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**ENDORSED
FILED
ALAMEDA COUNTY**
JAN 9 5 2009
CLERK OF THE SUPERIOR COURT
By M. Hayes Deputy

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17 SUPERIOR COURT OF THE STATE OF CALIFORNIA
18 COUNTY OF ALAMEDA

19
20 **PEOPLE OF THE STATE OF**
21 **CALIFORNIA, ex rel. EDMUND G.**
22 **BROWN JR., Attorney General,**
Plaintiffs,
23
24 v.
25 **MATTEL, INC., et al.,**
26 Defendants.

RG07356892

ASSIGNED FOR ALL PURPOSES TO:
JUDGE STEVEN A. BRICK
DEPARTMENT 17

**NOTICE OF ENTRY OF ORDER
GRANTING MOTION TO APPROVE
CONSENT JUDGMENTS AND ENTRY
OF CONSENT JUDGMENTS**

Date: December 31, 2008
Time: 10:00 a.m.
Dept: 17
Trial Date None
Action Filed: November 19, 2007

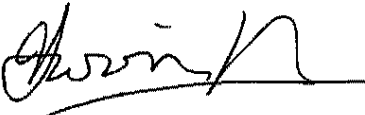
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TO ALL PARTIES AND THEIR COUNSEL:

PLEASE TAKE NOTICE that on December 31, 2008, the Honorable Steven A. Brick, Judge of the Superior Court, granted the People's Motion for Entry of Consent Judgments as to (1) Defendants Mattel, Inc. and Fisher-Price, Inc., and (2) Defendants A&A Global Industries, Inc., Amscan, Inc., Cranium, Inc., Eveready Battery Co., Kids II, Inc., Marvel Entertainment, Inc., RC2 Corporation, and Toy Investments, Inc. On the same date, the Court entered the consent judgments as to the listed defendants. Copies of the consent judgments are attached to this notice as Exhibits 1 and 2.

January 5, 2009

Respectfully Submitted,
EDMUND G. BROWN JR.
Attorney General of California



HARRISON M. POLLAK
Deputy Attorney General
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EXHIBIT 1

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18 FOR THE COUNTY OF ALAMEDA
19

20 PEOPLE OF THE STATE OF
21 CALIFORNIA, ex rel. EDMUND G.
BROWN JR., Attorney General., et al.

22 Plaintiffs,

23 v.

24 MATTEL, INC., et al.

25 Defendants.

Case No. RG07356892

ASSIGNED FOR ALL PRETRIAL PURPOSES
TO: JUDGE STEVEN A. BRICK
DEPARTMENT 17

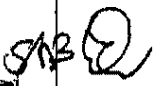
STIPULATED [~~MODIFIED PROPOSED~~]
CONSENT JUDGMENT AS TO MATTEL,
INC. AND FISHER-PRICE, INC.

Complaint filed: November 19, 2007
Trial date: None

ENDORSED
FILED
ALAMEDA COUNTY

DEC 31 2008

CLERK OF THE SUPERIOR COURT
By E. Opelski-Erickson, Deputy



1 This Stipulated Consent Judgment (the "Consent Judgment") is between Plaintiffs, the
2 People of the State of California, *ex rel.* Edmund G. Brown Jr., California Attorney General
3 ("Attorney General") and the Los Angeles City Attorney (collectively, "People"), and
4 Defendants, Mattel, Inc. and Fisher-Price, Inc. (collectively, "Mattel").

5 Whereas, Mattel identified in 2007 that portions of some toys made by or for Mattel
6 contained lead in excess of applicable U.S. federal and/or state standards and voluntarily recalled
7 and/or acted affirmatively to encourage consumers to return the Recalled Toys;¹

8 Whereas, Mattel voluntarily and forthrightly identified the need to recall or withdraw the
9 Recalled Toys, has sought to promote toy safety generally, and has operated in good faith and in
10 the best interests of the consuming public;

11 Whereas, Mattel acted quickly and voluntarily to develop and adopt additional quality
12 control measures designed to minimize the risk that Covered Products would be sold in the
13 future with Impermissible Lead, and to further enhance toy safety;

14 Whereas, Mattel has cooperated fully with the People in their investigation and
15 settlement of this matter, in the interest of the consuming public;

16 **THEREFORE**, the Parties hereby stipulate as follows:

17 **1.0 INTRODUCTION**

18 1.1 On November 19, 2007, following the receipt of several sixty-day notices of
19 intent to file suit on behalf of the general public pursuant to Health and Safety Code
20 Section 25249.7(d), the People filed their complaint, captioned *People of the State of*
21 *California v. Mattel, Inc. et al.*, RG07356892 in the Alameda County Superior Court. The
22 People allege that the defendants violated the California Safe Drinking Water and Toxic
23 Enforcement Act, California Health & Safety Code Section 25249.5 *et seq.* ("Proposition 65"),
24 and Business & Professions Code Sections 17200 *et seq.* ("Unfair Competition Law"), by
25 exposing California consumers to lead through the manufacture, distribution and sale of toys
26 made of materials that contain lead or lead compounds, without first providing "clear and
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28 ¹ The Recalled Toys are defined at subsection 2.14. (*See* Section 2.0 for other defined terms.)

1 reasonable" warnings. Lead and lead compounds are listed under Proposition 65 as "chemical[s]
2 known to the State of California to cause cancer and birth defects or other reproductive harm."

3 1.2 For purposes of the Consent Judgment only, the Parties stipulate that (a) Mattel
4 employs more than 10 persons, and has employed ten or more persons at some time relevant to
5 the allegations of the Complaint, (b) the Court has jurisdiction over the allegations of violations
6 contained in the Complaint, (c) the Court has personal jurisdiction over Mattel for the purposes
7 of enforcing the terms of the Consent Judgment, (d) venue is proper in the County of Alameda,
8 and (d) the Court has jurisdiction to enter the Consent Judgment as a full settlement and
9 resolution of the allegations contained in the Complaint.

10 1.3 Mattel agrees not to challenge or object to entry of the Consent Judgment by the
11 Court unless the People have notified Mattel in writing that the People no longer support entry of
12 the Consent Judgment or that the People seek to modify or support modification of the Consent
13 Judgment, in which case Mattel may, at its option, withdraw from the Consent Judgment. Mattel
14 agrees not to challenge the Court's jurisdiction to enforce the terms of the Consent Judgment
15 once it has been entered.

16 1.4 Mattel disputes the allegations of the Complaint, and contends that Mattel's
17 conduct and all Mattel products sold in California have complied with and comply with all
18 applicable State laws, including Proposition 65 and the Unfair Competition Law. However, the
19 Parties enter into the Consent Judgment pursuant to a settlement of certain disputed claims
20 between the Parties as alleged in the Complaint, for the purpose of avoiding prolonged and costly
21 litigation, and to resolve all claims arising from the facts alleged in the Complaint. By execution
22 of the Consent Judgment, Mattel does not admit any fact, conclusion of law, or violation of law,
23 including, but not limited to, any violations of Proposition 65, the Unfair Competition Law or
24 any other statutory, regulatory, common law or equitable requirements. Neither the Consent
25 Judgment, nor the Parties' compliance with the Consent Judgment, shall be construed as an
26 admission by Mattel of any fact, conclusion of law, issue of law or violation of law.

27 1.5 Except as explicitly set forth herein, nothing in the Consent Judgment shall
28 prejudice, waive or impair any right, remedy, argument or defense the Parties may have in this or

1 any other pending or future legal and/or administrative proceedings; nor shall anything in the
2 Consent Judgment preclude the Parties from opposing any such defense, claim, or argument.

3 **2.0 DEFINITIONS**

4 2.1 For Children's Products manufactured before February 10, 2009, "Accessible"
5 shall mean a material that is physically exposed to a child at the time of purchase or that will
6 become physically exposed to a child through normal and reasonably foreseeable use and abuse
7 of the Covered Product as determined pursuant to ASTM F963-07, and only to the extent use and
8 abuse is specified by ASTM F 963-07.

9 2.2 For Children's Products manufactured on or after February 10, 2009,
10 "Accessible" shall have the same meaning as set forth in Section 2.1 above, provided that any
11 material that is not or does not become physically exposed to a child through normal and
12 reasonably foreseeable use and abuse of a children's product, as use and abuse is specified by
13 ASTM F963-07, solely by reason of paint, electroplating, or other surface coating, shall also be
14 deemed "Accessible." The Parties further agree that, in the event that the Consumer Product
15 Safety Commission ("CPSC") by final rule, guidance rule, exclusion, or exception pursuant to
16 Section 101(b) of the Consumer Product Safety Improvement Act of 2008 ("CPSIA") determines
17 that the Federal Lead Standards apply to any material that is not "Accessible" under the
18 definition in the immediately preceding sentences, then any such material shall also be deemed
19 "Accessible" under the Consent Judgment. The foregoing definition of "Accessible" was
20 adopted solely for purposes of the Consent Judgment and shall not affect the ability of the People
21 to argue in any other context that materials that are not "Accessible" under the Consent
22 Judgment nonetheless are or ought to be subject to the Federal Lead Standards.

23 2.3 "Children's Product" has the same meaning as that given in Section 3(a) of the
24 Consumer Product Safety Act ("CPSA"), 15 U.S.C. 2052 (a), and is manufactured by Mattel or
25 for Mattel by a Vendor and is sold or offered for sale to consumers in California.

26 2.4 "Court" shall mean the Alameda County Superior Court.
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1 2.5 “Covered Product” shall mean a finished Children’s Product that is manufactured
2 by Mattel or for Mattel by a Vendor on or after the Effective Date, and is sold or offered for sale
3 to consumers in California.

4 2.6 “Effective Date” shall mean November 30, 2008, provided that the Parties to this
5 agreement have executed it at or prior to that time.

6 2.7 “Federal Lead Standards” shall mean any standards set or promulgated, before or
7 after the Effective Date, by the CPSIA or by the Consumer Product Safety Commission (the
8 “CPSC”) relating to the maximum permissible levels of lead in Substrates and Surface Coatings,
9 including the products or components to which the standards apply and any exemptions from the
10 application of those standards.

11 2.8 “Government Disclosure Restrictions” shall mean all U.S. federal and foreign
12 government restrictions or requirements existing before or after the Effective Date, including but
13 not limited to CPSC reporting, disclosure and publication obligations, instructions or practices,
14 that prohibit or restrict the publication or disclosure or the timing of the publication or disclosure
15 of information by Mattel. Nothing in the Consent Judgment shall be construed as preventing
16 Mattel from arguing that Mattel is prohibited from disclosing information, and nothing in the
17 Consent Judgment shall be construed to restrict any power of the People or Mattel to seek,
18 through court or administrative process, any information from the other Party, subject to
19 whatever defenses that other Party may otherwise have.

20 2.9 “Impermissible Lead” shall mean lead in excess of the Lead Standards.

21 2.10 “Lead Standards” shall mean the standards contained in Section 3.1 of the
22 Consent Judgment that set the maximum permissible levels of lead in Substrates and Surface
23 Coatings used on or in an Accessible part of a finished Covered Product. For Children’s
24 Products that were manufactured before the Effective Date, and are therefore not Covered
25 Products, Lead Standards shall mean those Federal Lead Standards that were in effect at the time
26 of manufacture.

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1 2.11 “Mattel” shall mean Mattel, Inc. and Fisher Price, Inc. and all of their United
2 States and foreign subsidiaries, predecessors, successors, parents, and assigns that manufacture,
3 distribute, market, donate, offer for sale, and/or sell Covered Products.

4 2.12 “Parties” shall mean Mattel and the People.

5 2.13 “Quality Assurance System” shall mean the totality of Mattel’s quality assurance
6 procedures, including but not limited to inspection, auditing and/or testing procedures, designed
7 as a system, even where individual tests or procedures may fail, to identify Impermissible Lead
8 and to prevent the sale of Covered Products with Impermissible Lead in California.

9 2.14 “Recalled Toys” shall mean those products made by or for Mattel that Mattel
10 withdrew from sale or recalled in the United States due to the potential presence of lead in excess
11 of applicable standards, on or after August 1, 2007, and prior to the Effective Date.

12 2.15 “Substrates” shall mean any Accessible materials used in finished Covered
13 Products that are not Surface Coatings.

14 2.16 “Surface Coatings” shall mean those Accessible paints and other similar surface
15 coating materials used on finished Children’s Products as defined and limited by 16 C.F.R.
16 § 1303.2(b)(1).

17 2.17 “Toy Testing and Outreach Fund” shall mean a fund established within the
18 California-based Public Health Institute and administered by the Public Health Trust, a project of
19 the Public Health Institute, for the purposes of monitoring compliance with limitations on lead in
20 children’s products in California, and identifying and implementing outreach measures with
21 respect to recalls of children’s products, including reasonable efforts to communicate
22 information about such recalls to consumers who do not have internet access and/or who do not
23 speak English.

24 2.18 “Vendor” shall mean a third party that manufactures for Mattel finished Covered
25 Products sold at wholesale by Mattel.

1 **3.0 COMPLIANCE PROVISION / PERMANENT INJUNCTION**

2 **3.1 COMPLIANCE WITH LEAD STANDARDS: COVERED PRODUCTS**

3 Mattel shall not manufacture, distribute, donate, offer for sale or sell in California,
4 Covered Products with a concentration of lead in or on Accessible parts in excess of the
5 following standards.

6 3.1.1 For each Accessible Surface Coating on a finished Covered Product,
7 90 parts per million (ppm) total lead for finished Covered Products manufactured after
8 the Effective Date.

9 3.1.2 For each Accessible Substrate in or on a finished Covered Product:

10 3.1.2.1 300 ppm total lead for finished Covered Products manufactured
11 after the Effective Date; and

12 3.1.2.2 100 ppm total lead for finished Covered Products manufactured
13 on or after August 14, 2011, unless the CPSC determines that a standard of
14 100 ppm total lead for finished Covered Products is not technologically feasible,
15 in which case Mattel shall be obligated to comply with the standard established by
16 the CPSC.

17 3.1.2.3 The Lead Standards shall not apply to electronic components
18 or electronic accessories that are not Accessible "small objects" as described in
19 ASTM F 963-07 § 4.6.1. Notwithstanding the foregoing sentence, if the CPSC
20 (i) issues requirements to eliminate or minimize the potential for exposure to and
21 accessibility of lead in electronic devices, (ii) establishes a schedule by which
22 such electronic devices shall be in full compliance with the limits described in this
23 subsection, and/or (iii) determines that full compliance will not be technologically
24 feasible, pursuant to Section 101(b)(4) of the CPSIA, and such requirements,
25 schedules or determinations are in effect, then the CPSC rules, exceptions or
26 exclusions pertaining to electronic components or electronic accessories shall be
27 considered Lead Standards under the Consent Judgment. In the event that CPSC
28 does not act pursuant to Section 101(b)(4) of the CPSIA before the third

1 anniversary of the Effective Date, the exception provided by the first sentence of
2 this subsection shall be deemed to expire at that time.

3 3.1.2.4 The Lead Standards shall not apply to any Children's Product
4 or constituent components or materials that the CPSC excludes pursuant to
5 Section 101(b) of the CPSIA from the application of Federal Lead Standards.

6 3.2 QUALITY ASSURANCE SYSTEM

7 3.2.1 Mattel shall implement a Quality Assurance System that is designed to
8 identify and to segregate Covered Products that contain Impermissible Lead during and
9 subsequent to the manufacturing process in order to prevent distributing, donating,
10 offering for sale or selling Covered Products containing Impermissible Lead in
11 California. Mattel's commitments under this Section 3.2, including with respect to its
12 Quality Assurance System and with respect to Vendors, shall apply only to Covered
13 Products manufactured by Mattel or for Mattel by Vendors. It is expressly understood
14 that individual tests or procedures may be modified, changed or revised by Mattel over
15 time and that no claim can or will be made that this Section of the Consent Judgment has
16 been violated: (i) absent a substantial failure to implement a Quality Assurance System,
17 or (ii) because a specific test or procedure is not followed or performed, as long as the
18 modified Quality Assurance System is designed to perform the same function as
19 described herein.

20 3.3 RECALLS

21 3.3.1 Mattel shall provide to the Attorney General the information it provides in
22 any written reports to the CPSC concerning any recall of Covered Products because of
23 lead content, as soon as possible, once any such recall is approved and announced by the
24 CPSC, as permitted by and consistent with Government Disclosure Restrictions, and any
25 and all follow-up reports, including information contained in its progress reports on the
26 efficacy of product recalls, subject to confidentiality as permitted by law.

27 3.3.2 Mattel shall provide direct notice of a recall because of lead content
28 involving Covered Products to all consumers of the affected Covered Product for whom

1 Mattel possesses address or e-mail information. The notice shall include, at a minimum,
2 information that is equivalent to the information in the recall notice approved by the
3 CPSC.

4 3.4 INTERIM MEASURES FOR CHILDREN'S PRODUCTS THAT ARE NOT
5 COVERED PRODUCTS

6 If the Attorney General or a member of Mattel's U.S. product integrity group obtains
7 reliable information that a Children's Product manufactured before the Effective Date by Mattel
8 or by a Vendor for Mattel that has been offered for sale by a Mattel-authorized retailer in
9 California after the Effective Date and prior to February 10, 2009 contains more than:

10 (A) 600 ppm lead: (i) in or on an Accessible Surface Coating, or (ii) in or on an Accessible
11 Substrate that is plastic, rubber or polyvinyl chloride ("PVC"), or (B) more than 90 ppm of
12 soluble lead in leachate from unplated metal components which are "small objects" and are
13 accessible to a child following assembly as tested and determined pursuant to EN-71, then upon
14 notice thereof, Mattel shall immediately investigate, and upon confirmation but in no event
15 longer than 10 business days, shall: (a) stop distributing the Children's Product(s) for sale in
16 California, (b) promptly notify customers selling in California of the potentially non-conforming
17 Children's Product(s), and (c) within three business days, inform the Attorney General of what
18 action or actions it has taken and will take to investigate and, if applicable, to prevent the
19 Children' Product from being sold by Mattel in California, including which customers it has
20 notified and/or will notify. The use of the word "obtains" in the preceding sentence shall not be
21 deemed to create or impose any affirmative duty or obligation to seek out any Children's
22 Products that are subject to this paragraph. This Section 3.4 does not apply to electronic
23 components or electronic accessories that are not Accessible "small objects" as described in
24 ASTM F 963-07 § 4.6.1. This Section 3.4 shall also not be applicable if, after meeting and
25 conferring, Mattel and the Attorney General agree that any lead exposure arising from a
26 Children's Product otherwise subject to this Section is less than 0.5 micrograms per day based on
27 an assessment conducted pursuant to Section 25821 of Proposition 65's regulations. In the event
28 Mattel undertakes a recall pursuant to CPSC regulations, it shall be deemed to satisfy Mattel's

1 obligations under this Section 3.4. The timing and content of any disclosures of information
2 required under this Section shall be subject to any Government Disclosure Restrictions.

3 **4.0 FUTURE ENFORCEMENT**

4 4.1 GENERAL ENFORCEMENT FRAMEWORK

5 Under the circumstances set forth herein, and after having provided Mattel with at least
6 fifteen (15) business days written notice during which the Parties will meet and confer, and, on
7 request, at least fifteen (15) additional business days in the event Mattel wishes to exercise
8 subsection 4.1.1, the People may enforce violations of the Consent Judgment or enforce
9 violations of applicable State law regarding the presence of lead or lead compounds in a
10 Children's Product by application to a court of competent jurisdiction for appropriate relief.

11 4.1.1 The People may elect to enforce a violation of applicable State law
12 regarding the presence of lead or lead compounds in a Children's Product, or the Lead
13 Standards in the Consent Judgment, but not both, in accordance with either Sections 4.1
14 or 4.2. However, if Mattel demonstrates to the satisfaction of the Attorney General,
15 which satisfaction shall not unreasonably be withheld, within thirty (30) days following
16 receipt of notice pursuant to Section 4.1 that any lead exposure arising from a Children's
17 Product is less than 0.5 micrograms per day based on an assessment conducted by a
18 qualified expert pursuant to Section 25821 of the Proposition 65 regulations, then the
19 Attorney General, if he elects to pursue enforcement of the alleged violation at issue,
20 shall do so pursuant to Section 4.2, below; provided that if the Attorney General obtains
21 the opinion of a qualified expert that refutes the assessment conducted by Mattel's expert,
22 which opinion the Attorney General shall make available to Mattel, the Attorney General
23 may proceed pursuant to Section 4.1.

24 4.1.2 Wherever the alleged violation asserted under Section 4.1 or 4.2 concerns
25 a violation of the Lead Standards, then the notice shall include information sufficient to
26 identify the Children's Product at issue, including, at a minimum, if available, its stock
27 keeping unit number and date code. Mattel shall be permitted to inspect the Children's
28 Product at issue upon request.

1 4.2 NOTICES OF VIOLATION AND ELECTION; STIPULATED PENALTIES

2 4.2.1 Notice of Violation: Within 60 days after the Attorney General learns
3 facts providing a reasonable basis to conclude that a Children's Product that contains
4 Impermissible Lead was sold in California, the Attorney General shall provide Mattel
5 written notice of the alleged violation ("Notice of Violation"). If the Attorney General
6 has information about the alleged violation that is not public or that Mattel does not
7 already have in its possession, including test results, the Notice of Violation shall include
8 such information, except any evidence that has been submitted in support of a certificate
9 of merit pursuant to Health and Safety Code Section 25249.7(d) need not be provided. In
10 any event, the Attorney General shall make available to Mattel for inspection and
11 copying, upon its request, all information in the possession of the Attorney General
12 pertaining to the alleged violation that is not privileged or subject to confidentiality under
13 State law.

14 4.2.2 Notice of Election: Within 15 business days after Mattel receives the
15 Notice of Violation, and all materials in the possession of the Attorney General relevant
16 to the alleged violation as set forth in subsection 4.2.1, Mattel shall provide written notice
17 to the Attorney General whether it elects to contest the allegations contained in the Notice
18 of Violation ("Notice of Election").

19 4.2.3 Contents of Notice of Election Not to Contest: If Mattel does not contest
20 the allegations in the Notice of Violation, then the Notice of Election shall include: (i) a
21 description of the Quality Assurance System that was in place to prevent the violation
22 from occurring and the corrective action that Mattel has undertaken or proposes to
23 undertake pursuant to subsection 4.2.5; (ii) the name and contact information of the
24 facility or facilities where the Children's Product was manufactured; and (iii) an
25 explanation of why the violation occurred. Within 10 business days after sending the
26 Notice of Election, and if Mattel does not contest the violation, Mattel shall make the
27 payment required under subsection 4.2.7.

1 4.2.3.1 Mattel may also send the Attorney General a Notice of Election
2 under subsection 4.2.3 in response to a 60-day notice of violation pursuant to
3 Health and Safety Code Section 25249.7(d)(1) where the Attorney General has
4 not issued a Notice of Violation, provided that (a) Mattel waits at least 45 days
5 after receipt of the 60-day notice, (b) the Attorney General has not provided
6 notice of the same, or a substantially similar violation, under Section 4.1 or
7 Section 4.2.1, and (c) Mattel serves a copy of the Notice of Election on the person
8 that sent the 60-day notice .

9 4.2.4 Contents of Notice of Election to Contest: If Mattel contests the Notice of
10 Violation, then the Notice of Election shall include all then-available documentary
11 evidence in Mattel's possession regarding the alleged violation, including all test data, if
12 any, as permitted by and consistent with Government Disclosure Restrictions. Within
13 15 business days after serving a Notice of Election contesting a Notice of Violation,
14 Mattel and the Attorney General shall meet and confer in good faith to attempt to resolve
15 the dispute. At the conclusion of the meet and confer, one or more of the following may
16 take place: (i) the Attorney General may withdraw the Notice of Violation; (ii) Mattel
17 may issue an amended Notice of Election that does not contest the violations, pursuant to
18 subsections 4.2.2 and 4.2.3, above; or (iii) Mattel may continue to contest the Notice of
19 Violation.

20 4.2.5 Action Upon Election: Upon election by Mattel not to contest the Notice
21 of Violation, Mattel shall: (i) take corrective action designed to encourage the removal of
22 the Children's Product from sale in California; (ii) if there is no recall in conjunction with
23 the CPSC, inform consumers in California that they may return the affected products for
24 a full refund, replacement toy, repair and/or voucher for replacement toys, at Mattel's
25 option; and (iii) pay to the Attorney General within ten (10) business days the stipulated
26 payments specified in subsection 4.2.7. A Notice of Election that does not contest an
27 alleged violation of the Consent Judgment or of applicable State law shall be considered
28 an offer of compromise under California Evidence Code § 1152 and Federal Rule of

1 Evidence 408 and shall not otherwise constitute an admission of any fact or issue by
2 Mattel. Such Notice of Election shall also not be admissible in any proceeding for any
3 purpose other than a proceeding brought pursuant to Section 4 of the Consent Judgment.

4 4.2.6 Upon election by Mattel to contest the Notice of Violation, the People
5 may, by motion or order to show cause before the Superior Court of Alameda, seek to
6 enforce the terms and conditions contained in the Consent Judgment. In any such
7 proceeding, the People may seek whatever fines, costs, penalties, or remedies are
8 provided by law for failure to comply with the Consent Judgment and Mattel shall retain
9 the right to present all evidence, arguments, and defenses concerning compliance with the
10 Consent Judgment that it wishes to raise to the Court.

11 4.2.7 Payments for Non-Contested Matters: Unless Mattel contests a Notice of
12 Violation under subsection 4.2.4 and maintains that election following the process set
13 forth in subsection 4.2.4, then it shall tender payment as further specified in Section 5.2
14 below, the following stipulated payments: \$20,000 for the first occurrence, \$35,000 for
15 the second occurrence within six months, and \$50,000 for the third or subsequent
16 occurrence within a year. For purposes of this Section, an "Occurrence" shall refer to an
17 event with a duration of less than three weeks at a Mattel or Vendor facility that has
18 resulted in Impermissible Lead in finished Children's Products. Mattel's liability under
19 subsection 4.2.7 of the Consent Judgment for manufacturing, distributing, selling, or
20 offering for sale in California a Children's Product containing Impermissible Lead shall
21 be limited such that Mattel shall be liable for no more than one required payment for each
22 Occurrence that results in Children's Products containing Impermissible Lead being
23 distributed, sold, or offered for sale in California regardless of the number of retailers to
24 whom such Children's Products have been distributed.

25 4.2.8 After Mattel has served a Notice of Election on the Attorney General as
26 provided in this Consent Judgment, compliance by Mattel with subsection 4.2.5 and
27 payment by Mattel pursuant subsection 4.2.7 shall be a full, final and binding resolution
28

1 of the alleged violation at issue and shall render the alleged violation a Covered Claim
2 under and as defined in Section 6.

3 4.2.9 A Notice of Election that does not contest an alleged violation of
4 Section 3.1 shall be considered an offer of compromise under California Evidence Code
5 § 1152 and Federal Rule of Evidence 408, and shall not constitute an admission of any
6 fact or issue by Mattel. Such Notice of Election shall not be admissible in any
7 proceeding for any purpose other than a proceeding brought pursuant to Section 4.1 of
8 this Consent Judgment.

9 4.3 RESERVATIONS REGARDING FUTURE ENFORCEMENT

10 Nothing in the Consent Judgment shall restrict the Attorney General from exercising his
11 enforcement authority under the CPSIA with respect to future violations of Federal Lead
12 Standards. In addition, except as provided in Sections 4.1 and 4.2, nothing in the Consent
13 Judgment waives an authorized public prosecutor's right to take future enforcement action
14 regarding any violations of applicable State law regarding the presence of lead and lead
15 compounds in Covered Products not covered by the Complaint or addressed by Section 6 of the
16 Consent Judgment, and to seek in such actions whatever fines, costs, attorneys' fees, penalties or
17 remedies are provided by law. The rights of Mattel to defend itself and its actions in law or
18 equity shall not be abrogated or reduced in any fashion by the terms of this Section. Mattel shall
19 be entitled to raise any and all applicable defenses, arising in law or equity, except that Mattel
20 shall not contest its obligation to comply with the terms of the Consent Judgment as long as the
21 Consent Judgment remains in effect. Nothing in the Consent Judgment shall be construed as
22 diminishing Mattel's continuing obligation to comply with Proposition 65 or the UCL in its
23 future activities, to the extent these statutes are applicable.

24 5.0 PAYMENTS

25 5.1 Settlement Payment. The total settlement amount shall be \$1,000,000. Mattel
26 shall pay \$100,000 on or before December 5, 2008. Mattel shall pay the remaining \$900,000
27 within ten business days of the date of entry of judgment, or by January 15, 2009, whichever is
28 later. The payment shall be allocated as follows:

GA)

1 5.1.1 \$300,000 as a civil penalty pursuant to California Health & Safety Code
2 section § 25249.7, subdivision (b)(1). The 25 percent portion of the civil penalty
3 allocated pursuant to Health and Safety Code section 25249.12, subdivision (d), shall be
4 divided as follows: \$50,000 to the Attorney General, and \$25,000 to the Los Angeles
5 City Attorney's Office.

6 5.1.2 \$300,000 to the Public Health Institute, including the entirety of the
7 \$100,000 payment made on or before December 5, 2008. These funds, and any interest
8 on the funds, shall be placed in the Toy Testing and Outreach Fund, and administered by
9 the Public Health Trust in a manner consistent with Section 2.17 of this Consent
10 Judgment

11 5.1.3 \$150,000 to the Attorney General to be used for the enforcement of
12 Proposition 65.

13 5.1.4 \$100,000 to the Los Angeles City Attorney to be used for the enforcement
14 of Proposition 65.

15 5.1.5 \$150,000 to reimburse the Attorney General's attorney's fees and costs
16 incurred in investigating, bringing, and resolving the case against Mattel.

17 5.2 Stipulated Payments. Any Stipulated payments pursuant to subsections 4.2.5 and
18 4.2.7 shall be paid within ten (10) business days after Mattel's election not to contest the Notice
19 of Violations, and shall be allocated as follows:

20 5.2.1 25 percent shall be a civil penalty, pursuant to Health and Safety Code
21 Section 25249.7, subdivision (b)(1).

22 5.2.2 75 percent shall be placed in the Toy Testing and Outreach Fund.

23 5.3 Payments to the Attorney General shall be made by check payable to "Office of
24 the California Attorney General," and sent by certified or express mail to:

25 Robert Thomas
26 Legal Analyst
27 Office of the Attorney General
28 1515 Clay St., 20th Floor
 Post Office Box 70559
 Oakland, California 94612

1 5.4 Payments to the Los Angeles City Attorney shall be made by check payable to the
2 Los Angeles City Attorney, and shall be sent to:

3 Patricia Bilgin
4 Supervising Attorney, Environmental Justice Unit
5 200 North Main Street, 500 City Hall East
6 Los Angeles, CA 90012

7 5.5 Funds paid to the Attorney General pursuant to subsections 5.1.3 or 5.1.5 shall be
8 placed in an interest-bearing Special Deposit Fund established by the Attorney General. Those
9 funds, including any interest derived therefrom, shall be used by the Attorney General, until all
10 funds are exhausted, for the costs and expenses associated with the enforcement and
11 implementation of Proposition 65, including investigations, enforcement actions, other litigation
12 or activities as determined by the Attorney General to be reasonably necessary to carry out his
13 duties and authority under Proposition 65. Such funding may be used for the costs of the
14 Attorney General's investigation, filing fees and other court costs, payment to expert witnesses
15 and technical consultants, purchase of equipment, travel, purchase of written materials,
16 laboratory testing, sample collection or any other cost associated with the Attorney General's
17 duties or authority under Proposition 65. Funding placed in the Special Deposit Fund pursuant to
18 this Section, and any interest derived therefrom, shall solely and exclusively augment the budget
19 of the Attorney General's Office and in no manner shall supplant or cause any reduction of any
20 portion of the Attorney General's budget.

21 **6.0 COVERED CLAIMS**

22 The Consent Judgment is a full, final, and binding resolution between the People and
23 Mattel and Mattel's parents, shareholders, divisions, subdivisions, subsidiaries, affiliates,
24 partners, sister companies, employees, shareholders, directors, insurers, licensors, and attorneys
25 and their successors and assigns ("Defendant Releasees"), and all entities to whom they have
26 distributed or sold Children's Products manufactured by or for Mattel, including but not limited
27 to distributors, wholesalers, customers, retailers, franchisees, cooperative members, and licensees
28 ("Downstream Defendant Releasees"), of any violation of Proposition 65, the UCL, CPSA,
Federal Hazardous Substances Act, or any other statutory or common law claims that have been

1 or could have been asserted in the public interest or by or on behalf of the people of the State of
2 California against Mattel, Defendant Releasees, and Downstream Defendant Releasees,
3 regarding the presence of lead and lead compounds in Children's Products manufactured by or
4 for Mattel prior to the Effective Date, or the failure to warn about exposure to, lead or lead
5 compounds, in Children's Products manufactured by or for Mattel prior to the Effective Date
6 ("Covered Claim"). Compliance with the Lead Standards in the Consent Judgment by Mattel
7 after the Effective Date constitutes compliance with Proposition 65 and the UCL by Mattel,
8 Defendant Releasees, and Downstream Defendant Releasees regarding the presence of lead and
9 lead compounds in Covered Products manufactured by or for Mattel, and the failure to warn
10 about exposure to, lead or lead compounds, in Covered Products manufactured by or for Mattel.
11 This Consent Judgment does not create or give rise to any private right of action of any kind.

12 **7.0 PRESERVATION OF INDUSTRY COMPETITIVENESS.**

13 In the event the People enter into an agreement or consent judgment with any other
14 person manufacturing Children's Products addressing alleged violations of Proposition 65 or the
15 UCL with respect to lead and Children's Products that provides for less stringent standards than
16 the Lead Standards set forth in Section 3.1, above, eliminating or curtailing the Quality
17 Assurance System related-requirements set forth in Section 3.2, eliminating or changing the
18 criteria governing the Interim Measures requirements set forth in Section 3.4, or providing for a
19 lower level of stipulated payments than those set forth in subsection 4.2.7, then the Consent
20 Judgment shall be deemed to have been amended to provide Mattel with the option of exercising
21 those provisions rather than those specified herein. Mattel shall provide the Attorney General
22 with prior written notice of any election made pursuant to this Section.

23 **8.0 GOVERNMENT DISCLOSURE RESTRICTIONS**

24 8.1 Mattel shall immediately notify the Attorney General if, due to a Government
25 Disclosure Restriction, Mattel is unable to publish or disclose any information otherwise
26 required under the Consent Judgment, and at that time Mattel shall specify the Government,
27 Government Entity, and/or Government Disclosure Restriction(s) that Mattel believes prevents
28 the disclosure.

1 **9.0 REPRESENTATIONS AND WARRANTIES**

2 9.1 The Parties represent that they are the proper Parties to the Consent Judgment.
3 Mattel warrants and represents that the individuals signing the Consent Judgment on its behalf do
4 so in their official capacities and are fully authorized by Mattel to enter into the Consent
5 Judgment and to legally bind Mattel to all of the terms and conditions of the Consent Judgment.

6 9.2 The Consent Judgment contains the complete agreement between the Parties. No
7 promises, representations, or warranties other than those set forth in the Consent Judgment have
8 been made by any Party.

9 **10.0 MISCELLANEOUS PROVISIONS**

10 10.1 The terms of the Consent Judgment will be governed by California law.

11 10.2 Any headings or subheadings used herein are for reference purposes only and do
12 not affect the substantive provisions of the Consent Judgment.

13 10.3 The failure of any Party to exercise any rights under the Consent Judgment shall
14 not be deemed a waiver of any right or future rights. If any part of the Consent Judgment shall
15 for any reason be found or held invalid or unenforceable by any Court of competent jurisdiction,
16 such invalidity or unenforceability shall not affect the remainder of the Consent Judgment, which
17 shall survive and be construed as if such invalid or unenforceable part had not been contained
18 herein.

19 10.4 The Court may modify or terminate the Consent Judgment pursuant to the
20 agreement of the parties or for good cause shown, including, but not limited to, repeated
21 substantial violations by Mattel of this Consent Judgment. After making a good faith effort to
22 obtain the concurrence of the other party for the requested relief, which concurrence shall not be
23 unreasonably withheld, the Party seeking modification or termination may petition the Court for
24 such relief. In addition to the above, the Consent Judgment shall be terminable by Mattel or the
25 Attorney General at any time following the fifth anniversary of the Effective Date, upon the
26 provision of thirty (30) days advanced written notice; such termination shall be effective upon
27 the subsequent filing of a notice of termination with Superior Court of Alameda County.

28

1 10.5 The Parties, including their counsel, have participated in the preparation of this
2 Consent Judgment and this Consent Judgment is the result of the joint efforts of the Parties. This
3 Consent Judgment was subject to revision and modification by the Parties and has been accepted
4 and approved as to its final form by all Parties and their counsel. Accordingly, any uncertainty
5 or ambiguity existing in this Consent Judgment shall not be interpreted against any Party as a
6 result of the manner of the preparation of this Consent Judgment. Each Party to this Consent
7 Judgment agrees that any statute or rule of construction providing that ambiguities are to be
8 resolved against the drafting Party should not be employed in the interpretation of this Consent
9 Judgment and, in this regard, the Parties hereby waive California Civil Code section 1654.

10 10.6 It is the mutual intent of the Parties to seek and to obtain Court approval of this
11 Consent Judgment without undue delay.

12 10.7 This Consent Judgment contains the sole and entire agreement and understanding
13 of the Parties with respect to the entire subject matter hereof, and any and all prior discussions,
14 negotiations, commitments and understandings related hereto. No representations, oral or
15 otherwise, express or implied, other than those contained herein have been made by any Party
16 hereto. No other agreements not specifically referred to herein, oral or otherwise, shall be
17 deemed to exist or to bind any of the Parties.

18 10.8 The stipulations to this Consent Judgment may be executed in counterparts and by
19 means of electronic transmission, which taken together shall be deemed to constitute one
20 document.

21 **11.0 SERVICE OF NOTICE AND PROCESS**

22 Service of notices and process required by the Consent Judgment or its enforcement shall
23 be served on the following persons, or any person subsequently designated by the Parties:

24 For the Attorney General:

25 Harrison M. Pollak, Deputy Attorney General
26 Office of the California Attorney General
27 1515 Clay Street, 20th Floor
28 P.O. Box 70550
 Oakland, CA 94610
 Telephone: (510) 622-2183
 Facsimile: (510) 622-2270
 E-Mail: harrison.pollak@doj.ca.gov

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For the Los Angeles City Attorney:

Patricia Bilgin, Supervising Attorney, Environmental Justice Unit
200 North Main Street, 500 City Hall East
Los Angeles, CA 90012
Telephone: (213) 978-8080
Facsimile: (213) 978-8111
E-Mail: patty.bilgin@lacity.org

For Mattel, Inc. and Fisher-Price, Inc.:

Lee Papageorge
Expert Litigation Counsel
Law Department
Mattel, Inc.
Mail Stop: M1-1518
333 Continental Boulevard
El Segundo, CA 90245-5012
Telephone: (310) 252-4067
Facsimile: (310) 252-4991
E-Mail: lee.papageorge@mattel.com


and

Robert L. Falk
Morrison & Foerster LLP
425 Market Street, 32nd floor
San Francisco, CA 94105
Telephone: (415) 268-6294
Facsimile: (415) 268-7522
E-Mail: Rfalk@mfo.com

IT IS SO STIPULATED.

Dated: 12/30/08

**EDMUND G. BROWN JR.
ATTORNEY GENERAL**


By: 

**EDWARD G. WEIL
Supervising Deputy Attorney General**

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Dated: 12/30/08

ROCKARD J. DELGADILLO
LOS ANGELES CITY ATTORNEY

By: 
PATRICIA BILGIN
Supervising Attorney,
Environmental Justice Unit

Dated: 12-23-08

MATTEL, INC., and FISHER PRICE, INC.

By: 
Robert Normile
Senior Vice President, General Counsel
and Secretary

IT IS SO ORDERED.

Dated: DEC 31 2008

By: STEVEN A. BRICK *SATSC*
Honorable Steven A. Brick
Judge of the Superior Court

EXHIBIT 2

1 EDMUND G. BROWN JR.
Attorney General of the State of California
2 J. MATTHEW RODRIQUEZ
Chief Assistant Attorney General
3 KEN ALEX
Senior Assistant Attorney General
4 EDWARD G. WEIL (SBN 88302)
Supervising Deputy Attorney General
5 TIMOTHY E. SULLIVAN (SBN 197054)
HARRISON M. POLLAK (SBN 200879)
6 Deputy Attorneys General
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7 P.O. Box 70550
Oakland, CA 94612-0550
8 Telephone: (510) 622-2100
Fax: (510) 622-2270
9 E-mail: Harrison.Pollak@doj.ca.gov

10 ROCKARD J. DELGADILLO (SBN 125465)
Los Angeles City Attorney
11 JEFFREY B. ISAACS (SBN 117104)
Chief Assistant City Attorney and Chief,
12 PATTY BILGIN (SBN 164090)
Assistant City Attorney
13 ELISE A. RUDEN (SBN 124970)
Deputy City Attorneys
14 200 North Main Street, 500 City Hall East
Los Angeles, California 90012-4131
15 Telephone: (213) 978-8080
Fax: (213) 978-8111

16 Attorneys for Plaintiffs People of the State of California

17 SUPERIOR COURT OF CALIFORNIA

18 FOR THE COUNTY OF ALAMEDA

19 PEOPLE OF THE STATE OF
20 CALIFORNIA, ex rel. EDMUND G.
BROWN JR., Attorney General., et al.

21 Plaintiffs,

22 v.

23 MATTEL, INC., et al.

24 Defendants
25
26
27
28

Case No. RG07356892

ASSIGNED FOR ALL PRETRIAL PURPOSES
TO: JUDGE STEVEN A. BRICK
DEPARTMENT 17

aw *STB*
STIPULATED [PROPOSED] CONSENT
JUDGMENT AS TO A & A GLOBAL
INDUSTRIES, INC.; AMSCAN, INC.;
CRANIUM INC.; EVEREADY BATTERY CO.;
KIDS II, INC.; MARVEL ENTERTAINMENT,
INC.; RC2 CORPORATION; and TOY
INVESTMENTS, INC.

Complaint filed: November 19, 2007

Trial date: None

ENDORSED
FILED
ALAMEDA COUNTY

DEC 31 2008

CLERK OF THE SUPERIOR COURT
By E. Opelski-Erickson, Deputy

1 This Stipulated Consent Judgment (the "Consent Judgment") is between Plaintiffs, the
2 People of the State of California, *ex rel.* Edmund G. Brown Jr., California Attorney General
3 "Attorney General") and A&A Global Industries, Inc., Amscan, Inc., Cranium, Inc., Eveready
4 Battery Co., Kids II, Inc., Marvel Entertainment, Inc., RC2 Corporation, and Toy Investments,
5 Inc. ("Manufacturer Defendant(s)").

6 **1.0 INTRODUCTION**

7 1.1 On November 19, 2007, following the receipt of several sixty-day notices of
8 intent to file suit on behalf of the general public pursuant to Health and Safety Code Section
9 25249.7(d), the People filed their complaint, captioned *People of the State of California v.*
10 *Mattel, Inc. et al.*, RG07356892 in the Alameda County Superior Court. The People allege that
11 the defendants violated the California Safe Drinking Water and Toxic Enforcement Act,
12 California Health & Safety Code Section 25249.5 *et seq.* ("Proposition 65"), and Business &
13 Professions Code Sections 17200 *et seq.* ("Unfair Competition Law"), by exposing California
14 consumers to lead through the manufacture, distribution and sale of toys made of materials that
15 contain lead or lead compounds, without first providing "clear and reasonable" warnings. Lead
16 and lead compounds are listed under Proposition 65 as "chemical[s] known to the State of
17 California to cause cancer and birth defects or other reproductive harm."

18 1.2 For purposes of the Consent Judgment only, the Parties stipulate that (a) each
19 Manufacturer Defendant employs more than 10 persons, and has employed ten or more persons
20 at some time relevant to the allegations of the Complaint, (b) the Court has jurisdiction over the
21 allegations of violations contained in the Complaint, (c) the Court has personal jurisdiction over
22 the Manufacturer Defendants for the purposes of enforcing the terms of the Consent Judgment,
23 (d) venue is proper in the County of Alameda, and (d) the Court has jurisdiction to enter the
24 Consent Judgment as a full settlement and resolution of the allegations contained in the
25 Complaint.

26 1.3 The Manufacturer Defendants agree not to challenge or object to entry of the
27 Consent Judgment by the Court unless the People have notified the Manufacturer Defendants in
28 writing that the People no longer support entry of the Consent Judgment or that the People seek

1 to modify or support modification of the Consent Judgment, in which case the Manufacturer
2 Defendants may, at their option, withdraw from the Consent Judgment. The Manufacturer
3 Defendants agree not to challenge the Court's jurisdiction to enforce the terms of the Consent
4 Judgment once it has been entered.

5 1.4 The Manufacturer Defendants dispute the allegations of the Complaint, and
6 contends that the Manufacturer Defendants' conduct and all of their products sold in California
7 have complied with and comply with all applicable State laws, including Proposition 65 and the
8 Unfair Competition Law. However, the Parties enter into the Consent Judgment pursuant to a
9 settlement of certain disputed claims between the Parties as alleged in the Complaint, for the
10 purpose of avoiding prolonged and costly litigation, and to resolve all claims arising from the
11 facts alleged in the Complaint. By execution of the Consent Judgment, the Manufacturer
12 Defendants do not admit any fact, conclusion of law, or violation of law, including, but not
13 limited to, any violations of Proposition 65, the Unfair Competition Law or any other statutory,
14 regulatory, common law or equitable requirements. Neither the Consent Judgment, nor the
15 Parties' compliance with the Consent Judgment, shall be construed as an admission by the
16 Manufacturer Defendants of any fact, conclusion of law, issue of law or violation of law.

17 1.5 Except as explicitly set forth herein, nothing in the Consent Judgment shall
18 prejudice, waive or impair any right, remedy, argument or defense the Parties may have in this or
19 any other pending or future legal and/or administrative proceedings; nor shall anything in the
20 Consent Judgment preclude the Parties from opposing any such defense, claim, or argument.

21 **2.0 DEFINITIONS**

22 2.1 For Children's Products manufactured before February 10, 2009, "Accessible"
23 shall mean a material that is physically exposed to a child at the time of purchase or that will
24 become physically exposed to a child through normal and reasonably foreseeable use and abuse
25 of the Covered Product as determined pursuant to ASTM F963-07, and only to the extent use and
26 abuse is specified by ASTM F 963-07.

27 2.2 For Children's Products manufactured on or after February 10, 2009,
28 "Accessible" shall have the same meaning as set forth in Section 2.1 above, provided that any

1 material that is not or does not become physically exposed to a child through normal and
2 reasonably foreseeable use and abuse of a children's product, as use and abuse is specified by
3 ASTM F963-07, solely by reason of paint, electroplating, or other surface coating, shall also be
4 deemed "Accessible." The Parties further agree that, in the event that the Consumer Product
5 Safety Commission ("CPSC") by final rule, guidance rule, exclusion, or exception pursuant to
6 Section 101(b) of the Consumer Product Safety Improvement Act of 2008 ("CPSIA") determines
7 that the Federal Lead Standards apply to any material that is not "Accessible" under the
8 definition in the immediately preceding sentences, then any such material shall also be deemed
9 "Accessible" under the Consent Judgment. The foregoing definition of "Accessible" was
10 adopted solely for purposes of the Consent Judgment and shall not affect the ability of the People
11 to argue in any other context that materials that are not "Accessible" under the Consent
12 Judgment nonetheless are or ought to be subject to the Federal Lead Standards.

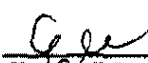
13 2.3 "Children's Product" has the same meaning as that given in Section 3(a) of the
14 Consumer Product Safety Act ("CPSA"), 15 U.S.C. 2052 (a) and is manufactured by a
15 Manufacturer Defendant or for a Manufacturer Defendant by a Vendor and is sold or offered for
16 sale to consumers in California.

17 2.4 "Court" shall mean the Alameda County Superior Court.

18 2.5 "Covered Product" shall mean a finished Children's Product that is manufactured
19 by a Manufacturer Defendant or for a Manufacturer Defendant by a Vendor on or after the
20 Effective Date, is sold or offered for sale to consumers in California, and is designed or intended
21 primarily for use by a child when the child plays.

22 2.6 "Effective Date" shall mean November 30, 2008, provided that the Parties to this
23 agreement have executed it.

24 2.7 "Federal Lead Standards" shall mean any standards set or promulgated, before or
25 after the Effective Date, by the CPSIA or by the Consumer Product Safety Commission (the
26 "CPSC") relating to the maximum permissible levels of lead in Substrates and Surface Coatings,
27 including the products or components to which the standards apply and any exemptions from the
28 application of those standards.



1 2.8 “Government Disclosure Restrictions” shall mean all U.S. federal and foreign
2 government restrictions or requirements existing before or after the Effective Date, including but
3 not limited to CPSC reporting, disclosure and publication obligations, instructions or practices,
4 that prohibit or restrict the publication or disclosure or the timing of the publication or disclosure
5 of information by a Manufacturer Defendant. Nothing in the Consent Judgment shall be
6 construed as preventing a Manufacturer Defendant from arguing that it is prohibited from
7 disclosing information, and nothing in the Consent Judgment shall be construed to restrict any
8 power of the People or of any Manufacturer Defendant to seek, through court or administrative
9 process, any information from the other Party, subject to whatever defenses that other Party may
10 otherwise have.

11 2.9 “Impermissible Lead” shall mean lead in excess of the Lead Standards.

12 2.10 “Lead Standards” shall mean the standards contained in Section 3.1 of the
13 Consent Judgment that set the maximum permissible levels of lead in Substrates and Surface
14 Coatings used on or in an Accessible part of a finished Covered Product. For Children’s
15 Products that were manufactured before the Effective Date, and are therefore not Covered
16 Products, Lead Standards shall mean those Federal Lead Standards that were in effect at the time
17 of manufacture.

18 2.11 “Parties” shall mean the Manufacturer Defendants and the People.

19 2.12 “Quality Assurance System” shall mean the totality of a Manufacturer
20 Defendant’s quality assurance procedures, including but not limited to inspection, auditing
21 and/or testing procedures, designed as a system, even where individual tests or procedures may
22 fail, to identify Impermissible Lead and to prevent the sale of Covered Products with
23 Impermissible Lead in California.

24 2.13 “Substrates” shall mean any Accessible materials used in finished Covered
25 Products that are not Surface Coatings.

26 2.14 “Surface Coatings” shall mean those Accessible paints and other similar surface
27 coating materials used on finished Children’s Products as defined and limited by 16 C.F.R. §
28 1303.2(b)(1).

1 2.15 "Toy Testing and Outreach Fund" shall mean a fund established within the
2 California-based Public Health Institute and administered by the Public Health Trust, a project of
3 the Public Health Institute, for the purposes of monitoring compliance with limitations on lead in
4 children's products in California, and identifying and implementing outreach measures with
5 respect to recalls of children's products, including reasonable efforts to communicate
6 information about such recalls to consumers who do not have internet access and/or who do not
7 speak English.

8 2.16 "Vendor" shall mean a third party that manufactures for a Manufacturer
9 Defendant finished Covered Products sold at wholesale by the Manufacturer Defendant.

10 **3.0 COMPLIANCE PROVISION / PERMANENT INJUNCTIONS**

11 **3.1 COMPLIANCE WITH LEAD STANDARDS: COVERED PRODUCTS**

12 The Manufacturer Defendants shall not manufacture, distribute, donate, offer for sale or
13 sell in California, Covered Products with a concentration of lead in or on Accessible parts in
14 excess of the following standards.

15 3.1.1 For the Manufacturing Defendants except Amscan, Inc. and Kids II, Inc.,
16 for each Accessible Surface Coating on a finished Covered Product, 90 parts per million
17 ("ppm") total lead for finished Covered Products manufactured after the Effective Date.

18 3.1.2 For the Manufacturing Defendants except Amscan, Inc. and Kids II, Inc.,
19 for each Accessible Substrate in or on a finished product:

20 3.1.2.1 300 ppm total lead for finished Covered Products manufactured
21 after the Effective Date; and

22 3.1.2.2 100 ppm total lead for finished Covered Products manufactured
23 on or after August 14, 2011, unless the CPSC determines that a standard of 100
24 ppm total lead for finished Covered Products is not technologically feasible, in
25 which case the Manufacturer Defendants shall be obligated to comply with the
26 standard established by the CPSC.

27 3.1.3 For Amscan, Inc. and Kids II, Inc., for Covered Products manufactured
28 after the Effective Date, the Federal Lead Standards that will be operative under the

1 CPSIA on February 10, 2009, and for Covered Products manufactured after February 10,
2 2009, the Federal Lead Standards.

3 3.1.4 The Lead Standards shall not apply to electronic components or electronic
4 accessories that are not Accessible "small objects" as described in ASTM F 963-07
5 § 4.6.1. Notwithstanding the foregoing sentence, if the CPSC (i) issues requirements to
6 eliminate or minimize the potential for exposure to and accessibility of lead in electronic
7 devices, (ii) establishes a schedule by which such electronic devices shall be in full
8 compliance with the limits described in this subsection, and/or (iii) determines that full
9 compliance will not be technologically feasible, pursuant to Section 101(b)(4) of the
10 CPSIA, and such requirements, schedules or determinations are in effect, then the CPSC
11 rules, exceptions or exclusions pertaining to electronic components or electronic
12 accessories shall be considered Lead Standards under the Consent Judgment. In the event
13 that CPSC does not act pursuant to Section 101(b)(4) of the CPSIA before the third
14 anniversary of the Effective Date, the exception provided by the first sentence of this
15 subsection shall be deemed to expire at that time.

16 3.1.5 The Lead Standards shall not apply to any Children's Product or
17 constituent components or materials that the CPSC excludes pursuant to Section 101(b)
18 of the CPSIA from the application of Federal Lead Standards.

19 3.2 QUALITY ASSURANCE SYSTEM

20 3.2.1 Each Manufacturer Defendant shall implement a Quality Assurance
21 System that is designed to identify and to segregate Covered Products that contain
22 Impermissible Lead during and subsequent to the manufacturing process in order to
23 prevent distributing, donating, offering for sale or selling Covered Products containing
24 Impermissible Lead in California. The Manufacturer Defendants' commitments under
25 this Section 3.2, including with respect to its Quality Assurance System and with respect
26 to Vendors, shall apply only to Covered Products manufactured by the Manufacturer
27 Defendants or for the Manufacturer Defendants by Vendors. It is expressly understood
28 that individual tests or procedures may be modified, changed or revised by a

1 Manufacturer Defendant over time and that no claim can or will be made that this Section
2 of the Consent Judgment has been violated: (i) absent a substantial failure to implement
3 a Quality Assurance System, or (ii) because a specific test or procedure is not followed or
4 performed, as long as the modified Quality Assurance System is designed to perform the
5 same function as described herein.

6 **3.3 RECALLS**

7 3.3.1 Upon request, the Manufacturer Defendant shall provide to the Attorney
8 General the information it provides in any written reports to the CPSC concerning any
9 recall of Covered Products manufactured by the Manufacturer Defendant because of lead
10 content, as soon as possible, once any such recall is approved and announced by the
11 CPSC, as permitted by and consistent with Government Disclosure Restrictions, and any
12 and all follow-up reports, including information contained in its progress reports on the
13 efficacy of product recalls, subject to confidentiality as permitted by law.

14 3.3.2 The Manufacturer Defendant shall provide direct notice of a recall because
15 of lead content involving Covered Products to all consumers of the affected Covered
16 Product for whom the Manufacturer Defendants possesses address or e-mail information.
17 The notice shall include, at a minimum, information that is equivalent to the information
18 in the recall notice approved by the CPSC.

19 **3.4 INTERIM MEASURES FOR CHILDREN'S PRODUCTS THAT ARE NOT**
20 **COVERED PRODUCTS**

21 If the Attorney General or a Manufacturer Defendant obtains reliable information that a
22 Children's Product manufactured by the Manufacturer Defendant or by a Vendor for the
23 Manufacturer Defendant before the Effective Date, that has been offered for retail sale in
24 California after the Effective Date and prior to February 10, 2009, contains more than: (A) 600
25 ppm lead: (i) in or on an Accessible Surface Coating, or (ii) in or on an Accessible Substrate that
26 is plastic, rubber or polyvinyl chloride ("PVC"), or (B) more than 90 ppm of soluble lead in
27 leachate from unplated metal components which are "small objects" and are accessible to a child
28 following assembly as tested and determined pursuant to EN-71, then upon notice thereof, the

1 Manufacturer Defendant shall immediately investigate, and upon confirmation but in no event
2 longer than 10 business days, shall: (a) stop distributing the Children's Product(s) for sale in
3 California, (b) promptly notify customers selling in California of the potentially non-conforming
4 Children's Product(s), and (c) within three business days, inform the Attorney General of what
5 action or actions it has taken and will take to investigate and, if applicable, to prevent the
6 Children' Product from being sold by the Manufacturer Defendant in California, including which
7 customers it has notified and/or will notify. The use of the word "obtains" in the preceding
8 sentence shall not be deemed to create or impose any affirmative duty or obligation to seek out
9 any Children's Products that are subject to this paragraph. This Section 3.4 does not apply to
10 electronic components or electronic accessories that are not Accessible "small objects" as
11 described in ASTM F 963-07 § 4.6.1. This Section 3.4 shall also not be applicable if, after
12 meeting and conferring, the Manufacturer Defendant and the Attorney General agree that any
13 lead exposure arising from a Children's Product otherwise subject to this Section is less than 0.5
14 micrograms per day based on an assessment conducted pursuant to Section 25821 of Proposition
15 65's regulations. In the event the Manufacturer Defendant undertakes a recall pursuant to CPSC
16 regulations, it shall be deemed to satisfy the Manufacturer Defendant's obligations under this
17 Section 3.4. The timing and content of any disclosures of information required under this
18 Section shall be subject to any Government Disclosure Restrictions.

19 **4.0 FUTURE ENFORCEMENT**

20 **4.1 GENERAL ENFORCEMENT FRAMEWORK**

21 Under the circumstances set forth herein, and after having provided the Manufacturer
22 Defendant with at least fifteen (15) business days written notice during which the Parties will
23 meet and confer, and, on request, at least fifteen (15) additional business days in the event the
24 Manufacturer Defendant wishes to exercise subsection 4.1.1, the People may enforce violations
25 of the Consent Judgment or enforce violations of applicable State law regarding the presence of
26 lead or lead compounds in a Covered Product by application to a court of competent jurisdiction
27 for appropriate relief.
28

1 4.1.1 The People may elect to enforce a violation of applicable State law
2 regarding the presence of lead or lead compounds in a Covered Product, or the Lead
3 Standards in the Consent Judgment, but not both, in accordance with either Sections 4.1
4 or 4.2. However, if the Manufacturer Defendant demonstrates to the satisfaction of the
5 Attorney General, which satisfaction shall not unreasonably be withheld, within thirty
6 (30) days following receipt of notice pursuant to Section 4.1 that any lead exposure
7 arising from a Covered Product is less than 0.5 micrograms per day based on an
8 assessment conducted by a qualified expert pursuant to Section 25821 of the Proposition
9 65 regulations, then the Attorney General, if he elects to pursue enforcement of the
10 alleged violation at issue, shall do so pursuant to Section 4.2 below; provided that if the
11 Attorney General obtains the opinion of a qualified expert that refutes the assessment
12 conducted by the Manufacturer Defendant's expert, which opinion the Attorney General
13 shall make available to the Manufacturer Defendant, the Attorney General may proceed
14 pursuant to Section 4.1.

15 4.1.2 Wherever the alleged violation asserted under Section 4.1 or 4.2 concerns
16 a violation of the Lead Standards, then the notice shall include information sufficient to
17 identify the Covered Product at issue, including, at a minimum, if available, its stock
18 keeping unit number and date code. The Manufacturer Defendant shall be permitted to
19 inspect the Covered Product at issue upon request.

20 4.2 NOTICES OF VIOLATION AND ELECTION; STIPULATED PENALTIES

21 4.2.1 Notice of Violation: Within 60 days after the Attorney General learns facts
22 providing a reasonable basis to conclude that a Covered Product that contains
23 Impermissible Lead was sold in California, the Attorney General shall provide the
24 Manufacturer Defendant written notice of the alleged violation ("Notice of Violation").
25 If the Attorney General has information about the alleged violation that is not public or
26 that the Manufacturer Defendant does not already have in its possession, including test
27 results, the Notice of Violation shall include such information, except any evidence that
28 has been submitted in support of a certificate of merit pursuant to Health and Safety Code

ga

1 Section 25249.7(d) need not be provided. In any event, the Attorney General shall make
2 available to the Manufacturer Defendant for inspection and copying, upon its request, all
3 information in the possession of the Attorney General pertaining to the alleged violation
4 that is not privileged or subject to confidentiality under State law.

5 4.2.2 Notice of Election: Within 15 business days after the Manufacturer
6 Defendant receives the Notice of Violation, and all materials in the possession of the
7 Attorney General relevant to the alleged violation as set forth in subsection 4.2.1, the
8 Manufacturer Defendant shall provide written notice to the Attorney General whether it
9 elects to contest the allegations contained in the Notice of Violation ("Notice of
10 Election").

11 4.2.3 Contents of Notice of Election Not to Contest: If the Manufacturer
12 Defendant does not contest the allegations in the Notice of Violation, then the Notice of
13 Election shall include: (i) a description of the Quality Assurance System that was in
14 place to prevent the violation from occurring and the corrective action that the
15 Manufacturer Defendant has undertaken or proposes to undertake pursuant to subsection
16 4.2.5; (ii) the name and contact information of the facility or facilities where the Covered
17 Product was manufactured; and (iii) an explanation of why the violation occurred.

18 Within 10 business days after sending the Notice of Election, and if the Manufacturer
19 Defendant does not contest the violation, the Manufacturer Defendant shall make the
20 payment required under subsection 4.2.7.

21 4.2.3.1 The Manufacturer Defendant may also send the Attorney
22 General a Notice of Election under subsection 4.2.3 in response to a 60-day notice
23 of violation pursuant to Health and Safety Code Section 25249.7(d)(1) where the
24 Attorney General has not issued a Notice of Violation, provided that (a) the
25 Manufacturer Defendant waits at least 45 days after receipt of the 60-day notice,
26 (b) the Attorney General has not provided notice of the same, or a substantially
27 similar violation, under Section 4.1 or Section 4.2.1, and (c) the Manufacturer
28

1 Defendant serves a copy of the Notice of Election on the person that sent the 60-
2 day notice.

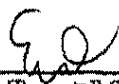
3 4.2.4 Contents of Notice of Election to Contest: If the Manufacturer Defendant
4 contests the Notice of Violation, then the Notice of Election shall include all then-
5 available documentary evidence in the Manufacturer Defendant's possession regarding
6 the alleged violation, including all test data, if any, as permitted by and consistent with
7 Government Disclosure Restrictions. Within 15 business days after serving a Notice of
8 Election contesting a Notice of Violation, the Manufacturer Defendant and the Attorney
9 General shall meet and confer in good faith to attempt to resolve the dispute. At the
10 conclusion of the meet and confer, one or more of the following may take place: (i) the
11 Attorney General may withdraw the Notice of Violation; (ii) the Manufacturer Defendant
12 may issue an amended Notice of Election that does not contest the violations, pursuant to
13 subsections 4.2.2 and 4.2.3, above; or (iii) the Manufacturer Defendant may continue to
14 contest the Notice of Violation.

15 4.2.5 Action Upon Election: Upon election by the Manufacturer Defendant not
16 to contest the Notice of Violation, the Manufacturer Defendant shall: (i) take corrective
17 action designed to encourage the removal of the Covered Product from sale in California;
18 (ii) if there is no recall in conjunction with the CPSC, inform consumers in California that
19 they may return the affected products for a full refund, replacement toy, repair and/or
20 voucher for replacement toys, at the Manufacturer Defendant's option; and (iii) pay to the
21 Attorney General within ten (10) business days the stipulated payments specified in
22 subsection 4.2.7. A Notice of Election that does not contest an alleged violation of the
23 Consent Judgment or of applicable State law shall be considered an offer of compromise
24 under California Evidence Code § 1152 and Federal Rule of Evidence 408 and shall not
25 otherwise constitute an admission of any fact or issue by the Manufacturer Defendant.
26 Such Notice of Election shall also not be admissible in any proceeding for any purpose
27 other than a proceeding brought pursuant to Section 4 of the Consent Judgment.
28

1 4.2.6 Upon election by the Manufacturer Defendant to contest the Notice of
2 Violation, the People may, by motion or order to show cause before the Superior Court of
3 Alameda, seek to enforce the terms and conditions contained in the Consent Judgment.
4 In any such proceeding, the People may seek whatever fines, costs, penalties, or remedies
5 are provided by law for failure to comply with the Consent Judgment and the
6 Manufacturer Defendant shall retain the right to present all evidence, arguments, and
7 defenses concerning compliance with the Consent Judgment that it wishes to raise to the
8 Court.

9 4.2.7 Payments for Non-Contested Matters: Unless the Manufacturer Defendant
10 contests a Notice of Violation under subsection 4.2.4 and maintains that election
11 following the process set forth in subsection 4.2.4, then it shall tender payment as further
12 specified in Section 5.4 below, the following stipulated payments: \$10,000 for the first
13 occurrence, \$35,000 for the second occurrence within six months, and \$50,000 for the
14 third or subsequent occurrence within a year. For purposes of this Section, an
15 "Occurrence" shall refer to an event with a duration of less than three weeks at the
16 Manufacturer Defendant or Vendor facility that has resulted in Impermissible Lead in
17 finished Covered Products. The Manufacturer Defendant's liability under subsection
18 4.2.7 of the Consent Judgment for manufacturing, distributing, selling, or offering for
19 sale in California a Covered Product containing Impermissible Lead shall be limited such
20 that the Manufacturer Defendant shall be liable for no more than one required payment
21 for each Occurrence that results in Covered Products containing Impermissible Lead
22 being distributed, sold, or offered for sale in California regardless of the number of
23 retailers to whom such Covered Products have been distributed.

24 4.2.8 After the Manufacturer Defendant has served a Notice of Election on the
25 Attorney General as provided in this Consent Judgment, compliance by the Manufacturer
26 Defendant with subsection 4.2.5 and payment by the Manufacturer Defendant pursuant
27 subsection 4.2.7 shall be a full, final and binding resolution of the alleged violation at
28



1 issue and shall render the alleged violation a Covered Claim under and as defined in
2 Section 6.

3 4.3 RESERVATIONS REGARDING FUTURE ENFORCEMENT

4 Nothing in the Consent Judgment shall restrict the Attorney General from exercising his
5 enforcement authority under the CPSIA with respect to future violations of Federal Lead
6 Standards. In addition, except as provided in Sections 4.1 and 4.2, nothing in the Consent
7 Judgment waives an authorized public prosecutor's right to take future enforcement action
8 regarding any violations of applicable State law regarding the presence of lead and lead
9 compounds in Covered Products not covered by the Complaint or addressed by Section 6 of the
10 Consent Judgment, and to seek in such actions whatever fines, costs, attorneys' fees, penalties or
11 remedies are provided by law. The rights of the Manufacturer Defendant to defend itself and its
12 actions in law or equity shall not be abrogated or reduced in any fashion by the terms of this
13 Section. The Manufacturer Defendant shall be entitled to raise any and all applicable defenses,
14 arising in law or equity, except that the Manufacturer Defendant shall not contest its obligation to
15 comply with the terms of the Consent Judgment as long as the Consent Judgment remains in
16 effect. Nothing in the Consent Judgment shall be construed as diminishing the Manufacturer
17 Defendant's continuing obligation to comply with Proposition 65 or the UCL in its future
18 activities, to the extent these statutes are applicable.

19 5.0 PAYMENTS

20 5.1 The total settlement amount shall be \$790,726. This total amount shall be
21 allocated as set for this Section 5.2. Each Settling Defendant shall pay the specific amounts as
22 set forth in Section 5.3 within ten business days of the date of entry of judgment.

23 5.2 The aggregate settlement payments shall be allocated as follows:

24 5.2.1 \$248,500 as a civil penalty pursuant to California Health & Safety Code
25 section § 25249.7, subdivision (b)(1). The 25 percent portion of the civil penalty
26 allocated pursuant to Health and Safety Code section 25249.12, subdivision (d), shall be
27 divided as follows: \$41,415 to the Attorney General, and \$20,710 to the Los Angeles
28 City Attorney's Office.

1 5.2.2 \$251,727 to the Public Health Institute. These funds, and any interest on
2 the funds, shall be placed in the Toy Testing and Outreach Fund, and administered by the
3 Public Health Trust in a manner consistent with Section 2.15 of this Consent Judgment

4 5.2.3 \$125,864 to the Attorney General to be used for the enforcement of
5 Proposition 65.

6 5.2.4 \$83,909 to the Los Angeles City Attorney to be used for the enforcement
7 of Proposition 65.

8 5.2.5 \$52,000 to reimburse the Attorney General's attorney's fees and costs
9 incurred in investigating, bringing, and resolving the case against the Manufacturing
10 Defendants.

11 5.2.6 \$24,000 to Center for Environmental Health as reimbursement of
12 attorney's fees and costs pursuant to Health and Safety Code, § 25249.7, subdivision (j).

13 5.2.7 \$4,726 to As You Sow as reimbursement of attorney's fees and costs
14 pursuant to Health and Safety Code, § 25249.7, subdivision (j).

15 5.3 Each Manufacturer Defendant shall make the payments as set forth in the
16 following table:

17

18 Company	Civil Penalty (\$ 5.2.1)	Toy Testing & Outreach Fund (\$ 5.2.2)	Attorney General Enforcement (\$ 5.2.3)	Los Angeles City Attorney Enforcement (\$ 5.2.4)	Attorney General Fees & Costs (\$ 5.2.5)	Private Party Fees & Costs (\$§ 5.2.6, 5.2.7)
19 A & A	\$8,750	\$8,864	\$4,432	\$2,955	\$6,000	n/a
20 Amscan	\$10,500	\$10,636	\$5,318	\$3,545	\$6,000	n/a
21 Cranium	\$17,500	\$17,727	\$8,864	\$5,909	\$6,000	\$12,000
22 Eveready	\$8,750	\$8,864	\$4,432	\$2,955	\$6,000	n/a
23 Kids II	\$10,500	\$10,636	\$5,318	\$3,545	\$6,000	n/a
24 Marvel	\$8,750	\$8,864	\$4,432	\$2,955	\$6,000	\$12,000
25 RC2	\$171,500	\$173,727	\$86,864	\$57,909	\$10,000	n/a
26 Toy Investments	\$12,250	\$12,409	\$6,205	\$4,136	\$6,000	\$4,726

27
28

1 5.4 Stipulated Payments. Any Stipulated payments pursuant to subsections 4.2.5 and
2 4.2.7 shall be paid within ten (10) business days after the Settling Manufacturer's election not to
3 contest the Notice of Violations, and shall be allocated as follows:

4 5.4.1 25 percent shall be a civil penalty, pursuant to Health and Safety Code
5 Section 25249.7, subdivision (b)(1).

6 5.4.2 75 percent shall be placed in the Toy Testing and Outreach Fund.

7 5.5 Payments to the Attorney General shall be made by check payable to "Office of
8 the California Attorney General," and shall be sent to:

9 Robert Thomas
10 Legal Analyst
11 Office of the Attorney General
12 1515 Clay St., 20th Floor
13 Post Office Box 70559
14 Oakland, California 94612

15 5.6 Payments to the Los Angeles City Attorney shall be made by check payable to the
16 Los Angeles City Attorney, and shall be sent to:

17 Patricia Bilgin
18 Supervising Attorney, Environmental Justice Unit
19 200 North Main Street, 500 City Hall East
20 Los Angeles, CA 90012

21 5.7 Payments to the Center for Environmental Health shall be made by check payable
22 to the Center for Environmental Health, and shall be sent to:

23 Eric S. Somers
24 Lexington Law Group, LLP
25 1627 Irving Street
26 San Francisco, CA 94122

27 With a copy of the check sent to:

28 Harrison M. Pollak
 Office of the Attorney General
 1515 Clay St., 20th Floor
 Post Office Box 70559
 Oakland, California 94612

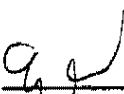
 5.8 Payments to As You Sow shall be made by check payable to As You Sow, and
shall be sent to:



1 designed or intended primarily for use by a child when the child plays, including but not limited
2 to distributors, wholesalers, customers, retailers, franchisees, cooperative members, and licensees
3 (“Downstream Defendant Releasees”), of any violation of Proposition 65, the UCL, CPSA,
4 FHSA, or any other statutory or common law claims that have been or could have been asserted
5 in the public interest or by or on behalf of the people of the State of California against the
6 Manufacturer Defendants, Defendant Releasees, and Downstream Defendant Releasees,
7 regarding the presence of lead and lead compounds in Children’s Products manufactured by or
8 for the Manufacturer Defendant, and designed or intended primarily for use by a child when the
9 child plays, prior to the Effective Date, or the failure to warn about exposure to, lead or lead
10 compounds, in Children’s Products manufactured by or for the Manufacturer Defendant, and
11 designed or intended primarily for use by a child when the child plays, prior to the Effective Date
12 (“Covered Claim”). Compliance with the Lead Standards in Sections 3.1.1, 3.1.2, or 3.1.3 of the
13 Consent Judgment by the Manufacturer Defendant after the Effective Date constitutes
14 compliance with Proposition 65 and the UCL by the Manufacturer Defendant, Defendant
15 Releasees, and Downstream Defendant Releasees regarding the presence of lead and lead
16 compounds in Covered Products manufactured by or for the Manufacturer Defendant, and the
17 failure to warn about exposure to, lead or lead compounds, in Covered Products manufactured by
18 or for the Manufacturer Defendant. This Consent Judgment does not create or give rise to any
19 private right of action of any kind.

20 **7.0 PRESERVATION OF INDUSTRY COMPETITIVENESS.**

21 In the event the People enter into an agreement or consent judgment with any other
22 person manufacturing Covered Products addressing alleged violations of Proposition 65 or the
23 UCL with respect to lead and Children’s Products that provides for less stringent standards than
24 the Lead Standards set forth in Section 3.1.3 above, eliminating or curtailing the Quality
25 Assurance System related-requirements set forth in Section 3.2, eliminating or changing the
26 criteria governing the Interim Measures requirements set forth in Section 3.4, or providing for a
27 lower level of stipulated payments than those set forth in subsection 4.2.7, then the Consent
28 Judgment shall be deemed to have been amended to provide the Manufacturer Defendant with



1 the option of exercising those provisions rather than those specified herein. The Manufacturer
2 Defendant shall provide the Attorney General with prior written notice of any election made
3 pursuant to this Section.

4 **8.0 GOVERNMENT DISCLOSURE RESTRICTIONS**

5 8.1 The Manufacturer Defendant shall immediately notify the Attorney General if,
6 due to a Government Disclosure Restriction, the Manufacturer Defendant is unable to publish or
7 disclose any information otherwise required under the Consent Judgment, and at that time the
8 Manufacturer Defendant shall specify the Government, Government Entity, and/or Government
9 Disclosure Restriction(s) that the Manufacturer Defendant believes prevents the disclosure.

10 **9.0 REPRESENTATIONS AND WARRANTIES**

11 9.1 The Parties represent that they are the proper Parties to the Consent Judgment.
12 the Manufacturer Defendant warrants and represents that the individuals signing the Consent
13 Judgment on its behalf do so in their official capacities and are fully authorized by the
14 Manufacturer Defendant to enter into the Consent Judgment and to legally bind the Manufacturer
15 Defendant to all of the terms and conditions of the Consent Judgment.

16 9.2 The Consent Judgment contains the complete agreement between the Parties. No
17 promises, representations, or warranties other than those set forth in the Consent Judgment have
18 been made by any Party.

19 **10.0 MISCELLANEOUS PROVISIONS**

20 10.1 The terms of the Consent Judgment will be governed by California law.

21 10.2 Any headings or subheadings used herein are for reference purposes only and do
22 not affect the substantive provisions of the Consent Judgment.

23 10.3 The failure of any Party to exercise any rights under the Consent Judgment shall
24 not be deemed a waiver of any right or future rights. If any part of the Consent Judgment shall
25 for any reason be found or held invalid or unenforceable by any Court of competent jurisdiction,
26 such invalidity or unenforceability shall not affect the remainder of the Consent Judgment, which
27 shall survive and be construed as if such invalid or unenforceable part had not been contained
28 herein.

1 10.4 The Court may modify or terminate the Consent Judgment pursuant to the
2 agreement of the parties or for good cause shown, including, but not limited to, repeated
3 substantial violations by the Manufacturer Defendant of this Consent Judgment. After making a
4 good faith effort to obtain the concurrence of the other party for the requested relief, which
5 concurrence shall not be unreasonably withheld, the Party seeking modification or termination
6 may petition the Court for such relief. In addition to the above, the Consent Judgment shall be
7 terminable by the Manufacturer Defendant or the Attorney General at any time following the
8 fifth anniversary of the Effective Date, upon the provision of thirty (30) days advanced written
9 notice; such termination shall be effective upon the subsequent filing of a notice of termination
10 with Superior Court of Alameda County.

11 10.5 The Parties, including their counsel, have participated in the preparation of this
12 Consent Judgment and this Consent Judgment is the result of the joint efforts of the Parties. This
13 Consent Judgment was subject to revision and modification by the Parties and has been accepted
14 and approved as to its final form by all Parties and their counsel. Accordingly, any uncertainty
15 or ambiguity existing in this Consent Judgment shall not be interpreted against any Party as a
16 result of the manner of the preparation of this Consent Judgment. Each Party to this Consent
17 Judgment agrees that any statute or rule of construction providing that ambiguities are to be
18 resolved against the drafting Party should not be employed in the interpretation of this Consent
19 Judgment and, in this regard, the Parties hereby waive California Civil Code section 1654.

20 10.6 It is the mutual intent of the Parties to seek and to obtain Court approval of this
21 Consent Judgment without undue delay.

22 10.7 This Consent Judgment contains the sole and entire agreement and understanding
23 of the Parties with respect to the entire subject matter hereof, and any and all prior discussions,
24 negotiations, commitments and understandings related hereto. No representations, oral or
25 otherwise, express or implied, other than those contained herein have been made by any Party
26 hereto. No other agreements not specifically referred to herein, oral or otherwise, shall be
27 deemed to exist or to bind any of the Parties.

28

1 10.8 The stipulations to this Consent Judgment may be executed in counterparts and by
2 means of electronic transmission, which taken together shall be deemed to constitute one
3 document.

4 **11.0 SERVICE OF NOTICE AND PROCESS**

5 Service of notices and process required by the Consent Judgment or its enforcement shall
6 be served on the persons, or any person subsequently designated by the Parties:

7 **For the ATTORNEY GENERAL**

8 Harrison M. Pollak, Deputy Attorney General
9 Office of the California Attorney General
10 1515 Clay Street, 20th Floor
11 P.O. Box 70550
12 Oakland, CA 94610
13 Telephone: (510) 622-2183
14 Facsimile: (510) 622-2270
15 E-Mail: harrison.pollak@doj.ca.gov

16 **For the LOS ANGELES CITY ATTORNEY**

17 Patricia Bilgin, Supervising Attorney, Environmental Justice Unit
18 200 North Main Street, 500 City Hall East
19 Los Angeles, CA 90012
20 Telephone: (213) 978-8080
21 Facsimile: (213) 978-8111
22 E-Mail: patty.bilgin@lacity.org

23 **For A & A GLOBAL INDUSTRIES, INC.**

24 Brian S. Kovens
25 Executive Vice President
26 A&A Global Industries, Inc.
27 17 Stenersen Lane
28 Cockeysville, MD 21030

With a copy to:

Andrea Sheridan Ordin
Morgan, Lewis & Bockius LLP
300 South Grand Avenue, 22nd Floor
Los Angeles, CA 90071-3132

29 **For AMSCAN, INC.**

30 Joseph J. Zepf, Esq.
31 Amscan, Inc.
32 80 Grasslands Road
33 Elmsford, NY 10523

With a copy to:

James Robert Maxwell, Esq.
Rogers Joseph O'Donnell
311 California Street
San Francisco, CA 94104
Tel (415) 956-2828
Fax (415) 956-6457
jmaxwell@rjo.com

34 
35 [Proposed] Consent Judgment

1 For CRANIUM INC.

2 Chief Executive Officer
3 Cranium, Inc.
4 2025 First Avenue, Suite 600
5 Seattle, WA 98121
6 Phone: 206-652-9708
7 Fax: 206-652-1483

With a copy to:
Trenton H. Norris
Arnold & Porter LLP
275 Battery Street, 27th Floor
San Francisco, CA 94111
Phone: 415.356.3040
Fax: 415.356.3099
Email: trent.norris@aporter.com

8 For EVEREADY BATTERY CO.

9 Brian M. Foster
10 Vice President and
11 Division General Counsel
12 Eveready Battery
13 533 Maryville University Drive
14 St. Louis, MO 63141
15 Phone: (314) 985-2158
16 Fax: (314) 985-2223
17 Email: brianm.foster@energizer.com

With a copy to:
Trenton H. Norris
Arnold & Porter LLP
275 Battery Street, 27th Floor
San Francisco, CA 94111
phone: 415.356.3040
fax: 415.356.3099
email: trent.norris@aporter.com

18 For KIDS II, INC.

19 J. Dwaine Clarke
20 Chief Financial Officer
21 Kids II, Inc.
22 555 North Point Center East, Ste. 600
23 Alpharetta, GA 30022-8234
24 Ph: (770) 751-0442
25 Fax: (770) 751-0543

With a copy to:
Kurt Weissmuller, Esq.
Alston & Bird LLP
333 South Hope Street
Sixteenth Floor
Los Angeles, CA 90071
Ph: (213) 576-1003
Kurt.Weissmuller@alston.com

26 For MARVEL ENTERTAINMENT, INC.

27 Mr. John Turitzin
28 Executive Vice President
Marvel Entertainment, Inc.
417 Fifth Avenue
New York, NY 10016

With a copy to:
Malcolm C. Weiss
Hunton & Williams LLP
550 S. Hope Street
20th Floor
Los Angeles, CA 90071

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For RC2 CORPORATION

Curt Stoelting, CEO
RC2 Corporation
1111 W. 22nd St. , Ste. 320
Oak Brook, IL 60523

Bart T. Murphy
Ice Miller, LLP
2300 Cabot Dr., Ste. 455
Lisle, IL 60532
bart.murphy@icemiller.com

With a copy to:

For TOY INVESTMENTS, INC.

William R. Smith, President
Toy Investments Inc,
5110 Frontage Road N.W.,
Auburn WA 98001

With a copy to:
John Ryan, Corporate Counsel
Toy Investments Inc,
5110 Frontage Road N.W.,
Auburn WA 98001

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IT IS SO STIPULATED.

Dated: December 2, 2008

**EDMUND G. BROWN JR.
ATTORNEY GENERAL**

By: 
**EDWARD G. WEIL
Supervising Deputy Attorney General**

Dated: _____

**ROCKARD J. DELGADILLO
LOS ANGELES CITY ATTORNEY**

By: _____
**PATRICIA BILGIN
Supervising Attorney,
Environmental Justice Unit**

Dated: _____

AMSCAN, INC.

By: _____
**JOSEPH J. ZEPF
Vice President, General Counsel
& Secretary**



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IT IS SO STIPULATED.

Dated: _____

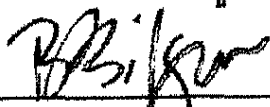
EDMUND G. BROWN JR.
ATTORNEY GENERAL

By: _____

EDWARD G. WEIL
Supervising Deputy Attorney General

Dated: 12/2/08

ROCKARD J. DELGADILLO
LOS ANGELES CITY ATTORNEY

By:  _____

PATRICIA BILGIN
Supervising Attorney,
Environmental Justice Unit

Dated: _____

AMSCAN, INC.

By: _____

JOSEPH J. ZEPF
Vice President, General Counsel
& Secretary

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IT IS SO STIPULATED.

Dated: _____

**EDMUND G. BROWN JR.
ATTORNEY GENERAL**

By: _____

**EDWARD G. WEIL
Supervising Deputy Attorney General**

Dated: _____

**ROCKARD J. DELGADILLO
LOS ANGELES CITY ATTORNEY**

By: _____

**PATRICIA BILGIN
Supervising Attorney,
Environmental Justice Unit**

Dated: 12/03/08

AMSCAN, INC.

By:  _____

**JOSEPH J. ZEPF
Vice President, General Counsel
& Secretary**

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Dated: 1d-d-08

A & A GLOBAL INDUSTRIES, INC.

By: 
BRIAN S. KOVENS
Executive Vice President

Dated: _____

CRANIUM INC.

By: _____
BRIAN GOLDNER
President and Chief Executive Officer

Dated: _____

EVEREADY BATTERY CO.

By: _____
BRIAN M. FOSTER
Vice President and Division

Dated: _____


KIDS II, INC.

By: _____
J. DWAIN CLARKE
Chief Financial Officer

Dated: _____

MARVEL ENTERTAINMENT, INC.

By: _____
JOHN TURITZIN
Executive Vice President



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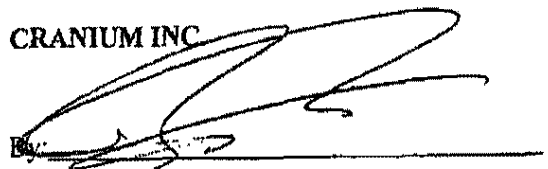
A & A GLOBAL INDUSTRIES, INC.

By: _____

BRIAN S. KOVENS
Executive Vice President

Dated: _____

CRANIUM INC



BRIAN GOLDNER
President and Chief Executive Officer

Dated: _____

EVEREADY BATTERY CO.

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BRIAN M. FOSTER
Vice President and Division

Dated: _____

KIDS II, INC.

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JOHN TURITZIN
Executive Vice President



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Dated: _____

A & A GLOBAL INDUSTRIES, INC.

By: _____
BRIAN S. KOVENS
Executive Vice President

Dated: _____

CRANIUM INC.

By: _____
BRIAN GOLDNER
President and Chief Executive Officer

Dated: 12/2/08

EVEREADY BATTERY CO.

By: *Brian M Foster*
BRIAN M. FOSTER
Vice President and Division General Counsel

Dated: _____

KIDS II, INC.

By: _____
J. DWAIN CLARKE
Chief Financial Officer

Dated: _____

MARVEL ENTERTAINMENT, INC.

By: _____
JOHN TURITZIN
Executive Vice President

E.W.
[Proposed] Consent Judgment

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Dated: _____

A & A GLOBAL INDUSTRIES, INC.

By: _____

BRIAN S. KOVENS
Executive Vice President

Dated: _____

CRANIUM INC.

By: _____

BRIAN GOLDNER
President and Chief Executive Officer

Dated: _____

EVEREADY BATTERY CO.

By: _____

BRIAN M. FOSTER
Vice President and Division

Dated: 12/02/08

KIDS II, INC.

By: 

J. DWAIN CLARKE
Chief Financial Officer

Dated: _____

MARVEL ENTERTAINMENT, INC.

By: _____

JOHN TURITZIN
Executive Vice President



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Dated: _____

A & A GLOBAL INDUSTRIES, INC.

By: _____

BRIAN S. KOVENS
Executive Vice President

Dated: _____

CRANIUM INC.

By: _____

BRIAN GOLDNER
President and Chief Executive Officer

Dated: _____

EVEREADY BATTERY CO.

By: _____

BRIAN M. FOSTER
Vice President and Division

Dated: _____

KIDS II, INC.

By: _____

J. DWAIN CLARKE
Chief Financial Officer

Dated: Dec. 2, 2008

MARVEL ENTERTAINMENT, INC.

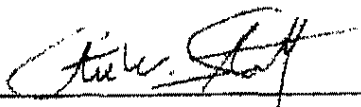
By: _____

JOHN TURITZIN
Executive Vice President

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Dated: 12/2/08

RC2 CORPORATION

By: 

CURTIS W. STOELTING
Chief Executive Officer

Dated: _____

TOY INVESTMENTS, INC.

By: _____

JOHN R. SMITH
President

IT IS SO ORDERED.

Dated: _____

By _____

Honorable Steven A. Brick
Judge of the Superior Court

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Dated: _____

RC2 CORPORATION

By: _____

CURTIS W. STOELTING
Chief Executive Officer

Dated: DEC 2ND, 2008

TOY INVESTMENTS, INC.

By:  _____

William ~~SMITH~~ **R. SMITH**
President

IT IS SO ORDERED.

Dated: DEC 31 2008

By **STEVEN A. BRICK** 

Honorable Steven A. Brick
Judge of the Superior Court



DECLARATION OF SERVICE BY ELECTRONIC MAIL

Case Name: *People of the State of California v. Mattel, Inc., et al.*

Case No.: **Alameda County Superior Court, Case No. RG07356892**

I declare:

I am employed in the Office of the Attorney General, which is the office of a member of the California State Bar at which member's direction this service is made. I am 18 years of age or older and not a party to this matter; my business address is 1515 Clay Street, 20th Floor, P.O. Box 70550, Oakland, California 94612-0550. On **January 5, 2009**, I served the attached

**NOTICE OF ENTRY OF ORDER GRANTING MOTION TO APPROVE
CONSENT JUDGMENTS AND ENTRY OF CONSENT JUDGMENTS**

documents via electronic equipment transmission (E-mail) on the parties in this action by transmitting a true copy to the following E-mail addresses listed under each addressee below.

(SEE ATTACHED SERVICE LIST)

I declare under penalty of perjury the foregoing is true and correct and that this declaration was executed on **January 5, 2009** at Oakland, California.

ANN LAUBER _____



Signature

SERVICE LIST

Case Name: *People of the State of California v. Mattel, Inc., et al.*

Case No.: Alameda County Superior Court, Case No. RG07356892

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