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Attorneys for Plaintiff
CENTER FOR ENVIRONMENTAL HEALTH

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN FRANCISCO

CENTER FOR ENVIRONMENTAL HEALTH,
a non-profit corporation,

Plaintiff,

v.

EASY SPIRIT LLC, et al.,

Defendants.

Case No. CGC-22-598022

Assigned For All Purposes To The
Honorable Ethan P. Schulman, Dept. 304

**[PROPOSED] CONSENT JUDGMENT
AS TO DEFENDANT SUNG HWA
TRADING CO.**

1 **1. INTRODUCTION**

2 1.1 The parties to this Consent Judgment (“Parties”) are the Center for
3 Environmental Health (“CEH”) and Defendant Sung Hwa Trading Co. (“Settling Defendant”).
4 CEH and Settling Defendant are referred to collectively as the “Parties.”

5 1.2 CEH alleges that Settling Defendant manufactures, distributes, and/or sells
6 socks made primarily of polyester with spandex that contain Bisphenol A (“BPA”) in the State of
7 California or has done so in the past.

8 1.3 On September 28, 2023, CEH served a 60-Day Notice of Violation under
9 Proposition 65 (The Safe Drinking Water and Toxic Enforcement Act of 1986, California Health
10 & Safety Code §§ 25249.5, *et seq.*) (“Notice”) to Settling Defendant, the California Attorney
11 General, the District Attorneys of every County in the State of California, and the City Attorneys
12 for every City in the State of California with a population greater than 750,000. The Notice
13 alleges violations of Proposition 65 with respect to the presence of BPA in socks made primarily
14 of polyester with spandex.

15 1.4 On February 4, 2022, CEH filed the original complaint. On March 21, 2022,
16 CEH filed the operative First Amended Complaint (“FAC”) in the action styled as *Center for*
17 *Environmental Health v. Easy Spirit LLC, et al.* San Francisco Superior Court Case Number
18 CGC22598022 (the “Action”). On December 4, 2023, Settling Defendant was added to the case
19 via Doe Amendment.

20 1.5 For purposes of this Consent Judgment only, the Parties stipulate that: (i) this
21 Court has jurisdiction over the allegations of violations contained in the operative Complaint
22 applicable to Settling Defendant and jurisdiction over Settling Defendant as to this Consent
23 Judgment; (ii) venue is proper in the County of San Francisco; and (iii) this Court has jurisdiction
24 to enter this Consent Judgment.

25 1.6 Nothing in this Consent Judgment is or shall be construed as an admission by
26 the Parties of any fact, conclusion of law, issue of law, or violation of law, nor shall compliance
27 with the Consent Judgment constitute or be construed as an admission by the Parties of any fact,
28 conclusion of law, issue of law, or violation of law. Nothing in this Consent Judgment shall

1 prejudice, waive, or impair any right, remedy, argument, or defense the Parties may have in any
2 other legal proceeding. This Consent Judgment is the product of negotiation and compromise and
3 is accepted by the Parties for purposes of settling, compromising, and resolving issues disputed in
4 this action.

5 **2. Definitions**

6 2.1 “Action” means the action styled as, *Center for Environmental Health v. Easy*
7 *Spirit LLC, et al.* San Francisco Superior Court Case Number CGC22598022.

8 2.2 “Compliance Date” means the date that is twelve months following the
9 Effective Date or August 16, 2025, whichever is later.

10 2.3 “Covered Products” means socks whose composition includes spandex and 51
11 percent or more polyester that are manufactured, distributed, and/or sold by Settling Defendant.

12 2.4 “Effective Date” means the date on which this Consent Judgment is entered by
13 the Court.

14 2.5 “Other Bisphenols” means Bisphenol AF (BPAF), Bisphenol AP (BPAP),
15 Bisphenol B (BPB), Bisphenol E (BPE), Bisphenol F (BPF), Bisphenol P (BPP), Bisphenol S
16 (BPS), and Bisphenol Z (BPZ).

17 2.6 “Reformulation Level” means 10 ppm BPA as measured by the Test Protocol.

18 2.7 “Test Protocol” means a standard method for measuring total BPA content as
19 set forth in Exhibit A.

20 2.8 “Manufacturer Defendant Releasees” means manufacturers, suppliers,
21 licensors, brand owners, and intellectual property owners of Covered Products for Settling
22 Defendant.

23 **3. INJUNCTIVE RELIEF**

24 3.1 **Reformulation of Covered Products.** On and after the Compliance Date,
25 Settling Defendant shall not manufacture, distribute, sell, or offer for sale any Covered Product in
26 California that contains BPA in excess of the Reformulation Level except as provided in Section
27 3.3 below.

28

1 3.2 **Specification to Suppliers.** No more than thirty (30) days after the Effective
2 Date, Settling Defendant shall issue specifications to its suppliers of Covered Products that
3 Covered Products shall not contain BPA in excess of the Reformulation Level.

4 3.3 **Sell-Through for Existing Inventory.** The reformulation requirements of
5 Section 3.1 shall not apply to Covered Products that Settling Defendant had purchased or entered
6 into a binding agreement to purchase prior to the Effective Date, including but not limited to
7 finished Covered Products in transit, in distribution centers, in inventory, or in the possession of
8 third-party distributors, retailers, and Manufacturer Defendant Releasees.

9 3.4 **Notification to Suppliers Regarding Other Bisphenols.** No more than
10 ninety (90) days after the Effective Date, Settling Defendant shall request that their suppliers of
11 Covered Products, to the extent possible, not replace any intentionally added BPA with Other
12 Bisphenols in manufacturing the Covered Products. Nothing in this Section 3.4 shall be
13 construed to require Settling Defendant, or its suppliers or customers, to test for the presence of
14 Other Bisphenols.

15 **4. ENFORCEMENT**

16 4.1 CEH may, by motion or application for an order to show cause before the
17 Superior Court of San Francisco County, enforce the terms and conditions contained in this
18 Consent Judgment.

19 4.2 **Notice and Opportunity to Cure.** If CEH believes that the requirements of
20 Section 3 above are not complied with, CEH shall provide Settling Defendant with a Notice of
21 Violation (“NOV”) and a copy of any test results which purportedly support the NOV. The
22 supporting test results must show that a Covered Product contains BPA in excess of the
23 Reformulation Level. The Parties shall then meet and confer regarding the basis for the
24 anticipated motion or application in an attempt to resolve it informally, including providing
25 Settling Defendant(s) with a reasonable opportunity of at least forty-five (45) days to cure any
26 alleged violation, or so long as such cure is being diligently pursued by the Settling Defendant
27 and Settling Defendant provides written notice to CEH regarding its actions constituting the
28 diligent pursuit. During the meet and confer process, upon request from Settling Defendant, CEH

1 will provide Settling Defendant with a sample of the Covered Product or Products that form the
2 basis of the NOV (“Alleged Violative Product”). Should Settling Defendant confirm that the
3 Alleged Violative Product has been removed from its inventory and sales and/or obtain a test
4 result of that sample from an independent accredited laboratory based in the United States that is
5 below the applicable Reformulation Level, CEH may either withdraw the NOV or request that the
6 Parties obtain a test result from a third laboratory, using agreed-upon methods of analysis
7 permitted under the specific protocol set forth on Exhibit A, agreed to by the Parties, a test which
8 would be paid for jointly by the Parties. The test result from the third laboratory will then serve
9 as determinative of the level of BPA in the Covered Product. Should such attempts at informal
10 resolution fail, CEH may file an enforcement motion or application, provided that no enforcement
11 motion or application will be filed during the pendency of any additional testing described herein.

12 **5. PAYMENTS**

13 5.1 **Total Settlement Payment.** Settling Defendant shall pay the total settlement
14 amount of \$45,000 as a settlement payment in two installments as further set forth in this Section.

15 5.2 **Allocation of Payments.** The total settlement amount of \$45,000 shall be paid
16 in ten separate checks (five separate checks per installment) in the amounts specified below and
17 delivered as set forth below. Any failure by Settling Defendant to comply with the payment terms
18 herein shall be subject to a stipulated late fee to be paid by Settling Defendant in the amount of
19 \$100 for each day the full payment is not received after the applicable payment due dates set forth
20 in Sections 5.3.1 and 5.3.2. The late fees required under this Section shall be recoverable, together
21 with reasonable attorneys’ fees, in an enforcement proceeding brought pursuant to Section 4 of this
22 Consent Judgment. The funds paid by Settling Defendant shall be allocated as set forth below
23 between the following categories and made payable as follows:

24 5.2.1 \$5,800 as a civil penalty pursuant to Health & Safety Code §
25 25249.7(b). The civil penalty payment shall be apportioned in accordance with Health & Safety
26 Code § 25249.12 (25% to CEH and 75% to the State of California’s Office of Environmental
27 Health Hazard Assessment). Accordingly, the OEHHA portion of the civil penalty payment of
28 \$4,350 shall be made payable to OEHAA and associated with taxpayer identification number 68-

1 0284486. This payment shall be delivered as follows:

2 For United States Postal Service Delivery:

3 Attn: Mike Gyurics
4 Fiscal Operations Branch Chief
5 Office of Environmental Health Hazard Assessment
6 P.O. Box 4010, MS #19B
7 Sacramento, CA 95812-4010

8 For Non-United States Postal Service Delivery:

9 Attn: Mike Gyurics
10 Fiscal Operations Branch Chief
11 Office of Environmental Health Hazard Assessment
12 1001 I Street, MS #19B
13 Sacramento, CA 95814

14 The CEH portion of the civil penalty payment of \$1,450 shall be made payable to the Center for
15 Environmental Health and associated with taxpayer identification number 94-3251981. This
16 payment shall be delivered to Lexington Law Group, LLP, 503 Divisadero Street, San Francisco,
17 CA 94117.

18 5.2.2 \$4,200 as an Additional Settlement Payment (“ASP”) to CEH pursuant to
19 Health & Safety Code § 25249.7(b), and California Code of Regulations, Title 11, § 3204 and
20 California Code of Regulations, Title 11, § 3204. CEH will use such funds to continue its work
21 educating and protecting people from exposures to toxic chemicals, including BPA, in textiles and
22 other products. CEH may also use a portion of such funds to monitor compliance with this Consent
23 Judgment and to purchase and test Settling Defendant’s products to confirm compliance. CEH
24 shall obtain and maintain adequate records to document that ASPs are spent on these activities and
25 CEH agrees to provide such documentation to the Attorney General within thirty days of any
26 request from the Attorney General. The payment pursuant to this Section shall be made payable to
27 the Center for Environmental Health and associated with taxpayer identification number 94-
28 3251981. This payment shall be delivered to Lexington Law Group, LLP, 503 Divisadero Street,
San Francisco, CA 94117.

5.2.3 \$35,000 as a reimbursement of a portion of CEH’s reasonable

attorneys' fees and costs. The attorneys' fees and cost reimbursement shall be made in two separate checks as follows: (a) \$29,000 payable to the Lexington Law Group, LLP and associated with taxpayer identification number 88-4399775; and (b) \$6,000 payable to the Center for Environmental Health and associated with taxpayer identification number 94-3251981. Both of these payments shall be delivered to Lexington Law Group, LLP 503 Divisadero Street, San Francisco, CA 94117.

5.3 To summarize, Settling Defendant shall make payments in the total amounts set forth below:

Payee	Type	Amount	Deliver To
OEHHA	Penalty	\$ 4,350	OEHHA per Section 5.1.1
Center For Environmental Health	Penalty	\$ 1,450	LLG
Center For Environmental Health	ASP	\$ 4,200	LLG
Lexington Law Group, LLP	Fee and Cost	\$ 29,000	LLG
Center For Environmental Health	Fee and Cost	\$ 6,000	LLG

5.3.1 The payments required under this section shall be payable in two installments. The first installment of \$22,500 shall be due within thirty (30) days following the Effective Date, with checks made out to the payees as follows:

Payee	Type	Amount	Deliver To
OEHHA	Penalty	\$ 2,175	OEHHA per Section 5.1.1
Center For Environmental Health	Penalty	\$ 725	LLG
Center For Environmental Health	ASP	\$ 2,100	LLG
Lexington Law Group, LLP	Fee and Cost	\$ 14,500	LLG
Center For Environmental Health	Fee and Cost	\$ 3,000	LLG

5.3.2 The second installment of \$22,500 shall be due within ninety (90) days following the Effective Date, with checks made out to the payees as follows:

Payee	Type	Amount	Deliver To
OEHHA	Penalty	\$ 2,175	OEHHA per Section 5.1.1
Center For Environmental Health	Penalty	\$ 725	LLG
Center For Environmental Health	ASP	\$ 2,100	LLG
Lexington Law Group, LLP	Fee and Cost	\$ 14,500	LLG
Center For Environmental Health	Fee and Cost	\$ 3,000	LLG

6. MODIFICATION

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

6.2 **Modification of Injunctive Relief.**

6.2.1 If CEH enters into any consent judgment (“Settlement Document”) with any other entity with respect to an alleged failure to warn of alleged exposures to BPA in socks made primarily of polyester with spandex in which it agrees to different injunctive terms (including without limitation a different Test Protocol), Settling Defendant may thereafter seek to modify this Consent Judgment as to them to adopt those injunctive terms and comply with them instead of those presently set forth in Section 3. CEH agrees not to oppose a Settling Defendant’s request for modification, provided that the products at issue in the Settlement Document are substantially similar to the Covered Products.

6.2.2 In the event that the different injunctive terms referenced in Section 6.2.1 involve the provision of clear and reasonable warnings, a Settling Defendant may seek to comply with the warning requirement set forth therein, but shall provide CEH with notice thereof and make an additional payment proportional with any additional payment required by the other defendant to avail itself of the warning option in its Consent Judgment.

7. CLAIMS COVERED AND RELEASED

7.1 Provided that a Settling Defendant complies in full with its payment

1 obligations under Section 5, this Consent Judgment is a full, final and binding resolution between
2 CEH on behalf of itself and the public interest and that Settling Defendant and its parents,
3 subsidiaries, affiliated entities that are under common ownership, directors, officers, employees,
4 agents, shareholders, successors, assigns, and attorneys (“Defendant Releasees”), and all entities
5 to which Settling Defendant distributes or sells Covered Products, such as distributors,
6 wholesalers, customers, retailers as well as franchisees, suppliers, retailers, online sellers,
7 licensors and licensees, including, but not limited to the Gap, Inc. (“Downstream Defendant
8 Releasees”), and Manufacturer Defendant Releasees of any violation of Proposition 65 based on
9 failure to warn about alleged exposure to BPA contained in Covered Products that were
10 manufactured, supplied, held and/or sold by Settling Defendant prior to the Effective Date. For
11 purposes hereof, Defendant Releasees, Downstream Defendant Releasees, and Manufacturer
12 Defendant Releasees shall be collectively referred to as “Releasees.”

13 7.2 Provided that a Settling Defendant complies in full with its payment
14 obligations under Section 5, CEH, for itself, its agents, successors and assigns, as well as releases,
15 waives, covenants not to sue, and forever discharges any and all parents, subsidiaries, affiliates
16 and related entities, respective partners, officers, directors, principals, members, shareholders,
17 subsidiaries, parents, successors, assigns, heirs, beneficiaries, representatives, agent, insurers,
18 accountants, and attorneys, any and all duties, obligations, amounts, liabilities, actions, demands,
19 damages, causes of action, costs, expenses, attorneys’ fees, compensation, and claims of any kind
20 claims against that Settling Defendant and all Releasees arising from violation of Proposition 65
21 or nature whatsoever, known or unknown, suspected or unsuspected, that they have, may have,
22 and/or could have asserted by CEH individually regarding the failure, including all claims based
23 upon, relating to warn about exposure to BPA contained in , arising out of, or in connection with
24 any circumstances, facts and/or issues which were or could have been made by the Parties and/or
25 relating to or arising from the Covered Products (i) sold by Settling Defendant prior to the
26 Compliance Date or (ii) which Settling Defendant purchased or entered into binding
27 commitments to purchase prior to and/or the Effective Date.

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1 7.3 Provided that a Settling Defendant complies in full with its payment
2 obligations under Section 5, CEH shall file a dismissal with prejudice of the Complaint, or any
3 other complaint or cause of action asserted against any Releasee(s) of the Settling Defendant
4 based on a claim within the scope of Sections 7.1 and 7.2 that relates to Covered Products that
5 were manufactured, distributed, or sold by the Settling Defendant prior to the Effective Date
6 provided that the Releasee(s) agree to waive costs.

7 7.4 Compliance with the terms of this Consent Judgment by Settling Defendant
8 and Defendant Releasees shall constitute compliance with Proposition 65 by Settling Defendant,
9 Defendant Releasees, Downstream Defendant Releasees, and Manufacturer Defendant Releasees
10 with respect to any alleged failure to warn about BPA in Covered Products manufactured,
11 distributed, or sold by Settling Defendant after the Effective Date.

12 7.5 Nothing in this Section 7 affects CEH's right to commence or prosecute an
13 action under Proposition 65 against any person other than Settling Defendant, Defendant
14 Releasees, Downstream Defendant Releasees, or Manufacturer Defendant Releasees.

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 Mark N. Todzo
19 Lexington Law Group LLP
20 503 Divisadero Street
21 San Francisco, CA 94117
22 mtodzo@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 J. David Bournazian
26 K&L Gates LLP
27 1 Park Plaza, Twelfth Floor
28 Irvine, CA 92614
 david.bournazian@klgates.com

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

1 **9. COURT APPROVAL**

2 9.1 This Consent Judgment shall become effective upon entry by the Court. CEH
3 shall prepare and file a Motion for Approval of this Consent Judgment and Settling Defendant
4 shall support entry of this Consent Judgment.

5 9.2 If this Consent Judgment is not entered by the Court, it shall be of no force or
6 effect and shall never be introduced into evidence or otherwise used in any proceeding for any
7 purpose other than to allow the Court to determine if there was a material breach of Section 9.1.

8 **10. GOVERNING LAW AND CONSTRUCTION**

9 10.1 The terms of this Consent Judgment shall be governed by the laws of the State
10 of California.

11 **11. ATTORNEYS' FEES**

12 11.1 Except as provided in Section 11.2, should CEH prevail on any motion,
13 application for an order to show cause, or other proceeding pursuant to this Consent Judgment,
14 CEH may be entitled to its reasonable attorneys' fees and costs incurred as a result of such motion
15 or application.

16 11.2 Should CEH prevail on any motion or application for enforcement of the
17 injunctive provisions pursuant to Section 4.1, and Settling Defendant had provided to CEH,
18 before it filed such motion or application, a test report either (i) from a sample taken prior to the
19 issuance of the Notice of Violation, or (ii) from the sample of the Covered Product or Products
20 that form the basis of the NOV that was provided to Settling Defendant by CEH, then CEH may
21 be awarded its reasonable attorneys' fees and costs only upon a finding by the Court that Settling
22 Defendant's opposition to the motion or application lacked substantial justification. For purposes
23 of this Consent Judgment, the term substantial justification shall carry the same meaning as used
24 in the Civil Discovery Act of 1986, Code of Civil Procedure §§ 2016, *et seq.*

25 11.3 Should Settling Defendant prevail on any motion application for an order to
26 show cause or other proceeding, Settling Defendant may be awarded its reasonable attorneys'
27 fees and costs against CEH as a result of such motion or application upon a finding by the Court
28 that CEH's prosecution of the motion or application lacked substantial justification.

1 11.4 Except as otherwise provided in this Consent Judgment, each Party shall bear
2 its own attorneys' fees and costs.

3 11.5 Nothing in this Section 10 shall preclude a Party from seeking an award of
4 sanctions pursuant to law.

5 **12. TERMINATION OF INJUNCTIVE RELIEF**

6 12.1 Commencing on the fifth anniversary of the Compliance Date, Settling
7 Defendant may terminate the injunctive relief in Section 3 of this Consent Judgment as to Settling
8 Defendant by filing a Notice of Termination of Injunctive Relief with the Court and serving it on
9 CEH. Thirty days after the filing of the notice, the provisions of Sections 3 and Section 7.4 shall
10 no longer apply to such Settling Defendant.

11 **13. ENTIRE AGREEMENT**

12 13.1 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. Any agreements
20 specifically contained or referenced herein, oral or otherwise, shall be deemed to exist or to bind
21 any of the Parties hereto only to the extent that they are expressly incorporated herein. No
22 supplementation, modification, waiver or termination of this Consent Judgment shall be binding
23 unless executed in writing by the Party to be bound thereby. No waiver of any of the provisions
24 of this Consent Judgment shall be deemed or shall constitute a waiver of any of the other
25 provisions hereof whether or not similar, nor shall such waiver constitute a continuing waiver.

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1 **14. SUCCESSORS AND ASSIGNS**

2 13.1 This Consent Judgment shall apply to and be binding upon CEH and Settling
3 Defendant, and their respective divisions, subdivisions and subsidiaries, and the successors or
4 assigns of any of them.

5 **15. RETENTION OF JURISDICTION**

6 1.1 This Court shall retain jurisdiction of this matter to implement or modify the
7 Consent Judgment.

8 **16. AUTHORITY TO STIPULATE TO CONSENT JUDGMENT**

9 16.1 Each signatory to this Consent Judgment certifies that he or she is fully
10 authorized by the Party he or she represents to stipulate to this Consent Judgment and to enter into
11 and execute the Consent Judgment on behalf of the Party represented and legally to bind that
12 Party.

13 **17. NO EFFECT ON OTHER SETTLEMENTS**

14 17.1 Nothing in this Consent Judgment shall preclude CEH from resolving any
15 claim against an entity other than Settling Defendant on terms that are different than those
16 contained in this Consent Judgment.

17 **IT IS SO ORDERED:**

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19 Dated: _____, 2024

Hon. Ethan P. Schulman

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21 **IT IS SO STIPULATED.**

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Dated: July 15, 2024

CENTER FOR ENVIRONMENTAL HEALTH



Kizzy Charles-Guzman
Chief Executive Officer

Dated: _____, 2024

SUNG HWA TRADING CO.

Signature

Printed Name

Title

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Dated: _____, 2024

CENTER FOR ENVIRONMENTAL HEALTH

Kizzy Charles-Guzman
Chief Executive Officer

Dated: 7/15/2024, 2024

SUNG HWA TRADING CO.

DocuSigned by:
Michael Namju Kim

Signature

Michael Namju Kim

Printed Name

CEO

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EXHIBIT A

“Test Protocol” as defined in Section 2.5 of the Consent Judgment means the following test method:

1. Homogenized sample of minimum 1 gram, cut in a manner to include materials from each region and color of the sock.
2. Quantitative solvent extraction by acetonitrile. If acetonitrile not available, may substitute with methanol.
3. Extraction by EPA methods 3540 (Soxhlet), 3546 (microwave), or hot plate for 3 hours at 40 degrees Celsius.
4. Analysis by LC/MS-MS, with isotope dilution; HPLC-DADMS, subject to performance criteria below. GC/MS-MS may be used if other methods not available and no derivatization of BPA is required.
5. Reporting limit of 0.5 mg/kg or lower.
6. Performance criteria – demonstration of accuracy, precision, and quality control, per EPA Method 3500C sections 9, 11, and 13. Include on-going routine quality control testing of method blanks, laboratory control samples/duplicates, and matrix spike samples/duplicates.