using  
11 the Raw Material Testing procedure set forth in Exhibit A.

12           **2.1.2.1.** In the event that Defendant is no longer required to conduct  
13 Validation Testing pursuant to the terms of Section 2.1.1.2, Defendant may request a meeting  
14 with CEH to confer in good faith about modification of the Raw Material testing procedures  
15 pursuant to Section 2.1.2 and Exhibit A to substitute a quality control and testing program for  
16 Raw Material that is designed to ensure compliance with Section 2.1, including without limitation  
17 periodic certifications of validating test results and the provision of documentation to CEH.

18           **2.2. Certification Of Level From Suppliers.** To the extent Defendant relies upon its  
19 suppliers to conduct any of the testing required by this Consent Judgment, Defendant shall obtain  
20 written certification with corresponding test results from its suppliers.

21           **2.3. Documentation.** The certifications and results of all testing performed pursuant to  
22 this Consent Judgment shall be retained by Defendant for a period of five years from the date of  
23 the certification or testing and shall be made available to CEH upon request.

24           **2.4. Confirmatory Testing By CEH.** CEH intends to conduct periodic testing of the  
25 Products sold in California. Any such testing will be conducted in accordance with the Test  
26 Protocol.

27           **2.5. Product Flushing Instructions.** As of the Final Compliance Date, for Products  
28 that Defendant manufactures, distributes, ships or sells, Defendant shall transmit initial flushing

1 instructions to its customers by installation manuals, owner's manuals, labels, packaging or other  
2 methods, as follows: (1) for point of entry Products having bed volumes of 0.5 cubic feet or less,  
3 and for all point of use Products, initial flushing of no less than ten (10) bed volumes; and (2) for  
4 point of entry Products having bed volumes of greater than 0.5 cubic feet, initial flushing of no  
5 less than ten (10) gallons.

6  
7 **3. SETTLEMENT PAYMENT**

8 3.1. Within 20 days after service of a Notice of Entry of this Consent Judgment,  
9 Defendant shall pay \$95,000 as a settlement payment. The payment required under this Section  
10 shall be delivered to the offices of Lexington Law Group. Any failure by Defendant to comply  
11 with the payment terms herein shall be subject to a stipulated late fee in the amount of \$100 for  
12 each day after the delivery date the payment is received. The late fees required under this Section  
13 shall be recoverable, together with reasonable attorneys' fees, in an enforcement proceeding  
14 brought pursuant to Section 5 of this Consent Judgment. CEH and the Lexington Law Group  
15 shall provide completed W-9 forms to Defendant and Defendant may issue Form 1099s to each of  
16 them but only in the amount of the respective payments set forth for each entity below. The funds  
17 paid by Defendant shall be made payable and distributed as follows:

18 3.1.1. Penalty: \$12,160 of Defendant's payment shall be made by check payable  
19 to the Center For Environmental Health as a penalty pursuant to Health & Safety Code  
20 §25249.7(b). CEH shall apportion the penalties in accordance with Health & Safety Code  
21 §25249.12.

22 3.1.2. Monetary Payment In Lieu Of Penalty: \$18,240 of Defendant's payment  
23 shall be made by check payable to the Center For Environmental Health as payment to CEH in  
24 lieu of civil penalty pursuant to Health & Safety Code §25249.7(b), and California Code of  
25 Regulations, title 11, §3203(b). CEH will use such funds to continue its work educating and  
26 protecting people from exposures to toxic chemicals, including heavy metals. In addition, as part  
27 of its Community Environmental Action and Justice Fund, CEH will use four percent of such  
28 funds to award grants to grassroots environmental justice groups working to educate and protect

1 people from exposures to toxic chemicals. The method of selection of such groups can be found  
2 at the CEH web site at [www.ceh.org/justicefund](http://www.ceh.org/justicefund).

3 3.1.3. Attorneys' Fees And Costs: \$64,600 of Defendant's payment shall be  
4 made by check payable to the Lexington Law Group as reimbursement of a portion of CEH's  
5 reasonable investigation fees and costs, attorneys' fees, and any other costs incurred as a result of  
6 investigating, bringing this matter to Defendant's attention, litigating and negotiating a settlement  
7 in the public interest.

8 **4. MODIFICATION OF CONSENT JUDGMENT**

9 4.1. This Consent Judgment may be modified by written agreement of CEH and  
10 Defendant, after noticed motion, and upon entry of an amended consent judgment by the Court  
11 thereon, or upon motion of CEH or Defendant and upon entry of an amended consent judgment  
12 by the Court.

13  
14 **5. ENFORCEMENT OF CONSENT JUDGMENT**

15 5.1. CEH may, by motion or application for an order to show cause before the Superior  
16 Court of the County of Marin, enforce the terms and conditions contained in this Consent  
17 Judgment. Prior to bringing any motion or application to enforce the requirements of Section 2  
18 above, CEH shall provide Defendant with a Notice of Violation and a copy of any test results  
19 which purportedly support CEH's Notice of Violation. The Parties shall then meet and confer  
20 regarding the basis for CEH's anticipated motion or application in an attempt to resolve it  
21 informally. Should such attempts at meeting and conferring fail, CEH may file its enforcement  
22 motion or application. Should CEH prevail on any motion or application to enforce a material  
23 violation of this Consent Judgment under this Section, CEH shall be entitled to its reasonable  
24 attorneys' fees and costs incurred as a result of such motion or application. Should Defendant  
25 prevail on any motion or application under this Section, Defendant may be awarded its reasonable  
26 attorneys' fees and costs as a result of such motion or application upon a finding by the court that  
27 CEH's prosecution of the motion or application was not in good faith. This Consent Judgment  
28 may only be enforced by Defendant, CEH and the California Attorney General.



1       **6.     APPLICATION OF CONSENT JUDGMENT**

2           6.1.    This Consent Judgment shall apply to and be binding upon the Parties hereto, their  
3 divisions, subdivisions and subsidiaries, and the successors or assigns of any of them.

4       **7.     RELEASE**

5           7.1.    This Consent Judgment is a full, final and binding resolution among:

- 6                   -    CEH, acting in the public interest pursuant to Health & Safety Code  
7                            §25249.7(d);
- 8                   -    Defendant;
- 9                   -    Defendant’s parents, subsidiaries, affiliates, directors, officers, employees,  
10                           agents, shareholders and their successors and assigns (“Defendant Releasees”);  
11                           and
- 12                   -    Defendant’s customers, distributors, wholesalers or retailers, or any other  
13                           person within Defendant’s downstream chain of distribution which may in the  
14                           course of doing business use, maintain, distribute or sell Products and  
15                           Components which are manufactured, distributed or sold by Defendant  
16                           (including Products and Components which are privately labeled by persons  
17                           other than Defendant) (hereinafter “Downstream Entity,” and collectively  
18                           “Downstream Entities”),

19 of any violation of Proposition 65 that was or could have been asserted in the Complaint against  
20 Defendant, Defendant Releasees or Downstream Entities based on alleged failure to warn about  
21 exposure to Arsenic contained in the Products and Components, as well as any alleged discharge  
22 of Arsenic into a source of drinking water from the Products and Components, with respect to any  
23 Products and Components manufactured, distributed or sold by Defendant on or prior to the Final  
24 Compliance Date (hereinafter “Released Products”). For purposes of this Section 7,  
25 “Components” means activated carbon-containing elements incorporated into Products with water  
26 to carbon ratios greater than or equal to the Validation Product selected pursuant to Section  
27 2.1.1.1(a) with the lowest water to carbon ratio.

28           7.2.    CEH, acting for itself and in the public interest pursuant to Health & Safety Code  
§25249.7(d), hereby releases, waives and forever discharges any and all claims for violations of  
Proposition 65 against Defendant, Defendant Releasees and Downstream Entities based on

1 alleged failure to warn about exposure to Arsenic contained in any Released Products, as well as  
2 any alleged discharge of Arsenic into a source of drinking water from any Released Products.

3 7.3. Compliance with the terms of this Consent Judgment by Defendant shall constitute  
4 compliance with Proposition 65 by Defendant, Defendant Releasees and Downstream Entities  
5 with respect to any alleged failure to warn about exposure to Arsenic contained in the Products  
6 and Components as well as any alleged discharge of Arsenic into a source of drinking water from  
7 such Products and Components, with respect to any Products and Components manufactured,  
8 distributed or sold by Defendant (including such Products and Components privately labeled by  
9 Downstream Entities). Nothing in this Section 7 shall be deemed to limit or affect the obligations  
10 of any Party created under this Consent Judgment.

11 **8. GOVERNING LAW**

12 8.1. The terms of this Consent Judgment shall be governed by the laws of the State of  
13 California.

14  
15 **9. RETENTION OF JURISDICTION**

16 9.1. This Court shall retain jurisdiction of this matter to implement this Consent  
17 Judgment.

18 **10. PROVISION OF NOTICE**

19 10.1. All notices required pursuant to this Consent Judgment and correspondence shall  
20 be sent to the person identified for each party in the attached Exhibit B.

21  
22 **11. COURT APPROVAL**

23 11.1. If this Consent Judgment is not approved by the Court by December 31, 2012, it  
24 shall be of no further force or effect and shall not be introduced as evidence or otherwise used in  
25 any proceeding for any purpose. The Parties agree to mutually employ their best efforts to seek  
26 approval of the Consent Judgment by the Court in a timely manner.

1 12. AUTHORIZATION

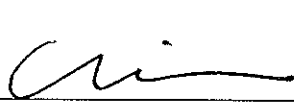
2 12.1. Each signatory to this Consent Judgment certifies that he or she is fully authorized  
3 by the party he or she represents to stipulate to this Consent Judgment and to enter into and  
4 execute the Consent Judgment on behalf of the party represented and legally bind that party. The  
5 undersigned have read, understand and agree to all of the terms and conditions of this Consent  
6 Judgment. Except as explicitly provided herein, each party is to bear its own fees and costs.

7 13. EXECUTION AND COUNTERPARTS

8 13.1 The stipulations to this Consent Judgment may be executed in counterparts and by  
9 means of facsimile, which taken together shall be deemed to constitute one document.

10 AGREED TO:

11  
12  
13 CENTER FOR ENVIRONMENTAL HEALTH

14  
15  \_\_\_\_\_

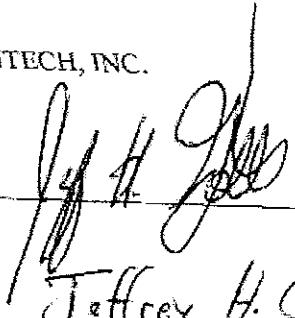
Dated: 8/29/12

16  
17 CHARLIE PIZARRO  
18 \_\_\_\_\_  
19 Printed Name

20 ASSOCIATE DIRECTOR  
21 \_\_\_\_\_  
22 Title

23  
24  
25  
26  
27  
28

1 RESINTECH, INC.  
2  
3



Dated: 8/23/12

4  
5 Jeffrey H. Gattlieb

6 Printed Name

7 Executive Vice President

8 Title  
9  
10  
11

12 JUDGMENT

13 Based upon the stipulated Consent Judgment between CEH and Resintech, Inc. the  
14 settlement is approved and judgment is hereby entered according to the terms herein.

15 Dated: DEC 12 2012

16 ROY CHERNUS

17 JUDGE  
18 Superior Court of the State of California  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

## EXHIBIT A

### RAW MATERIAL SAMPLING AND MONITORING PROTOCOL

#### 1.1 Definitions

1.1.1 A “continuous sample” is defined as a spot sample obtained from a pipeline conveying the product in such a manner as to give a representative average of the stream throughout the period of transit.

1.1.2 A “lot” is defined as a discrete quantity of material from one manufacturing batch and must be identified as such by the manufacturer.

1.1.3 A “thief sample” is a sample taken at a specific time and location using a sampling tube or special thief, either as a core sample or spot sample from a specific point in a container.

#### 1.2 Sample Collection and Sampling Frequency

1.2.1 In the case where carbon from a single lot is received in multiple discrete packages, such as bags or drums, a single thief sample shall be taken from a random location within each package. If the number of samples required pursuant to step 1.2.2 below exceeds the number of discrete packages received, then multiple thief samples shall be taken from random locations in the packages being sampled. If the number of samples required pursuant to step 1.2.2 below is less than the number of discrete packages received, then a single thief sample shall be taken from a random location from a sufficient number of randomly selected packages to satisfy step 1.2.2 below.

1.2.2 A minimum of one random thief sample shall be taken for each 5,000 lbs of carbon in each lot.

1.2.3 The thief samples may be tested individually or made into a representative composite sample.

1.2.4 If the carbon from a lot is not already in discrete packages or containers, refer to step 1.2.2 above for the number of random thief samples to be taken within the lot.

1.2.5 Samples will be collected and analyzed for testing in accordance with Sections 1.4, 1.5 or 1.6 below as applicable.

1.2.6 No portion of any lot of carbon shall be further processed or changed in a way that could increase the arsenic leaching characteristics of the carbon, including but not limited to grinding to change the particle size distribution, after the sample from that lot of carbon passes the raw material test unless the carbon is retested after such processing or change.

#### 1.3 Selection of Raw Material Extraction Test Method

1.3.1 Raw material extraction testing shall be conducted on each sample collected in accordance with Section 1.2 above. The entity undertaking the raw material extraction testing shall use one of the three methods described below, provided that the beaker test described in Section 1.6 may only be used as an option for carbon used in block filters.

## 1.4 Column Test Method

1.4.1 Measure a sample of carbon in a graduated cylinder. Vibrate or tamp down to a minimum volume of  $100 \pm 5$  cc ( $1 \text{ cc} + 1 \text{ mL}$ ). Place the carbon in a glass or plastic column with a glass or plastic frit or glass wool plug to retain the carbon in the column. The column should have a Teflon stopcock or other means to control release of water and to accommodate connection for vacuum filtration.

1.4.2 Add deionized water meeting the specifications for Type II water set forth in Section 1.1 of ASTM D1193-91 Standard Specification for Reagent Water ( $@ 20 \pm 5^\circ\text{C}$ ) (hereinafter "Deionized Water") to the column. Place a tight fitting rubber stopper in the top of the column and invert the column several times to fluidize the carbon and release any air bubbles. Flush the carbon bed by drawing off no more than 10 bed volumes ( $1000 \pm 50 \text{ mL}$ ) of water in no more than twenty (20) minutes. After flushing has been completed, invert the column several more times to assure all the air bubbles have been released. Note: Vacuum suction may be needed to achieve the required flow rate if fine mesh carbon is tested. Discard the flush water.

1.4.3 After drawing off the flush, let  $50 \pm 5 \text{ mL}$  remain above the carbon bed in the column. Allow the column to sit stagnant for 24 hours.

1.4.4 After the 24-hr stagnation time, draw off by gravity flow or by vacuum suction all the water from the column. If carbon fines are visible in the water sample, filter through an appropriately sized filter (e.g., Whatman 934AH glass fiber filter paper disc or equivalent such as Gelman type A/E, Millipore type AP40). Collect the water sample in an acid-washed glass container and preserve the sample by adding concentrated nitric acid to achieve a 1 % (v/v) acid solution.

1.4.5 Add Deionized Water to the column until there is  $50 \pm 5 \text{ mL}$  present above the carbon bed. If air bubbles are present in the column, repeat the process of inverting the column as described in 1.4.2. Continue with steps 1.4.2 through 1.4.4 until a total of three stagnation samples have been collected.

1.4.6 Combine the three stagnation samples as one composite sample and analyze for arsenic in accordance with the EPA methods referenced in NSF Standard 53 (latest edition).

## 1.5 Beaker Test Method

1.5.1 Place a 50 cc sample of carbon in 125 mL of Deionized Water (as defined in Section 1.4.2 above) in a container. Using a glass rod gently stir the carbon/water mixture until any trapped air bubbles have been released. Cover the sample and soak for 6 hours.

1.5.2 Decant or vacuum filter sample using a filter appropriate for carbon particle size.

1.5.3 Transfer filtered extract into sample bottle. Preserve the sample by adding concentrated nitric acid to achieve a 1 % (v/v) acid solution.

1.5.4 Analyze samples in accordance with those EPA Analytical Methods referenced in NSF Standard 53 (latest edition).

## 1.6 Beaker Test Method – Option for Carbon Used in Block Filters Only

1.6.1 The version of the Beaker Test Method described in this Section 1.6 is an optional test method for carbon to be used in block filters. While each test method set forth in the protocol may be used to test carbon used in block filters, the test set forth in Section 1.6 may not be used unless the carbon to be tested is to be used in block filters.

1.6.2 Place a 50 cc sample of carbon in 125 mL of Deionized Water (as defined in Section 1.4.2 above) in a container. Cover the container and let soak for three hours.

1.6.3 After the soak, decant or vacuum filter the sample. If vacuum filtration is used, transfer carbon to the original container. Add 125 ml of Deionized Water to the carbon. Using a glass rod gently stir the carbon/water mixture until any trapped air bubbles have been released. Cover the sample and soak for 24 hours.

1.6.4 Decant or vacuum filter sample using a filter appropriate for carbon particle size.

1.6.5 Transfer filtered extract into sample bottle. Preserve the sample by adding concentrated nitric acid to achieve a 1 % (v/v) acid solution.

1.6.6 Analyze samples in accordance with those EPA Analytical Methods referenced in NSF Standard 53 (latest edition).

## 1.7 Test Results

1.7.1 Irrespective of the method used (*i.e.* column or beaker), the arsenic limit shall be 5 parts per billion (“ppb”).

1.7.2 Should a lot of raw material exceed 5 ppb, the entity undertaking the raw material testing and/or the manufacturer shall be entitled to undertake further processing of the lot so as to reduce the levels of extractable arsenic. If the entity undertaking the raw material testing and/or the manufacturer chooses to undertake any such further processing, it shall assign a new lot number to the lot, and, following such further processing, shall subject the lot to raw material testing in accordance with the applicable testing procedure described above. The entity undertaking any such further processing shall document steps taken to further process the raw material and shall make any such documentation available to CEH upon request.

## EXHIBIT B

### Persons To Receive Notice

<b>PLAINTIFF:</b>	Center for Environmental Health
<i>Notice to :</i>	Eric S. Somers Lexington Law Group 503 Divisadero Street San Francisco, CA 94117
<b>DEFENDANT:</b>	Resintech, Inc.
<i>Notice to :</i>	Bruce Nye Adams Nye Becht LLP 222 Kearny Street, Seventh Floor San Francisco, CA 94108-4521