



**TEST REPORT**

**CUSTOMER:** Berry Plastic Corporation  
101 Oakley Street  
Evansville, IN 477101  
USA  
**Attn:** Brain Lloyd

Product Name: Phillie Cotton Candy – J909418  
Age Labeling: NA  
Age Grading: NA  
Supplier: Berry Plastic Corporation  
Sample received date: April 11, 2011  
Date of testing ended: April 18, 2011

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**TEST CONDUCTED:**

**AS REQUESTED BY THE APPLICANT, FOR DETAILS REFER TO ATTACHED PAGE(S)**

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**CONCLUSION:**

| <u>Tested Samples</u>          | <u>Standard</u>  | <u>Result</u> |
|--------------------------------|--|---------------|
| Phillie Cotton Candy – J909418 | 1.16 CFR 1303/CPSIA Title I Section 101:<br>Lead in surface coatings | 1.Does Comply |
|                                | 2.Total Lead in Substrates – CPSIA, Title 1<br>Section 101           | 2.Does Comply |

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PAGE 1/TO BE CONTINUED

TOTAL 4 PAGES

**PREPARED BY:**

**SIGNED FOR THE COMPANY BY:**

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**Timothy S. Davis**  
**Juvenile Products Account Manager**

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**Stanley Sherrill**  
**General Manager of Consumer Goods North America**

The test results stated in this report relate only to the item(s) tested. This test report may not be reproduced except in full, without written approval of Intertek.

Tests identified with an asterisk (\*) have been subcontracted.



**1. Chemical Analysis:** Total Lead (Surface Coating)

Procedure: Analysis of the surface coating/wet paint was performed by *Inductively Coupled Argon Plasma Spectroscopy* to determine compliance with **16 CFR 1303** according to method CPSC-CH-E1003-09.

Requirement: As of August 14, 2009, the lead content shall not exceed 0.009 weight percent (90 ppm) of the dried paint film as required by 16 CFR 1303 and the Consumer Product Safety Improvement Act of 2008 (CPSIA).

Sample ID:                      Phillies Cotton Candy – J909418

Sample Utilized:              Coating Removed from Product

Test Results:

| Component Number | Result (ppm) |
|------------------|--------------|
| 1                | <20          |
| 2                | <20          |
| 3                | <20          |

| Component Number | Component Description |
|------------------|-----------------------|
| 1                | Blue coating          |
| 2                | White coating         |
| 3                | Red coating           |

**Conclusion:** When tested as specified, the submitted sample **does comply** with 16 CFR 1303/CPSIA Section 101(f) requirements.

## 2. Chemical Analysis: Total Lead in Substrates

Procedure: CPSC-CH-E1002-08 (Non-Metal)

Requirement: As of August 14, 2009, the total lead content of substrates shall not exceed 300 ppm as required by the **Consumer Product Safety Improvement Act of 2008 (CPSIA 2008)**.

Sample ID: Phillie Cotton Candy – J909418

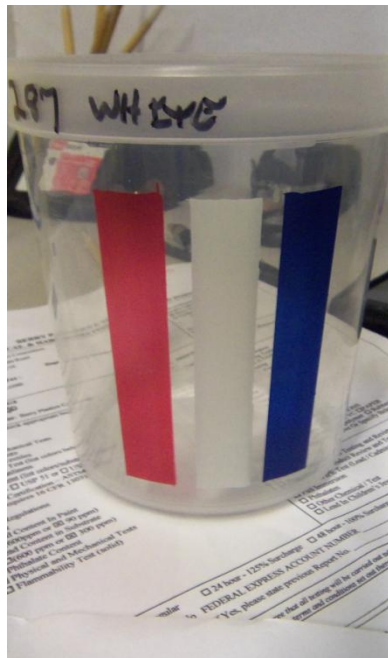
Sample Utilized: Complete Product Digested

### Test Results:

| Component Number | Result (ppm) |
|------------------|--------------|
| 1                | <20          |

| Component Number | Component Description   |
|------------------|-------------------------|
| 1                | Clear plastic container |

**Conclusion:** When tested as specified, the submitted sample **does comply** with the requirements set forth in the **Consumer Product Safety Improvement Act of 2008 (CPSIA 2008/H.R. 4040)**, Title I, Section 101 for total lead content in substrates.





**TERMS AND CONDITIONS**

**1.0 INTRODUCTIONS**

These Terms and Conditions are incorporated into the Intertek Consumer Goods North America ("ITRK") proposal made and submitted to you. The party executing this document ("CLIENT") indicates acceptance of this proposal and that it is agreed that a resulting contract exists between CLIENT and ITRK which governs the performance of the stated services and the rights and obligations of the parties and that ITRK may proceed with the work.

**2.0 PROPOSAL TERM**

Unless otherwise stated in the proposal, this offer shall remain valid until accepted, but in no event for a period longer than thirty (30) days from the date of the proposal.

**3.0 LIMITED WARRANTY**

ITRK warrants that if any of its completed services fail to conform to professional standard, ITRK will, at its own expense, perform corrective services of the type originally performed as may be reasonably required to correct such defects, of which ITRK is notified in writing within six months of the completion of services or delivery of product. No other representation, express or implied, and no warranty or guarantee is included or intended in this Agreement, or in any report, opinion, document or otherwise.

**4.0 INVOICING**

Invoices will generally be issued monthly, or upon project completion, whichever occurs first. In certain instances invoices may be issued bi-weekly, e.g. where high labor and/or expense costs are incurred by ITRK in a short time period. Invoices shall be paid according to the terms in Section 5.0.

**5.0 PAYMENT TERMS**

Invoices, submitted in accordance with paragraph 4.0 herein, are due and payable to ITRK, at its offices, due upon receipt of invoice, and client agrees to pay reasonable collection costs if necessary in the event of non-payment.

**6.0 CLIENT INFORMATION**

CLIENT represents that the information and samples supplied by it or its agents to ITRK are accurate and complete and acknowledges that ITRK is relying upon such information and samples or data in preparation of this proposal and evaluation without further verification by ITRK as to their accuracy and completeness. The CLIENT agrees to hold ITRK harmless and indemnify ITRK from any liability of whatever kind of nature, including but not limited to court costs and reasonable attorneys fees if information or samples provided by the CLIENT are inaccurate or incomplete.

**7.0 PROPOSAL PRICE and SCHEDULE**

ITRK will work diligently to provide the services according to the costs and schedule stated in the reference proposal. CLIENT recognizes and agrees that the proposal is a good faith estimate of the costs for the services to be provided and time of completion, but such estimate is not a guarantee of the total costs or time that may be involved in completing the proposal. ITRK will not exceed the authorized estimated amount without written authorization of CLIENT, and will endeavor to notify CLIENT in advance of requirements for additional funding to meet the necessary costs to complete the work or to complete the additions and changes authorized by the CLIENT.

**8.0 INSURANCE**

ITRK declares that it maintains workers' compensation and employer's liability insurance on its employees in a form and amount as required by applicable laws. This insurance does not cover any employees of the CLIENT or third parties who may be involved with the work to be performed. If the services of ITRK are performed on property of CLIENT or third parties, ITRK insurance does not provide coverage for non-ITRK employees.

**9.0 INSTRUMENTS OF SERVICE**

**9.1** The CLIENT agrees to waive any claim against ITRK and defend, indemnify, and hold ITRK harmless from any and all causes of action, lawsuits, proceedings or claims allegedly arising as a result of unauthorized re-use of ITRK's Instruments of Service. Instruments of Service include all reports, laboratory test data, calculations, estimates, notes and other documents prepared by ITRK in the course of providing services to the CLIENT. The CLIENT further agrees to compensate ITRK for all legal fees and expenses incurred by ITRK in defense of such causes of action, lawsuits, proceedings, or claims, in accordance with ITRK's prevailing fee schedule and expense reimbursement policy. The CLIENT agrees to indemnify ITRK for any breach by the CLIENT arising out of clause 6.0 (CLIENT INFORMATION) above.

**9.2** Notwithstanding any other provision to the contrary, ITRK retains any and all rights of ownership of any concepts, ideas, inventions, patents or copyrights arising from ITRK's Instruments of Service and the provision of services to the CLIENT. ITRK agrees that information received from the CLIENT, as defined in paragraph 6.0, shall remain the property of the CLIENT and will be returned to the CLIENT upon demand, except for that which is necessary as a basis for the ITRK report. CLIENT may designate in writing any information provided by CLIENT to ITRK as confidential and proprietary. If CLIENT has done so, ITRK will not release to third parties any such information without the prior written consent of the CLIENT or only in response to a proper Court Order or document. As to that information, ITRK may make and retain copies.

**10.0 LIMITS OF LIABILITY**

**10.1** The CLIENT agrees to limit ITRK's liability arising from ITRK's professionally activity, errors, or omissions, such that the total aggregate liability of ITRK shall not exceed ITRK's total fee for the services rendered on the project in question, except in the case of a finding of gross negligence or willful misconduct on the part of ITRK by a court of competent jurisdiction.

**10.2** ITRK shall not be liable to the CLIENT for any consequential damages incurred by CLIENT due to the fault of ITRK, regardless of the nature of this fault, whether it was committed by ITRK, its employees, agents or subcontractors. Consequential damages include, but are not limited to, loss of use and loss of profit.

**10.3** The CLIENT agrees to extend any and all limitations, indemnifications, and waivers provided by the CLIENT to ITRK to those individuals and organizations ITRK retains for proper execution of the work. These shall be deemed to include, but are not necessarily limited to ITRK's officers and employees and their heirs and assigns, as well as ITRK's agents, subcontractors and their officers, employees, heirs and assigns.

**10.4** CLIENT acknowledges that testing, including sample preparation and transportation may damage or destroy client's product. CLIENT agrees to hold ITRK harmless from any and all responsibility for such alteration.

**11.0 GOVERNING LAW**

This proposal, and any work performed pursuant to this proposal, shall be governed by the laws of the jurisdiction within which the ITRK facility making the proposal is located. Any action brought hereon shall be venued in said jurisdiction.

**12.0 SEVERABILITY**

Any provision of this proposal that may be held invalid, void or unenforceable for any reason, shall not affect any other term or condition of this proposal, and such term or condition shall be replaced or interpreted to accomplish the intent of the parties.

**13.0 MODIFICATIONS**

No modifications, waiver or amendment of any of these terms and conditions shall be binding upon ITRK unless identified in writing as to modification, waiver or amendment of such terms and conditions, and such writing is signed by an agent of ITRK.

**14.0 SUBCONTRACTING OF WORK**

ITRK reserves the right to outsource work to a competent subcontractor.