

1 1.3 “Fashion Accessories” means belts.

2 1.4 “Lead Limits” means the maximum concentrations of lead and lead
3 compounds (“Lead”) by weight specified in Section 3.2.

4 1.5 “Manufactured” and “Manufactures” have the meaning defined in Section
5 3(a)(10) of the Consumer Product Safety Act (“CPSA”) [15 U.S.C. § 2052(a)(10)],¹ as amended
6 from time to time.

7 1.6 “Private Label Covered Product” means a Fashion Accessory that bears a
8 private label where (i) the product (or its container) is labeled with the brand or trademark of a
9 person other than a manufacturer of the product, (ii) the person with whose brand or trademark
10 the product (or container) is labeled has authorized or caused the product to be so labeled, and
11 (iii) the brand or trademark of a manufacturer of such product does not appear on such label.

12 1.7 “Private Labeler” means an owner or licensee of a brand or trademark on the
13 label of a consumer product which bears a private label; provided, however, that Settling
14 Defendant is not a Private Labeler due solely to the fact that its name, brand or trademark is
15 visible on a sign or on the price tag of a Fashion Accessory that is not labeled with a third party’s
16 brand or trademark.

17 1.8 “Paint or other Surface Coatings” has the meaning defined in 16 C.F.R.
18 § 1303.2(b)², as amended from time to time.

19 1.9 “Vendor” means a person or entity that Manufactures, imports, distributes, or
20 supplies a Fashion Accessory to Settling Defendant, and that is not itself a Settling Defendant.

21 **2. INTRODUCTION**

22 2.1 The parties to this Consent Judgment (“Parties”) are the Center for
23 Environmental Health (“CEH”) and defendant Windsor Fashions, Inc. (“Settling Defendant”).

24 ¹ As of November 7, 2013, the term “Manufactured” and “Manufactures” means to
25 manufacture, produce, or assemble.

26 ² As of November 7, 2013, “Paint or other Surface Coatings” means a fluid, semi-fluid, or
27 other material, with or without a suspension of finely divided coloring matter, which changes to a
28 solid film when a thin layer is applied to a metal, wood, stone, paper, leather, cloth, plastic, or
other surface. This term does not include printing inks or those materials which actually become
a part of the substrate, such as the pigment in a plastic article, or those materials which are
actually bonded to the substrate, such as by electroplating or ceramic glazing.

1 2.2 Settling Defendant manufactures, distributes or offers Fashion Accessories for
2 sale in the State of California or has done so in the past.

3 2.3 On June 24, 2009, CEH filed the action entitled *CEH v. Lulu NYC LLC, et al.*,
4 Case No. RG 09-459448, in the Superior Court of California for Alameda County, alleging
5 Proposition 65 violations as to wallets, handbags, purses and clutches. The Court has
6 consolidated the *Lulu* matter with a number of other related Proposition 65 cases.

7 2.4 On April 9, 2013, CEH served a 60-Day Notice of Violation under Proposition
8 65 (The Safe Drinking Water and Toxic Enforcement Act of 1986, California Health & Safety
9 Code §§ 25249.5, *et seq.*), alleging that Settling Defendant violated Proposition 65 by exposing
10 persons to Lead contained in belts, without first providing a clear and reasonable Proposition 65
11 warning. On December 5, 2012, CEH filed the action entitled *CEH v. Fashion Eden*, Case No.
12 RG 12-658652. On July 9, 2013, CEH named Settling Defendant as a “Belts Defendant” in the
13 *Fashion Eden* action via Doe Amendment.

14 2.5 For purposes of this Consent Judgment only, the Parties stipulate that this
15 Court has jurisdiction over the allegations of violations contained in the operative Complaint
16 applicable to Settling Defendant (the “Complaint”) and personal jurisdiction over Settling
17 Defendant as to the acts alleged in the Complaint, that venue is proper in the County of Alameda,
18 and that this Court has jurisdiction to enter this Consent Judgment.

19 2.6 Nothing in this Consent Judgment is or shall be construed as an admission by
20 the Parties of any fact, conclusion of law, issue of law or violation of law, nor shall compliance
21 with the Consent Judgment constitute or be construed as an admission by the Parties of any fact,
22 conclusion of law, issue of law, or violation of law. Nothing in this Consent Judgment shall
23 prejudice, waive or impair any right, remedy, argument or defense the Parties may have in any
24 other legal proceeding. This Consent Judgment is the product of negotiation and compromise and
25 is accepted by the Parties for purposes of settling, compromising and resolving issues disputed in
26 this action.

27 **3. INJUNCTIVE RELIEF**

28 3.1 **Specification Compliance Date.** To the extent it has not already done so, no

1 more than 30 days after the Effective Date, Settling Defendant shall provide the Lead Limits to its
2 Vendors of Fashion Accessories and shall instruct each Vendor to use reasonable efforts to
3 provide Fashion Accessories that comply with the Lead Limits on a nationwide basis.

4 **3.2 Lead Limits.** Commencing on the Effective Date, Settling Defendant shall
5 not purchase, import, Manufacture, or supply to an unaffiliated third party any Covered Product
6 that will be sold or offered for sale to California consumers that contains a material or is made of
7 a component that exceeds the following Lead Limits:

8 3.2.1 Paint or other Surface Coatings: 90 parts per million (“ppm”).

9 3.2.2 Polyvinyl chloride (“PVC”): 200 ppm.

10 3.2.3 All other materials or components other than cubic zirconia (sometimes
11 called cubic zirconium, CZ), crystal, glass or rhinestones: 300 ppm.

12 **3.3 Final Retail Compliance Date.** Commencing on the Effective Date, Settling
13 Defendant shall not sell or offer for sale in California any Covered Product that exceeds the Lead
14 Limits specified in Section 3.2. For purposes of this Section 3.3, when Settling Defendant’s
15 direct customer sells or offers for sale to California consumers a Covered Product after the
16 Effective Date, Settling Defendant is deemed to have “offered for sale to California consumers”
17 that Covered Product.

18 **3.4 Action Regarding Specific Products.**

19 3.4.1 On or before the Effective Date, Settling Defendant shall (i) cease selling
20 the Windsor Infinity Loop Belt in Burgundy, SKU No. 4-07301-01249-5 (the “Section 3.4
21 Product”) in California; (ii) cease shipping the Section 3.4 Product to any of its customers
22 that resell the Section 3.4 Product in California, and (iii) send instructions to its customers
23 that resell the Section 3.4 Product in California instructing them either to (a) return all the
24 Section 3.4 Product to the Settling Defendant for destruction; or (b) directly destroy the
25 Section 3.4 Product.

26 3.4.2 If Settling Defendant has not complied with Section 3.4.1 prior to
27 executing this Consent Judgment, it shall instruct its California stores and/or customers
28 that resell the Section 3.4 Product either to (i) return all the Section 3.4 Product to the

1 Settling Defendant for destruction; or (ii) directly destroy the Section 3.4 Product.

2 3.4.3 Any destruction of the Section 3.4 Product shall be in compliance with all
3 applicable laws.

4 3.4.4 Within sixty days of the Effective Date, Settling Defendant shall provide
5 CEH with written certification from Settling Defendant confirming compliance with the
6 requirements of this Section 3.4.

7 **4. ENFORCEMENT**

8 4.1 Any Party may, after meeting and conferring, by motion or application for an
9 order to show cause before this Court, enforce the terms and conditions contained in this Consent
10 Judgment. Enforcement of the terms and conditions of Sections 3.2 and 3.3 of this Consent
11 Judgment shall be brought exclusively pursuant to Sections 4.2 through 4.3.

12 4.2 **Notice of Violation.** CEH may seek to enforce the requirements of Sections
13 3.2 or 3.3 by issuing a Notice of Violation pursuant to this Section 4.2.

14 4.2.1 **Service of Notice.** CEH shall serve the Notice of Violation on Settling
15 Defendant within 45 days of the date the alleged violation(s) was or were observed,
16 provided, however, that CEH may have up to an additional 45 days to provide Settling
17 Defendant with the test data required by Section 4.2.2(d) below if it has not yet obtained it
18 from its laboratory.

19 4.2.2 **Supporting Documentation.** The Notice of Violation shall, at a minimum,
20 set forth for each Covered Product: (a) the date(s) the alleged violation(s) was observed,
21 (b) the location at which the Covered Product was offered for sale, (c) a description of the
22 Covered Product giving rise to the alleged violation, and of each material or component
23 that is alleged not to comply with the Lead Limits, including a picture of the Covered
24 Product and all identifying information on tags and labels, and (d) all test data obtained by
25 CEH regarding the Covered Product and related supporting documentation, including all
26 laboratory reports, quality assurance reports and quality control reports associated with
27 testing of the Covered Products. Such Notice of Violation shall be based at least in part
28 upon total acid digest testing performed by an independent accredited laboratory. Wipe,

1 swipe, x-ray fluorescence, and swab testing are not by themselves sufficient to support a
2 Notice of Violation, although any such testing may be used as additional support for a
3 Notice. The Parties agree that the sample Notice of Violation attached hereto as Exhibit A
4 is sufficient in form to satisfy the requirements of subsections (c) and (d) of this Section
5 4.2.2.

6 4.2.3 **Additional Documentation.** CEH shall promptly make available for
7 inspection and/or copying upon request by and at the expense of Settling Defendant, all
8 supporting documentation related to the testing of the Covered Products and associated
9 quality control samples, including chain of custody records, all laboratory logbook entries
10 for laboratory receiving, sample preparation, and instrumental analysis, and all printouts
11 from all analytical instruments relating to the testing of Covered Product samples and any
12 and all calibration, quality assurance, and quality control tests performed or relied upon in
13 conjunction with the testing of the Covered Products, obtained by or available to CEH that
14 pertains to the Covered Product's alleged noncompliance with Section 3 and, if available,
15 any exemplars of Covered Products tested.

16 4.2.4 **Multiple Notices.** If Settling Defendant has received more than four
17 Notices of Violation in any 12-month period, at CEH's option, CEH may seek whatever
18 fines, costs, penalties, or remedies are provided by law for failure to comply with the
19 Consent Judgment. For purposes of determining the number of Notices of Violation
20 pursuant to this Section 4.2.4, the following shall be excluded:

21 (a) Multiple notices identifying Covered Products Manufactured for or
22 sold to Settling Defendant from the same Vendor; and

23 (b) A Notice of Violation that meets one or more of the conditions of
24 Section 4.3.3(c).

25 4.3 **Notice of Election.** Within 30 days of receiving a Notice of Violation
26 pursuant to Section 4.2, including the test data required pursuant to 4.2.2(d), Settling Defendant
27 shall provide written notice to CEH stating whether it elects to contest the allegations contained in
28 the Notice of Violation ("Notice of Election"). Failure to provide a Notice of Election shall be

1 deemed an election to contest the Notice of Violation. Any contributions to the Fashion
2 Accessory Testing Fund required under this Section 4 shall be made payable to The Center for
3 Environmental Health and included with Settling Defendant's Notice of Election.

4 **4.3.1 Contested Notices.** If the Notice of Violation is contested, the Notice of
5 Election shall include all then-available documentary evidence regarding the alleged
6 violation, including any test data. Within 30 days the parties shall meet and confer to
7 attempt to resolve their dispute. Should such attempts at meeting and conferring fail,
8 CEH may file an enforcement motion or application pursuant to Section 4.1. If Settling
9 Defendant withdraws its Notice of Election to contest the Notice of Violation before any
10 motion concerning the violations alleged in the Notice of Violation is filed pursuant to
11 Section 4.1, Settling Defendant shall make a contribution to the Proposition 65 Fashion
12 Accessory Testing Fund in the amount of \$12,500 and shall comply with all of the non-
13 monetary provisions of Section 4.3.2. If, at any time prior to reaching an agreement or
14 obtaining a decision from the Court, CEH or Settling Defendant acquires additional test or
15 other data regarding the alleged violation, it shall promptly provide all such data or
16 information to the other Party.

17 **4.3.2 Non-Contested Notices.** If the Notice of Violation is not contested,
18 Settling Defendant shall include in its Notice of Election a detailed description of
19 corrective action that it has undertaken or proposes to undertake to address the alleged
20 violation. Any such correction shall, at a minimum, provide reasonable assurance that the
21 Covered Product will no longer be offered by Settling Defendant or its customers for sale
22 in California. If there is a dispute over the sufficiency of the proposed corrective action or
23 its implementation, CEH shall promptly notify Settling Defendant and the Parties shall
24 meet and confer before seeking the intervention of the Court to resolve the dispute. In
25 addition to the corrective action, Settling Defendant shall make a contribution to the
26 Fashion Accessory Testing Fund in the amount of \$10,000, unless one of the provisions of
27 Section 4.3.3 applies.
28

1 **4.3.3 Limitations in Non-Contested Matters.**

2 (a) If it elects not to contest a Notice of Violation before any motion
3 concerning the violation(s) at issue has been filed, the monetary liability of Settling
4 Defendant shall be limited to the contributions required by Section 4.3.2 and this Section
5 4.3.3, if any.

6 (b) If more than one Settling Defendant has manufactured, sold, offered
7 for sale or distributed a Covered Product identified in a non-contested Notice of Violation,
8 only one required contribution may be assessed against all Settling Defendants as to the
9 noticed Covered Product.

10 (c) The contribution to the Fashion Accessory Testing Fund shall be:

11 (i) One thousand seven hundred fifty dollars (\$1,750) if Settling
12 Defendant, prior to receiving and accepting for distribution or sale the
13 Covered Product identified in the Notice of Violation, obtained test results
14 demonstrating that all of the materials or components in the Covered
15 Product identified in the Notice of Violation complied with the applicable
16 Lead Limits, and further provided that such test results meet the same
17 quality criteria to support a Notice of Violation as set forth in Section 4.2.2
18 and that the testing was performed within two years prior to the date of the
19 sales transaction on which the Notice of Violation is based. Settling
20 Defendant shall provide copies of such test results and supporting
21 documentation to CEH with its Notice of Election; or

22 (ii) One thousand five hundred dollars (\$1500) if Settling
23 Defendant is in violation of Section 3.3 only insofar as that Section deems
24 Settling Defendant to have “offered for sale” a product sold at retail by
25 Settling Defendant’s customer, provided however, that no contribution is
26 required or payable if Settling Defendant has already been required to pay
27 a total of ten thousand dollars (\$10,000) pursuant to this subsection. This
28 subsection shall apply only to Covered Products that Settling Defendant

1 demonstrates were shipped prior to the Effective Date; or

2 (iii) Not required or payable, if the Notice of Violation identifies
3 the same Covered Product or Covered Products, differing only in size or
4 color, that have been the subject of another Notice of Violation within the
5 preceding 12 months.

6 **4.4 Additional Enforcement for Noncompliant Non-Covered Products.** If
7 CEH alleges that Settling Defendant sold or offered for retail sale to California consumers a
8 Fashion Accessory that is not a Covered Product, and that contains Lead in an amount that
9 exceeds any of the applicable Lead Limits (“Noncompliant Non-Covered Product”), then prior to
10 CEH serving a 60-Day Notice under Proposition 65 on Settling Defendant, CEH shall provide
11 notice to Settling Defendant pursuant to this Section 4.4.

12 4.4.1 The notice shall contain the information required for a Notice of Violation
13 in Section 4.2. If the information is insufficient to allow Settling Defendant to identify the
14 Noncompliant Non-Covered Product and/or Vendor, it may request that CEH provide any
15 further identifying information for the Noncompliant Non-Covered Product that is
16 reasonably available to it.

17 4.4.2 Within 30 days of receiving a notice pursuant to Section 4.4, or of any
18 requested further information sufficient to identify the Noncompliant Non-Covered
19 Product, whichever is later, Settling Defendant shall serve a Notice of Election on CEH.
20 The Notice of Election shall:

21 (a) Identify to CEH (by proper name, address of principal place of
22 business and telephone number) the person or entity that sold the Noncompliant Non-
23 Covered Product to Settling Defendant;

24 (b) Identify the manufacturer and other distributors in the chain of
25 distribution of the Noncompliant Non-Covered Product, provided that such information is
26 reasonably available; and

27 (c) Include either: (i) a statement that Settling Defendant elects not to
28 proceed under this Section 4.4, in which case CEH may take further action including

1 issuance of a 60-Day Notice under Proposition 65; (ii) a statement that Settling Defendant
2 elects to proceed under this Section 4.4, with a description of corrective action that meets
3 the conditions of Section 4.3.2, and a contribution to the Fashion Accessory Testing Fund
4 in the amount required under Section 4.4.6, or (iii) a statement that Settling Defendant
5 contends that the Noncompliant Non-Covered Product is released from liability by a
6 Qualified Settlement under Section 4.4.4 along with a copy of such Qualified Settlement.

7 4.4.3 A party's disclosure pursuant to this Section 4.4 of any (i) test reports, (ii)
8 confidential business information, or (iii) other information that may be subject to a claim
9 of privilege or confidentiality, shall not constitute a waiver of any such claim of privilege
10 or confidentiality, provided that the Party disclosing such information shall clearly
11 designate it as confidential. Any Party receiving information designated as confidential
12 pursuant to this Section 4.4.3 shall not disclose such information to any unrelated person
13 or entity, and shall use such information solely for purposes of resolving any disputes
14 under this Consent Judgment.

15 4.4.4 No further action is required of Settling Defendant under this Consent
16 Judgment if the Noncompliant Non-Covered Product is otherwise released from liability
17 for alleged violations of Proposition 65 with respect to Lead in the Noncompliant Non-
18 Covered Product by the terms of a separate settlement agreement or consent judgment
19 entered into by CEH under Health & Safety Code § 25249.7 ("Qualified Settlement").

20 4.4.5 If Settling Defendant elects not to proceed under Section 4.4, then neither
21 Settling Defendant nor CEH has any further duty under this Section 4.4 and either may
22 pursue any available remedies under Proposition 65 or otherwise. If Settling Defendant
23 elects to proceed under Section 4.4.2(c)(ii), then compliance with that Section shall
24 constitute compliance with Proposition 65 as to that Noncompliant Non-Covered Product.

25 4.4.6 If Settling Defendant elects to proceed under this Section 4.4 and is not
26 relieved of liability under Section 4.4.4, Settling Defendant shall make a contribution to
27 the Fashion Accessory Testing Fund in the amounts that follow unless one of the
28 provisions of Section 4.3.3(c) applies, in which case the applicable amount specified in

1 Section 4.3.3(c) if any, shall instead apply. The contribution shall be \$5,000 if at least one
2 of the person(s) identified by Settling Defendant pursuant to Section 4.4.2 (i) is a person
3 in the course of doing business as defined in Health & Safety Code § 25249.11(b) and (ii)
4 has a principal place of business located within the United States, and \$10,000 for all
5 other notices.

6 4.4.7 If Settling Defendant makes a contribution pursuant to this Section and at a
7 later date CEH resolves the alleged violation with the direct or indirect Vendor of the
8 Noncompliant Non-Covered Product, CEH shall notify Settling Defendant and Settling
9 Defendant shall be entitled to a refund of the lesser amount of its contribution or the
10 settlement amount paid by such Vendor. If the settlement or consent judgment between
11 CEH and the direct or indirect Vendor of the Noncompliant Non-Covered Product does
12 not provide for the refund to be paid directly by the Vendor to Settling Defendant, then
13 CEH shall pay the refund to Settling Defendant within 15 days of receiving the Vendor's
14 settlement payment.

15 4.4.8 Any notice served by CEH pursuant to this Section 4.4 shall not be
16 considered a Notice of Violation for purposes of Section 4.2. Nothing in this Section 4.4
17 affects CEH's right to issue a 60-Day Notice under Proposition 65 against any entity other
18 than Settling Defendant.

19 **5. PAYMENTS**

20 5.1 **Payments by Settling Defendant.** Within five (5) days of entry of this Consent
21 Judgment, Settling Defendant shall pay the total sum of \$44,000 as a settlement payment. The
22 total settlement amount for Settling Defendant shall be paid in three separate checks delivered to
23 the offices of the Lexington Law Group (Attn: Eric Somers), 503 Divisadero Street, San
24 Francisco, California 94117. The funds paid by Settling Defendant shall be allocated between the
25 following categories:

26 5.1.1 \$5,800 as a civil penalty pursuant to Health & Safety Code § 25249.7(b),
27 such money to be apportioned by CEH in accordance with Health & Safety Code § 25249.12
28 (25% to CEH and 75% to the State of California's Office of Environmental Health Hazard

1 Assessment). The civil penalty check shall be made payable to the Center For Environmental
2 Health.

3 5.1.2 \$8,700 as a payment in lieu of civil penalty to CEH pursuant to Health &
4 Safety Code § 25249.7(b), and California Code of Regulations, Title 11, § 3203(b). CEH will use
5 such funds to continue its work educating and protecting people from exposures to toxic
6 chemicals, including heavy metals. In addition, as part of its Community Environmental Action
7 and Justice Fund, CEH will use four percent of such funds to award grants to grassroots
8 environmental justice groups working to educate and protect people from exposures to toxic
9 chemicals. The method of selection of such groups can be found at the CEH web site at
10 www.ceh.org/justicefund. The payment pursuant to this Section shall be made payable to the
11 Center For Environmental Health.

12 5.1.3 \$29,500 as reimbursement of a portion of CEH's reasonable attorneys' fees
13 and costs. The attorneys' fees and cost reimbursement check shall be made payable to the
14 Lexington Law Group.

15 **6. MODIFICATION**

16 6.1 **Written Consent.** This Consent Judgment may be modified from time to
17 time by express written agreement of the Parties with the approval of the Court, or by an order of
18 this Court upon motion and in accordance with law.

19 6.2 **Meet and Confer.** Any Party seeking to modify this Consent Judgment shall
20 attempt in good faith to meet and confer with all affected Parties prior to filing a motion to
21 modify the Consent Judgment.

22 **7. CLAIMS COVERED AND RELEASED**

23 7.1 This Consent Judgment is a full, final and binding resolution between CEH on
24 behalf of itself and the public interest and Settling Defendant, and its parents, subsidiaries,
25 affiliated entities that are under common ownership, directors, officers, employees, and attorneys
26 ("Defendant Releasees"), and each entity to whom it directly or indirectly distributes or sells
27 Covered Products, including but not limited to distributors, wholesalers, customers, retailers,
28 franchisees, cooperative members, licensors, and licensees ("Downstream Defendant Releasees")

1 of any violation of Proposition 65 that was or could have been asserted in the Complaint against
2 Settling Defendant, Defendant Releasees, and Downstream Defendant Releasees, based on failure
3 to warn about alleged exposure to Lead contained in Fashion Accessories that were sold by
4 Settling Defendant prior to the Effective Date.

5 7.2 Compliance with the terms of this Consent Judgment by Settling Defendant
6 constitutes compliance with Proposition 65 with respect to Lead in Settling Defendant's Covered
7 Products.

8 7.3 Nothing in this Section 7 affects CEH's right to commence or prosecute an
9 action under Proposition 65 against any person other than Settling Defendant, Defendant
10 Releasee, or Downstream Defendant Releasee.

11 7.4 Nothing in Section 7 affects CEH's right to commence or prosecute an action
12 under Proposition 65 against a Downstream Defendant Releasee that: (a) is not a direct customer
13 of Settling Defendant under Section 3.3; and (b) sells or offers for sale a Covered Product to
14 California consumers that does not comply with the Lead Limits after the Effective Date.

15 **8. NOTICE**

16 8.1 When CEH is entitled to receive any notice under this Consent Judgment, the
17 notice shall be sent by first class and electronic mail to:

18 Eric S. Somers
19 Lexington Law Group
20 503 Divisadero Street
21 San Francisco, CA 94117
22 esomers@lexlawgroup.com

23 8.2 When Settling Defendant is entitled to receive any notice under this Consent
24 Judgment, the notice shall be sent by first class and electronic mail to:

25 Dennis B. Kass
26 Alex Caraveo
27 Manning & Kass
28 Ellrod, Ramirez, Trester LLP
15th Floor at 801 Tower
801 South Figueroa Street
Los Angeles, CA 90017
dbk@manningllp.com
ayc@manningllp.com

1 8.3 Any Party may modify the person and address to whom the notice is to be sent
2 by sending the other Party notice by first class and electronic mail.

3 **9. COURT APPROVAL**

4 9.1 This Consent Judgment shall become effective upon entry by the Court. CEH
5 shall prepare and file a Motion for Approval of this Consent Judgment and Settling Defendant
6 shall support entry of this Consent Judgment.

7 9.2 If this Consent Judgment is not entered by the Court, it shall be of no force or
8 effect and shall never be introduced into evidence or otherwise used in any proceeding for any
9 purpose other than to allow the Court to determine if there was a material breach of Section 9.1.

10 **10. ATTORNEYS' FEES**

11 10.1 Should CEH prevail on any motion, application for an order to show cause or
12 other proceeding to enforce a violation of this Consent Judgment, CEH shall be entitled to its
13 reasonable attorneys' fees and costs incurred as a result of such motion or application. Should
14 Settling Defendant prevail on any motion application for an order to show cause or other
15 proceeding, Settling Defendant may be awarded its reasonable attorneys' fees and costs as a result
16 of such motion or application upon a finding by the Court that CEH's prosecution of the motion
17 or application lacked substantial justification. For purposes of this Consent Judgment, the term
18 substantial justification shall carry the same meaning as used in the Civil Discovery Act of 1986,
19 Code of Civil Procedure §§ 2016, *et seq.*

20 10.2 Except as otherwise provided in this Consent Judgment, each Party shall bear
21 its own attorneys' fees and costs.

22 10.3 Nothing in this Section 10 shall preclude a Party from seeking an award of
23 sanctions pursuant to law.

24 **11. TERMINATION**

25 11.1 This Consent Judgment shall be terminable by CEH or Settling Defendant at
26 any time after January 1, 2019, upon the provision of 30 days advanced written notice; such
27 termination shall be effective upon the subsequent filing of a notice of termination with Superior
28 Court of Alameda County.

1 11.2 Should this Consent Judgment be terminated pursuant to this Section, it shall
2 be of no further force or effect as to the terminated parties; provided, however that if CEH is the
3 terminating Party, the provisions of Sections 5, 7, and 12.1 shall survive any termination and
4 provided further that if Settling Defendant is the terminating Party, the provisions of Sections 5,
5 7.1 and 12.1 shall survive any termination.

6 **12. OTHER TERMS**

7 12.1 The terms of this Consent Judgment shall be governed by the laws of the State
8 of California.

9 12.2 This Consent Judgment shall apply to and be binding upon CEH and Settling
10 Defendant, and their respective divisions, subdivisions, and subsidiaries, and the successors or
11 assigns of any of them.

12 12.3 This Consent Judgment contains the sole and entire agreement and
13 understanding of the Parties with respect to the entire subject matter hereof, and any and all prior
14 discussions, negotiations, commitments, or understandings related thereto, if any, are hereby
15 merged herein and therein. There are no warranties, representations, or other agreements between
16 the Parties except as expressly set forth herein. No representations, oral or otherwise, express or
17 implied, other than those specifically referred to in this Consent Judgment have been made by any
18 Party hereto. No other agreements not specifically contained or referenced herein, oral or
19 otherwise, shall be deemed to exist or to bind any of the Parties hereto. No supplementation,
20 modification, waiver, or termination of this Consent Judgment shall be binding unless executed in
21 writing by the Party to be bound thereby. No waiver of any of the provisions of this Consent
22 Judgment shall be deemed or shall constitute a waiver of any of the other provisions hereof
23 whether or not similar, nor shall such waiver constitute a continuing waiver.

24 12.4 Nothing in this Consent Judgment shall release, or in any way affect any rights
25 that Settling Defendant might have against any other party, whether or not that party is a Settling
26 Defendant.

27 12.5 This Court shall retain jurisdiction of this matter to implement or modify the
28 Consent Judgment.

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12.6 The stipulations to this Consent Judgment may be executed in counterparts and by means of facsimile or portable document format (pdf), which taken together shall be deemed to constitute one document.

12.7 Each signatory to this Consent Judgment certifies that he or she is fully authorized by the Party he or she represents to stipulate to this Consent Judgment and to enter into and execute the Consent Judgment on behalf of the Party represented and legally to bind that Party.

12.8 The Parties, including their counsel, have participated in the preparation of this Consent Judgment and this Consent Judgment is the result of the joint efforts of the Parties. This Consent Judgment was subject to revision and modification by the Parties and has been accepted and approved as to its final form by all Parties and their counsel. Accordingly, any uncertainty or ambiguity existing in this Consent Judgment shall not be interpreted against any Party as a result of the manner of the preparation of this Consent Judgment. Each Party to this Consent Judgment agrees that any statute or rule of construction providing that ambiguities are to be resolved against the drafting Party should not be employed in the interpretation of this Consent Judgment and, in this regard, the Parties hereby waive California Civil Code § 1654.

IT IS SO ORDERED:

Dated: _____, 2014

The Honorable Wynne Carvill
Judge of the Superior Court

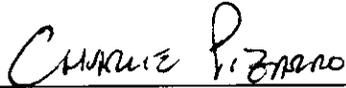
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IT IS SO STIPULATED:

CENTER FOR ENVIRONMENTAL HEALTH



Signature



Printed Name



Title

WINDSOR FASHIONS, INC.

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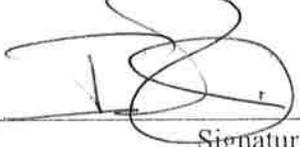
CENTER FOR ENVIRONMENTAL HEALTH

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Title

WINDSOR FASHIONS, INC.



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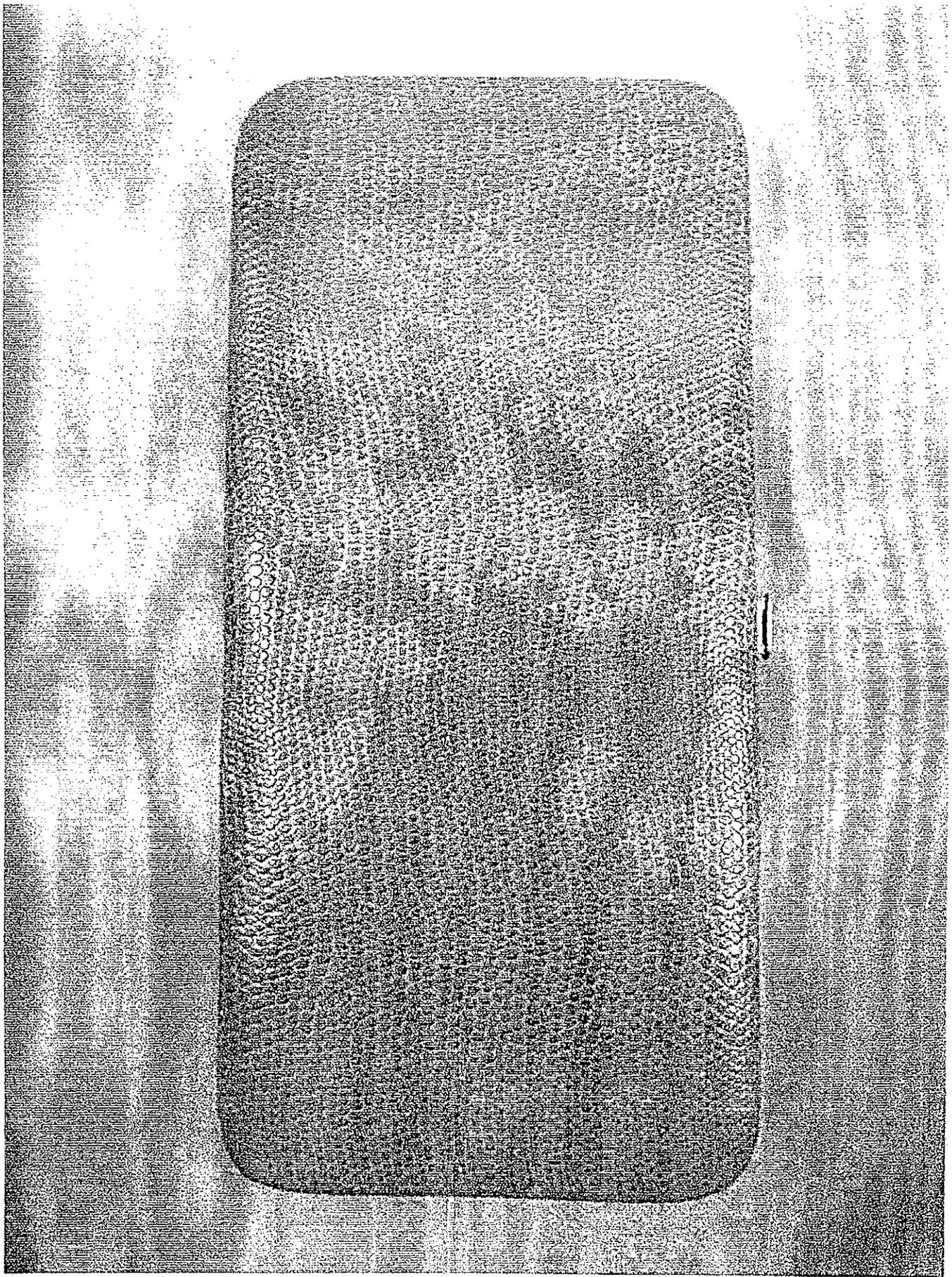
ISAAC ZEKHERIA

Printed Name

V.P.

Title

Exhibit A



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ORANGE

365 North Canyons Parkway, Suite 201
Tech Center: 2441 Constitution Drive
Livermore CA 94551



925-828-1440
www.TheNFL.com

Analytical Report

August 03, 2011

Lexington Law Group
503 Divisadero Street
San Francisco, CA 94117

Analytical Report No.: CL3573-33
Analysis Dates: 07/26/11 - 08/03/11

Listed below are the results of our analyses for sample(s) received on July 26, 2011.

CEH ID#AB789L, [REDACTED] Wallet (Orange Surface Material On Main Part Of W
NFL ID AF02363

Analyte	Result	Units	Method Ref.
Lead	67500	ppm	NIOSH 7082

A portion of the sample was digested in a microwave oven with concentrated nitric acid and analyzed by ICP-MS.

Sample(s) were received in good condition unless and results are reported based on the sample(s) as received, unless otherwise noted. Please note that these results apply only to the sample(s) submitted for this report. Samples from a different portion of the same lot may produce different results.

The National Food Lab services are provided subject to our standard terms and conditions, which can be found on our website, www.TheNFL.com. Should you have any questions concerning these results, please do not hesitate to contact us. Thank you for using the services of the National Food Lab.

Sincerely,

Grace Bandong, Division Manager, Food Contaminants -Chemistry

cc: The NFL's Accounts Receivable