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SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF ALAMEDA

CENTER FOR ENVIRONMENTAL HEALTH,
a non-profit corporation,

Plaintiff,

v.

BALI LEATHERS, INC., *et al.*,

Defendants.

Lead Case No. RG 19-029736

[Consolidated with Case No. RG 19-034870]

[PROPOSED] AMENDED CONSENT JUDGMENT

Actions Filed: August 2, 2019 (RG 19-029736); September 12, 2019 (RG 19-034870)

1 This Amended Consent Judgment supersedes the original Consent Judgment entered in
2 these consolidated cases on February 21, 2024, and is entered by the Court pursuant to the Order
3 Approving Opt-In Procedure and Future Amendment of Consent Judgment, filed and entered on
4 February 21, 2024. This Amended Consent Judgment reflects the addition of parties as Opt-In
5 Settling Defendants.

6 **1. INTRODUCTION**

7 1.1 The Parties to this Amended Consent Judgment are the Center for Environmental
8 Health, a California non-profit corporation (“CEH”), and each of the Defendants listed on Exhibit
9 A (“Settling Defendants”). CEH and each Settling Defendant are referred to herein together as
10 the “Parties” or singly as a “Party.”

11 1.2 The Parties enter into this Amended Consent Judgment without a trial. Nothing in
12 this Amended Consent Judgment constitutes an admission by any Party regarding any issue of
13 law or fact. This Amended Consent Judgment sets forth the agreement and obligations of Settling
14 Defendants and CEH and, except as specifically provided below, it constitutes the complete, final,
15 and exclusive agreement among the Parties and supersedes any prior agreements among the
16 Parties.

17 **2. PROCEDURAL BACKGROUND, JURISDICTION, AND PURPOSE**

18 2.1 Commencing on April 15, 2019, CEH issued a series of 60-day Notices of
19 Violation under Health & Safety Code §25249.5 *et seq.* (“Proposition 65”) to each of the Settling
20 Defendants, the California Attorney General, the District Attorneys of every county in California,
21 and the City Attorneys of every California city with a population greater than 750,000, alleging
22 that Settling Defendants violated Proposition 65 by exposing persons to CrVI (defined in Section
23 3.4 below) from various types of gloves made with leather materials without first providing a
24 clear and reasonable Proposition 65 warning.

25 2.2 Commencing on July 2, 2019, CEH issued a series of 60-day Notices of Violation
26 under Proposition 65 to each of the Settling Defendants, the California Attorney General, the
27 District Attorneys of every county in California, and the City Attorneys of every California city
28 with a population greater than 750,000, alleging that Settling Defendants violated Proposition 65

1 by exposing persons to CrVI from footwear made with leather materials without first providing a
2 clear and reasonable Proposition 65 warning.

3 2.3 On August 2, 2019, CEH filed the original Complaint in the above-captioned *CEH*
4 *v. Bali* matter. On May 19, 2022, CEH filed the operative First Amended Complaint in the *CEH*
5 *v. Bali* matter (the “*Bali* Complaint”). On September 12, 2019, CEH filed the original Complaint
6 in the above-captioned *CEH v. Tommy Bahama* matter, which was subsequently amended. On
7 May 19, 2022, CEH filed the operative Third Amended Complaint in the *CEH v. Tommy Bahama*
8 matter (the “*Tommy Bahama* Complaint”). The *Bali* Complaint and the *Tommy Bahama*
9 Complaint are together referred to herein as the “Complaints.” The *CEH v. Bali* and *CEH v.*
10 *Tommy Bahama* consolidated matters are referred to herein as the “Actions.”

11 2.4 Each Settling Defendant is a business entity that is also a person in the course of
12 doing business as such term is defined under Proposition 65.

13 2.5 For purposes of this Amended Consent Judgment only, CEH and the Settling
14 Defendants stipulate that: (a) this Court has jurisdiction over the allegations of violations
15 contained in the Complaints; (b) this Court has personal jurisdiction over Settling Defendants as
16 to the acts alleged in those Complaints, (c) venue is proper in Alameda County; and (d) this Court
17 has jurisdiction to enter this Amended Consent Judgment as a full and final resolution of all
18 claims which were or could have been raised in the Complaints based on the facts alleged therein.

19 2.6 Settling Defendants and CEH agree not to challenge or object to entry of this
20 Amended Consent Judgment by the Court. The Parties agree not to challenge this Court’s
21 jurisdiction to enforce the terms of this Judgment once it has been entered, and agree that this
22 Court maintains jurisdiction over this Judgment for that purpose, unless the Amended Consent
23 Judgment is terminated.

24 2.7 By execution of this Amended Consent Judgment and agreeing to provide the
25 relief and remedies specified herein, Settling Defendants do not admit any violations of
26 Proposition 65 or any other law or legal duty. Each Settling Defendant expressly denies any
27 liability for any of the claims asserted and the facts alleged in the Complaints and the CEH
28 Notices of Violation. Nothing in this Amended Consent Judgment is intended to be an admission

1 of any issue of law or fact. This Amended Consent Judgment is the product of negotiation and
2 compromise and is accepted by the Parties solely for the purpose of settling, compromising, and
3 resolving issues disputed in the Actions.

4 **3. DEFINITIONS**

5 3.1 A “Certified Tannery” is a leather tannery that (a) is certified to produce Chrome-
6 Tanned Leather pursuant to the Reformulation Protocol and provides a certification substantially
7 in the form set forth on Exhibit B or (b) provides a certification demonstrating that the tannery
8 has achieved certification with overall Gold rating under the Leather Working Group (LWG)
9 Audit Protocol P7.2.2 (or any subsequent higher version that is in force at the time of
10 certification), or has attained a Gold medal rating in the section “Restricted Substances,
11 Compliance & Chromium VI Management” (or any subsequent section or sections regarding
12 CrVI management) (“LWG Certification”).

13 3.2 “Chrome-Tanned Leather” means leather, other than Exotic Leather, tanned with
14 chromium compounds.

15 3.3 “Covered Products” means:

16 3.3.1 Footwear for which normal and foreseeable use will result in one or more
17 Chrome-Tanned Leather components coming into direct contact with the skin of the average
18 user’s foot or leg while the footwear is worn (*e.g.*, a Chrome-Tanned Leather insole, tongue, liner,
19 unlined upper, or strap);

20 3.3.2 Gloves for which normal and foreseeable use will result in one or more
21 Chrome-Tanned Leather components coming into direct contact with the skin of the average
22 user’s hand while the gloves are worn (*e.g.*, an unlined glove, or one that is lined with Chrome-
23 Tanned Leather);

24 3.3.3 The definition of Covered Products as applied to each specific Settling
25 Defendant may be further modified as set forth on Exhibit A for that Settling Defendant (*e.g.*, the
26 specific type or category of leather glove covered by the injunctive terms of this Amended
27 Consent Judgment for a particular Settling Defendant).

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1 3.4 “CrVI” means chromium (hexavalent compounds), a chemical listed under
2 Proposition 65 as a known carcinogen and reproductive toxicant.

3 3.5 “Effective Date” means: (i) as to Initial Settling Defendants, February 21, 2024; or
4 (ii) as to Opt-In Settling Defendants, the date on which this Amended Consent Judgment is
5 entered by the Court.

6 3.6 “Exotic Leather” means leather that is made from hides of exotic animals such as
7 alligators, crocodiles, sharks, lizards, snakes, and ostriches.

8 3.7 “Final Compliance Date” means the earlier of the date twenty-four (24) months
9 after the Effective Date or December 31, 2025.

10 3.8 “Initial Compliance Date” means one (1) year after the Effective Date.

11 3.9 “Initial Settling Defendants” means the defendants that were party to the original
12 Consent Judgment entered in these consolidated cases on February 21, 2024.

13 3.10 “Interim Compliance Date” means six (6) months prior to the Final Compliance
14 Date.

15 3.11 “Opt-In Settling Defendants” means the defendants that joined this Amended
16 Consent Judgment pursuant to procedure established in the Order Approving Opt-In Procedure
17 and Future Amendment of Consent Judgment, entered on February 21, 2024.

18 3.12 “Reformulated Leather” means Chrome-Tanned Leather that was produced
19 pursuant to the Reformulation Protocol by a Certified Tannery.

20 3.13 “Reformulation Protocol” means the leather tanning protocol set forth on Exhibit
21 C.

22 3.14 “Settling Defendants” means the Initial Settling Defendants and the Opt-In
23 Settling Defendants.

24 3.15 “Skin Contact Component” means a Chrome-Tanned Leather component that
25 comes into direct contact with the skin of the average user’s hand or foot while the Covered
26 Product is being worn.

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1 3.16 “Supplier” means an entity from which a Settling Defendant purchases or acquires
2 Covered Products or Chrome-Tanned Leather components used to manufacture Covered
3 Products.

4 **4. FACTUAL BACKGROUND**

5 4.1 Chromium exists in different valence states. One of those states is CrVI and
6 another is trivalent chromium, which is also known as CrIII. Neither elemental chromium nor
7 CrIII is a listed chemical under Proposition 65.

8 4.2 Chromium tanning is a process of preserving hides that uses CrIII compounds.
9 CrVI is not intentionally added to leather in the tanning process.

10 4.3 The valence state of chromium is unstable in nature. For example, CrIII will under
11 certain environmental conditions oxidize into CrVI. Likewise, CrVI will under certain
12 environmental conditions reduce into CrIII.

13 4.4 The process by which CrIII turns into CrVI is called oxidation. Certain chemicals
14 called antioxidants prevent or inhibit the oxidation process of chromium. Antioxidants can thus
15 prevent the formation of CrVI in or on the surface of the leather.

16 4.5 Environmental conditions that affect the oxidation and reduction of chromium
17 between CrIII and CrVI include temperature, humidity, and pH.

18 4.6 The Reformulation Protocol requires tanneries to take steps to minimize the
19 potential introduction of CrVI to leather during the tanning process for Chrome-Tanned Leather
20 and to use antioxidants that are baked into the hides during the tanning process. If a tannery
21 follows the Reformulation Protocol, the antioxidants will prevent or inhibit the oxidation process
22 such that there will not likely be detectable CrVI on the surface of the leather.

23 **5. INJUNCTIVE RELIEF**

24 5.1 **Notice to Suppliers.**

25 5.1.1 To the extent any Settling Defendant has not already done so, no more than
26 sixty (60) days after the Effective Date, each Settling Defendant shall provide notice to each of its
27 current Suppliers that all Chrome-Tanned Leather used to manufacture Skin Contact Components
28 of Covered Products manufactured, distributed, or sold by the Settling Defendant must be

1 Reformulated Leather. The notice shall request that (a) any Supplier of Chrome-Tanned Leather
2 that is a tannery used to manufacture Skin Contact Components provide to the Settling Defendant
3 either (i) a certification in the form of Exhibit B, or (ii) an LWG Certification; (b) any Supplier of
4 Chrome-Tanned Leather or finished product that is not a tannery obtain from its supplier(s) of
5 Chrome-Tanned Leather used to manufacture Skin Contact Components of Covered Products
6 either (i) a certification in the form of Exhibit B, or (ii) an LWG Certification; and (c) all
7 Suppliers retain certifications for Chrome-Tanned Leather for a period of at least five (5) years
8 and, to the extent not already provided, produce them upon written request of the Settling
9 Defendant.

10 5.1.2 Prior to or coincident with ordering any Skin Contact Components or
11 Covered Products from a new Supplier or a Supplier who has not received a notice from the
12 Settling Defendant under Section 5.1.1 within five (5) years of the date of such order, a Settling
13 Defendant shall provide a notice to such Supplier, consistent with Section 5.1.1.

14 5.1.3 Any written notice sent pursuant to this Section shall include the written
15 Tannery Certification and Reformulation Protocol set forth in Exhibits B and C. The written
16 notice attached hereto as Exhibit D is deemed to comply with the requirements of this Section.

17 5.2 **Reformulation.**

18 5.2.1 **Phased Compliance Timeline.**

19 5.2.1.1 After the Initial Compliance Date, each Settling Defendant shall
20 ensure that all of the Chrome-Tanned Leather used to manufacture Skin Contact Components of
21 at least fifty percent (50%) of Covered Products purchased or manufactured by Settling
22 Defendant that a Settling Defendant knows or has reason to believe may be sold or offered for
23 sale in California by Settling Defendant or any entity downstream of Settling Defendant is
24 Reformulated Leather.

25 5.2.1.2 After the Interim Compliance Date, each Settling Defendant
26 shall ensure that all of the Chrome-Tanned Leather used to manufacture Skin Contact
27 Components of at least seventy-five percent (75%) of Covered Products purchased or
28 manufactured by Settling Defendant that a Settling Defendant knows or has reason to believe may

1 be sold or offered for sale in California by Settling Defendant or any entity downstream of
2 Settling Defendant is Reformulated Leather.

3 5.2.1.3 After the Final Compliance Date, and subject to Section 5.3,
4 each Settling Defendant shall ensure that all of the Chrome-Tanned Leather used to manufacture
5 Skin Contact Components of Covered Products purchased or manufactured by Settling Defendant
6 that a Settling Defendant knows or has reason to believe may be sold or offered for sale in
7 California by Settling Defendant or any entity downstream of Settling Defendant is Reformulated
8 Leather.

9 5.2.1.4 A Settling Defendant's compliance with this Section 5.2.1 shall
10 be determined by the number of styles of Covered Products that contain only Skin Contact
11 Components supplied by a Certified Tannery divided by the total number of styles of Covered
12 Products. A Settling Defendant shall be entitled to rely on Supplier certifications to demonstrate
13 compliance with this Section 5.2.1.

14 5.2.2 If a Settling Defendant is unable to comply with the requirements of
15 Section 5.2.1 for either the Initial Compliance Date or the Interim Compliance Date, then within
16 thirty (30) days of such date, as applicable, it shall serve on CEH a report detailing the extent of
17 its compliance with such requirement, and the circumstances that prevented compliance with such
18 requirement.

19 5.3 **Warnings.** After the Final Compliance Date, a Settling Defendant may utilize
20 Skin Contact Components that were not supplied by a Certified Tannery, but only as set forth in
21 this Section. If a Settling Defendant makes a determination that it is not "feasible" to obtain Skin
22 Contact Components from a Certified Tannery, it may proceed under this Section for such
23 Covered Product.

24 5.3.1 The term "feasible" includes, but is not limited to, consideration of the
25 following factors:

26 5.3.1.1 the availability of Chrome-Tanned Leather from Certified
27 Tanneries;

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1 5.3.1.2 the cost of Chrome-Tanned Leather and resulting increase in
2 manufacturers' prices resulting from the use of leather from Certified Tanneries, which factor
3 includes the geographic proximity of the factory producing the Covered Product and any Certified
4 Tannery that can produce the leather used in the Covered Product; and

5 5.3.1.3 the availability, cost, and performance and aesthetic
6 characteristics of non-Chrome-Tanned Leather that could substitute for Chrome-Tanned Leather
7 in Skin Contact Components of Covered Products;

8 5.3.2 No Settling Defendant may sell a Covered Product that such Settling
9 Defendant knows or has reason to believe may be sold or offered for sale in California by Settling
10 Defendant or any entity downstream of Settling Defendant for which it has made a determination
11 that is not "feasible" to obtain Skin Contact Components from a Certified Tannery unless such
12 Covered Product is labeled with a Clear and Reasonable Warning.

13 5.3.2.1 A Clear and Reasonable Warning under this Amended Consent
14 Judgment shall state:



15 **WARNING:** This product can expose you to chemicals including hexavalent
16 chromium, which is known to the State of California to cause cancer and birth
17 defects or other reproductive harm. For more information go to
18 www.P65Warnings.ca.gov.

19 The word "**WARNING**" shall be displayed in all capital letters and bold print and shall be
20 preceded by the yellow warning triangle symbol depicted above, provided however, the symbol
21 may be printed in black and white if the Covered Product label is produced without using the
22 color yellow. This warning statement shall be prominently displayed on the outer packaging or
23 tag of the Covered Product and shall be displayed with such conspicuousness, as compared with
24 other words, statements, or designs, as to render it likely to be seen, read, and understood by an
25 ordinary individual prior to sale. Where a sign or label used to provide a warning includes
26 consumer information about a product in a language other than English, the warning shall also be
27 provided in that language in addition to English.
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1 5.3.2.2 For online and catalog sales, any Settling Defendant that
2 provides warnings pursuant to this Section shall (i) ensure that Clear and Reasonable Warnings
3 under Section 5.3.2 are provided for Covered Products that the Settling Defendant sells online to
4 consumers in California, and (ii) provide the warning language required in Section 5.3.2.1 to any
5 customers whom it knows or has reason to believe are offering the Settling Defendants' Covered
6 Products for which a warning is required for sale online to consumers in California. Settling
7 Defendants shall also revise any product catalogs printed after the Final Compliance Date to
8 include the warning language required in Section 5.3.2.1 for each Covered Product identified in
9 the catalog that requires a Clear and Reasonable Warning pursuant to this Section. For internet,
10 catalog, or any other sale where the consumer is not physically present, the warning statement
11 shall be displayed in such a manner that it is likely to be read and understood by an ordinary
12 individual prior to the authorization of or actual payment.

13 5.3.3 Any Settling Defendant that provides a warning pursuant to the feasibility
14 option of this Section shall provide a detailed written report to CEH within forty-five (45) days of
15 the end of each calendar year regarding the use of the feasibility warnings, the units covered, and
16 the specific factual basis for the feasibility finding. This reporting obligation shall terminate five
17 (5) years after the Effective Date.

18 5.3.4 No Settling Defendant may make use of the feasibility warnings set forth in
19 this Section on more than the Allowed Warning Percentage of the styles of Covered Products
20 shipped to California or to customers which the Settling Defendant knows or has reason to
21 believe will offer for sale to customers in California in any particular year. The "Allowed
22 Warning Percentage" shall be thirty-three percent (33%) in the first and second years after the
23 Final Compliance Date, seventeen percent (17%) in the third year after the Final Compliance
24 Date, and five percent (5%) thereafter.

25 5.4 **Document Retention Requirements.** All certifications, Supplier notifications,
26 feasibility documents, and other documents referenced in this Section 5 shall be retained by each
27 Settling Defendant for four (4) years from the date of creation and made available to CEH upon
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1 written request not more than once per calendar year, commencing on the Final Compliance Date
2 until the seventh (7th) anniversary of the Effective Date.

3 **6. ENFORCEMENT**

4 **6.1 Enforcement Procedures.** Any Party or any of the public entities identified in
5 Health & Safety Code section 25249.7(c) (collectively, “Enforcers”) may, by motion or
6 application for an order to show cause before this Court, seek to enforce the terms of this Consent
7 Judgment. Prior to filing any such motion or application, the Enforcer(s) shall provide the
8 allegedly violating Party with a written notice setting forth the detailed factual and legal basis for
9 the alleged violation along with any evidentiary support for the alleged violation (“Notice of
10 Violation”). The Enforcer(s) and the allegedly violating Party shall then meet and confer during
11 the thirty (30) day period following the date the Notice of Violation was sent in an effort to try to
12 reach agreement on an appropriate cure, penalty, or related attorneys’ fees related to the alleged
13 violation. After such thirty (30) day period, the Enforcer(s) may, by motion or application for an
14 order to show cause before the Superior Court of Alameda, seek to enforce the terms and
15 conditions contained in this Consent Judgment. Nothing in this Section 6.1 shall impact the
16 Court’s authority in an enforcement proceeding to impose appropriate remedies, including the
17 provision of a clear and reasonable warning.

18 **6.2 Notice of Violation Regarding Failure to Comply with Section 5.2.**

19 **6.2.1** If an Enforcer serves a Notice of Violation that alleges a violation of the
20 reformulation requirements set forth in Section 5.2, it shall identify the Covered Product and the
21 Skin Contact Components that the Enforcer contends were not produced by a Certified Tannery
22 pursuant to the Reformulation Protocol, along with the evidentiary support for such claim.

23 **6.2.2** A Settling Defendant shall serve its response to a Notice of Violation
24 served under Section 6.2.1 within thirty (30) days of receipt of the Notice, unless extended by
25 agreement. The response shall include any certification and documentation sufficient to
26 demonstrate that the Skin Contact Components of the Covered Product that were the subject of
27 the Notice of Violation were produced by a Certified Tannery.

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1 6.2.2.1 If the Settling Defendant's response demonstrates that: (a) the
2 Skin Contact Components identified in the Notice were produced by a tannery that was a
3 Certified Tannery at the time of production; or (b) the Notice of Violation identifies the same
4 Covered Product or Covered Products differing only in size that have been the subject of another
5 Notice of Violation within the preceding twelve (12) months, the Enforcer shall take no further
6 action. If the Enforcer contends that the Settling Defendant's response does not satisfy the
7 provisions of this Section, the Enforcer shall within thirty (30) days of receipt of Defendant's
8 response notify the Settling Defendant of the basis for its contention, the Notice shall be deemed
9 contested, and the Parties shall proceed under Section 6.2.4.

10 6.2.2.2 If the Settling Defendant does not serve a response within thirty
11 (30) days of receipt of the Notice, it shall be deemed to contest the Notice and the Parties shall
12 proceed under Section 6.2.4.

13 6.2.3 If the Settling Defendant elects not to contest a Notice of Violation served
14 under Section 6.2.1, the Settling Defendant shall do the following:

15 6.2.3.1 For the first Notice of Violation served on a particular Setting
16 Defendant, within fourteen (14) days after serving its response to the Notice of Violation, the
17 Settling Defendant shall take corrective action consisting of: (a) providing the Enforcer with
18 documentation sufficient to determine the certification status of Covered Products sold for the
19 two (2) years prior to the date of the Notice of Violation; and (b) pay the Enforcer \$5,000 as
20 reimbursement of fees, costs, and expenses involved in investigating and producing the Notice of
21 Violation and reviewing and monitoring compliance by such Settling Defendant in the future.

22 6.2.3.2 For Notices of Violation served on a particular Settling
23 Defendant after the first uncontested Notice of Violation, within ninety (90) days after serving its
24 response to the Notice of Violation, the Settling Defendant shall either:

25 (a) withdraw the Covered Product from sale in California and
26 direct customers to withdraw the Covered Product from sale in California; or

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1 (b) provide a clear and reasonable warning pursuant to Section
2 5.3.2 for Covered Products sold by the Settling Defendant in California and instruct any
3 customers to provide such warning.

4 No later than fourteen (14) days after serving its response to the Notice of Violation, the Settling
5 Defendant shall pay the Enforcer \$10,000 as reimbursement of fees, costs, and expenses involved
6 in investigating and producing the Notice of Violation and reviewing and monitoring compliance
7 by such Settling Defendant in the future.

8 6.2.4 If any dispute arises relating to the sufficiency of any information provided
9 by an Enforcer or a Settling Defendant pursuant to this Section 6.2, or if the Settling Defendant
10 elects to contest a Notice of Violation, the Parties shall meet and confer as required by Section 6.1
11 before filing any motion, application, or request for an order with the court. A Settling Defendant
12 may at any time during the meet and confer process and prior to the Enforcer filing any motion,
13 application, or request for an order with the court, notify the Enforcer that the Settling Defendant
14 no longer contests the Notice and that the Settling Defendant elects to proceed pursuant to Section
15 6.2.3.

16 **7. PAYMENTS**

17 7.1 **Payments by Initial Settling Defendants.** On or before ten (10) business days
18 after notice of the entry of the original Consent Judgment and receipt of Forms W-9 for all
19 payees, each Initial Settling Defendant shall pay the total sum set forth on Exhibit A for that
20 Initial Settling Defendant as a settlement payment as further set forth in this Section.

21 7.2 **Payments by Opt-In Settling Defendants.** Within ninety (90) days after notice
22 of the entry of the original Consent Judgment, each Opt-In Settling Defendant shall pay the total
23 sum set forth on Exhibit A for that Opt-In Settling Defendant as a settlement payment as further
24 set forth in this Section.

25 7.3 **Allocation of Payments.** For Initial Settling Defendants, the total settlement
26 amount shall be paid in five (5) separate checks in the amounts specified for each Initial Settling
27 Defendant on Exhibit A and delivered as set forth below. Any failure by an Initial Settling
28 Defendant to comply with the payment terms herein shall be subject to a stipulated late fee to be

1 paid by such Initial Settling Defendant in the amount of \$100 for each day the full payment is not
2 received after the applicable payment due date set forth in Section 7.1. The late fees required
3 under this Section shall be recoverable, together with reasonable attorneys' fees, in an
4 enforcement proceeding brought pursuant to Section 6 of this Amended Consent Judgment. For
5 Opt-In Settling Defendants, the total settlement amount shall be paid in a single check in the total
6 amount specified for each Opt-In Settling Defendant on Exhibit A, made payable to Lexington
7 Law Group, LLP IOLTA and associated with taxpayer identification number 94-6001385, and
8 delivered to Lexington Law Group, 503 Divisadero Street, San Francisco, CA 94117. The single
9 payment from each Opt-In Settling Defendant will thereafter be allocated as between civil
10 penalty, Additional Settlement Payment ("ASP"), and attorneys' fees and costs as specified on
11 Exhibit A and delivered by Counsel for CEH to the entities set forth below. In addition, for any
12 Opt-In Settling Defendant that has not yet paid the initial appearance fee required by Government
13 Code §§70612, 70602.5, and 70602.6 in each Action in which judgment will be entered against it,
14 the single payment from that Opt-In Settling Defendant shall include \$435 per Action to cover
15 this fee. The funds paid by Settling Defendants shall be allocated as set forth below between the
16 following categories and made payable as follows:

17 7.4 Each Settling Defendant shall pay the civil penalty amounts set forth in Exhibit A
18 for that Settling Defendant as a civil penalty pursuant to Health & Safety Code §25249.7(b). The
19 civil penalty payment shall be apportioned in accordance with Health & Safety Code §25249.12
20 (*i.e.*, 25% to CEH and 75% to the State of California's Office of Environmental Health Hazard
21 Assessment ("OEHHA")).

22 7.4.1 Each Initial Settling Defendant shall pay the OEHHA portion of the civil
23 penalty payment set forth in Exhibit A for that Initial Settling Defendant by check made payable
24 to OEHHA and associated with taxpayer identification number 68-0284486. This payment shall
25 be delivered as follows:

26 For United States Postal Service Delivery:
27 Attn: Mike Gyurics
28 Fiscal Operations Branch Chief
 Office of Environmental Health Hazard Assessment

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P.O. Box 4010, MS #19B
Sacramento, CA 95812-4010

For Non-United States Postal Service Delivery:
Attn: Mike Gyurics
Fiscal Operations Branch Chief
Office of Environmental Health Hazard Assessment
1001 I Street, MS #19B
Sacramento, CA 95814

Each Initial Settling Defendant shall pay the CEH portion of the civil penalty payment set forth in Exhibit A for that Initial Settling Defendant by check made payable to the Center for Environmental Health and associated with taxpayer identification number 94-3251981. This payment shall be delivered to Lexington Law Group, 503 Divisadero Street, San Francisco, CA 94117.

7.4.2 For each Opt-In Settling Defendant, the single settlement payment shall be apportioned as set forth in Exhibit A for that Opt-In Settling Defendant and the civil penalty portion shall be delivered by Counsel for CEH to OEHHA and CEH.

7.5 Each Settling Defendant shall pay the amount set forth in Exhibit A for that Settling Defendant as an ASP to CEH pursuant to Health & Safety Code §25249.7(b), and California Code of Regulations, Title 11, §3204. CEH will use these funds to support CEH programs and activities that seek to educate the public about toxic chemicals, including hormone disruptors such as hexavalent chromium, work with industries interested in moving toward safer alternatives, advocate with government, businesses, and communities for business practices that are safe for human health and the environment, and thereby reduce the public health impacts and risks of exposure to hexavalent chromium and other toxic chemicals in consumer products sold in California. CEH shall obtain and maintain adequate records to document that ASPs are spent on these activities and CEH agrees to provide such documentation to the Attorney General within thirty (30) days of any request from the Attorney General.

7.5.1 For each Initial Settling Defendant, the payments pursuant to this Section shall be made payable to the Center for Environmental Health and associated with taxpayer

1 identification number 94-3251981. These payments shall be delivered to Lexington Law Group,
2 503 Divisadero Street, San Francisco, CA 94117.

3 7.5.2 For each Opt-In Settling Defendant, the single settlement payment shall be
4 apportioned as set forth in Exhibit A for that Opt-In Settling Defendant and the ASP portion shall
5 be delivered by Counsel for CEH to CEH.

6 7.6 Each Settling Defendant shall pay the amount set forth in Exhibit A for that
7 Settling Defendant as a reimbursement of a portion of CEH's reasonable attorneys' fees and costs
8 (including but not limited to expert and investigative costs).

9 7.6.1 For each Initial Settling Defendant, the attorneys' fees and cost
10 reimbursement shall be made in two separate checks in the amounts set forth on Exhibit A for that
11 Settling Defendant as follows: (a) a check payable to the Lexington Law Group, LLP and
12 associated with taxpayer identification number 88-4399775; and (b) a check payable to the Center
13 for Environmental Health and associated with taxpayer identification number 94-3251981. Both
14 of these payments shall be delivered to Lexington Law Group, 503 Divisadero Street, San
15 Francisco, CA 94117.

16 7.6.2 For each Opt-In Settling Defendant, the single settlement payment shall be
17 apportioned as set forth in Exhibit A for that Opt-In Settling Defendant and the CEH attorneys'
18 fees and cost reimbursement portion shall be delivered by Counsel for CEH to CEH.

19 7.7 For any Opt-In Settling Defendant that owes an initial appearance fee in an Action,
20 the single settlement payment shall be apportioned as set forth in Exhibit A for that Opt-In
21 Settling Defendant and the appearance fee portion shall be delivered by Counsel for CEH to the
22 Court.

23 **8. MODIFICATION OF CONSENT JUDGMENT AND TERMINATION OF** 24 **INJUNCTIVE RELIEF**

25 8.1 **Modification.** This Amended Consent Judgment may be modified from time to
26 time by express written agreement of the Parties to which any such modification would apply,
27 with the approval of the Court, or by an order of this Court upon motion and in accordance with
28 law.

1 8.2 **Force Majeure.** The inability of a Settling Defendant to comply with any
2 deadline set forth in this Amended Consent Judgment due to an act of terrorism, fire, earthquake,
3 civil disorders, war, or act of God that is beyond the reasonable control of such Settling
4 Defendant shall be grounds to move for modification of the deadlines set forth in this Amended
5 Consent Judgment.

6 8.3 **Most Favored Nations Provision.** If, after the Effective Date, a court enters
7 judgment in the Actions or another Proposition 65 enforcement action brought by CEH over
8 exposure to CrVI in Covered Products that imposes different injunctive relief from that set forth
9 in this Amended Consent Judgment, a Settling Defendant may seek to modify Section 5 of this
10 Amended Consent Judgment to conform with the injunctive relief provided in such later
11 judgment.

12 8.4 **Termination of Injunctive Relief.**

13 8.4.1 If, after the Effective Date, a court enters judgment in the Actions or
14 another Proposition 65 enforcement action brought by CEH over exposure to CrVI in leather
15 gloves or footwear that denies a request for injunctive relief on the grounds that (a) CEH has not
16 shown an exposure to CrVI from Chrome-Tanned Leather, or (b) the defendant has demonstrated
17 that any exposure to CrVI from Chrome-Tanned Leather is exempt from the Proposition 65
18 warning requirement under Health & Safety Code §25249.10(c), a Settling Defendant may seek
19 to terminate the injunctive relief in Section 5 of this Amended Consent Judgment as to that
20 Settling Defendant.

21 8.4.2 Commencing on the fifth (5th) anniversary of the Effective Date and upon
22 the provision of thirty (30) days advanced written notice to CEH and the Court, a Settling
23 Defendant may terminate the injunctive relief in Section 5 of this Amended Consent Judgment as
24 to that Settling Defendant. Upon any such termination, the provisions of Section 9.3 shall no
25 longer apply to such Settling Defendant.

26 8.5 **Notice; Meet and Confer.** Any Party seeking to modify this Amended Consent
27 Judgment or terminate it pursuant to Section 8.4.1 shall attempt in good faith to meet and confer
28 with all affected Parties prior to filing a motion to modify the Amended Consent Judgment.

1 **9. CLAIMS COVERED AND RELEASE**

2 9.1 The Parties enter into this Amended Consent Judgment as a full and final
3 settlement of all claims arising under Proposition 65 relating to alleged exposure to CrVI from
4 footwear and/or gloves made with Chrome-Tanned Leather components as further specified on
5 Exhibit A for each Settling Defendant (“Released Products”), and as to all claims pursuant to
6 Health and Safety Code §25249.7(d) that were raised or could have been raised in the CEH 60-
7 Day Notices or Complaints, arising from the failure to warn under Proposition 65 regarding the
8 presence of CrVI in such Released Products. Provided that a Settling Defendant has complied
9 with Section 7 hereof, this Amended Consent Judgment is a full, final, and binding resolution
10 between CEH on behalf of itself and the public interest and such Settling Defendant and its
11 parents, subsidiaries, affiliated entities that are under common ownership, directors, officers,
12 employees, agents, shareholders, successors, assigns, and attorneys (“Defendant Releasees”), and
13 all entities to which such Settling Defendant directly or indirectly distributes or sells Released
14 Products, including but not limited to its distributors, wholesalers, customers, retailers,
15 franchisees, licensors, and licensees (“Downstream Defendant Releasees”), of any violation of
16 Proposition 65 based on failure to warn about alleged exposure to CrVI contained in Released
17 Products that were manufactured, distributed, sold, or offered for sale by a Settling Defendant
18 prior to the Final Compliance Date.

19 9.2 Provided that a Settling Defendant has complied with Section 7 hereof, CEH, for
20 itself and its agents, successors, and assigns, releases, waives, and forever discharges any and all
21 claims against such Settling Defendant, its Defendant Releasees, and its Downstream Defendant
22 Releasees arising from any violation of Proposition 65 or any other statutory or common law
23 claims that have been or could have been asserted by CEH regarding the failure to warn about
24 exposure to CrVI arising in connection with Released Products manufactured, distributed, sold, or
25 offered for sale by such Settling Defendant prior to the Final Compliance Date.

26 9.3 Provided that a Settling Defendant has complied with Section 7 hereof,
27 compliance with the terms of this Amended Consent Judgment by such Settling Defendant shall
28 constitute compliance with Proposition 65 by such Settling Defendant, its Defendant Releasees,

1 and its Downstream Defendant Releasees with respect to any alleged failure to warn about CrVI
2 in Released Products manufactured, distributed, sold, or offered for sale by such Settling
3 Defendant after the Final Compliance Date, except as to any retailer who fails to provide warning
4 provided to said retailer pursuant to this Amended Consent Judgment in a manner consistent with
5 the requirements of this Amended Consent Judgment.

6 **10. PROVISION OF NOTICE**

7 10.1 When CEH is entitled to receive any notice under this Amended Consent
8 Judgment, the notice shall be sent by first class or electronic mail to:

9 Joseph Mann
10 Lexington Law Group, LLP
11 503 Divisadero Street
12 San Francisco, CA 94117
jmann@lexlawgroup.com

13 10.2 When a Settling Defendant is entitled to receive any notice under this Amended
14 Consent Judgment, the notice shall be sent by first class or electronic mail to the address listed on
15 Exhibit A for such Settling Defendant.

16 10.3 Any Party may modify the person and address to whom the notice is to be sent by
17 sending the other Party notice by first class or electronic mail.

18 **11. COURT APPROVAL**

19 11.1 This Amended Consent Judgment shall become effective when approved by the
20 Court. If this Amended Consent Judgment is not entered by the Court, it shall be of no further
21 force or effect and shall not be introduced into evidence or otherwise used in any proceeding for
22 any purpose.

23 **12. GOVERNING LAW AND CONSTRUCTION**

24 12.1 The terms of this Amended Consent Judgment shall be governed by the laws of the
25 State of California.

26 **13. ATTORNEYS' FEES**

27 13.1 Should CEH prevail on any motion, application for an order to show cause, or
28 other proceeding related to this Amended Consent Judgment, CEH shall be entitled to its

1 reasonable attorneys' fees and costs incurred as a result of such motion or application from the
2 Settling Defendant(s) subject to or opposing said motion, application, or other proceeding.
3 Should a Settling Defendant prevail on any motion, application for an order to show cause, or
4 other proceeding related to this Amended Consent Judgment, the Settling Defendant may be
5 awarded its reasonable attorneys' fees and costs as a result of such motion, application, or other
6 proceeding upon a finding by the Court that CEH's prosecution of the motion, application, or
7 other proceeding lacked substantial justification.

8 13.2 Nothing in this Section 13 shall preclude a Party from seeking an award of
9 sanctions pursuant to law.

10 **14. ENTIRE AGREEMENT**

11 14.1 This Amended Consent Judgment contains the sole and entire agreement and
12 understanding of the Parties with respect to the entire subject matter hereof, and any and all prior
13 discussions, negotiations, commitments, or understandings related thereto, if any, are hereby
14 merged herein and therein. There are no warranties, representations, or other agreements between
15 the Parties except as expressly set forth herein. No representations, oral or otherwise, express or
16 implied, other than those specifically referred to in this Amended Consent Judgment have been
17 made by any Party hereto. No other agreements not specifically contained or referenced herein,
18 oral or otherwise, shall be deemed to exist or to bind any of the Parties hereto. Any agreements
19 specifically contained or referenced herein, oral or otherwise, shall be deemed to exist or to bind
20 any of the Parties hereto only to the extent that they are expressly incorporated herein. No waiver
21 of any of the provisions of this Amended Consent Judgment shall be deemed or shall constitute a
22 waiver of any of the other provisions hereof whether or not similar, nor shall such waiver
23 constitute a continuing waiver.

24 **15. RETENTION OF JURISDICTION**

25 15.1 This Court shall retain jurisdiction of this matter to implement or modify the
26 Amended Consent Judgment.

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1 **16. SUCCESSORS AND ASSIGNS**

2 16.1 This Amended Consent Judgment shall apply to and be binding upon CEH and
3 each Settling Defendant, and their respective divisions, subdivisions, and subsidiaries, and the
4 successors or assigns of any of them.

5 **17. AUTHORITY TO STIPULATE TO CONSENT JUDGMENT**

6 17.1 Each signatory to this Amended Consent Judgment certifies that he or she is fully
7 authorized by the Party he or she represents to stipulate to this Amended Consent Judgment and
8 to enter into and execute the Amended Consent Judgment on behalf of the Party represented and
9 to legally bind that Party.

10 **18. EFFECT ON OTHER SETTLEMENTS**

11 18.1 Nothing in this Amended Consent Judgment shall preclude CEH from resolving
12 any claim against an entity that is not a Settling Defendant on terms that are different from those
13 contained in this Amended Consent Judgment.

14 18.2 The entry and approval of this Amended Consent Judgment shall be deemed a
15 “Reformulation Event” as such term is used in previous Consent Judgments entered by this Court
16 in these Actions.

17 **19. EXECUTION IN COUNTERPARTS**

18 19.1 The stipulations to this Amended Consent Judgment may be executed in
19 counterparts and by means of portable document format (pdf), which taken together shall be
20 deemed to constitute one document.

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IT IS SO ORDERED:

Dated: _____

Judge of the Superior Court of California

IT IS SO STIPULATED:

Dated: _____

**CENTER FOR ENVIRONMENTAL
HEALTH**

Signature

Printed Name

Title

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Dated: _____

**[PAGE FOR EACH SETTLING
DEFENDANT]**

Signature

Printed Name

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EXHIBIT A

Individual Settling Defendant Information

1 Settling Defendant: Settling Defendant Name
 2 Contact Information: Counsel Contact Information
 3 Firm
 4 Address
 5 City State
 6 Email

7 Payment Amounts:
 8 Payment total: \$xxxxxx
 9 Allocation of Total Payment:

10 Payee	11 Type	12 Amount	13 Deliver To
14 OEHHA	Penalty	\$	OEHHA per Section 4.2.1
15 Center For Environmental Health	Penalty	\$	LLG
16 Center For Environmental Health	ASP	\$	LLG
17 Center For Environmental Health	Fees	\$	LLG
18 Lexington Law Group	Fees and Costs	\$	LLG

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EXHIBIT B
Tannery Certification

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EXHIBIT C
Reformulation Protocols

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EXHIBIT D
Form of Notice to Suppliers