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ENDORSED  
FILED  
San Francisco County Superior Court

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GORDON PARK-LI, Clerk  
BY: S. PENG  
Deputy Clerk

8  
9 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
10 COUNTY OF SAN FRANCISCO

11 MATEEL ENVIRONMENTAL JUSTICE  
12 FOUNDATION,

13 Plaintiff,

14 v.

15 SCUNCI INTERNATIONAL, INC., *et. al.*

16 Defendant.

Case No. CGC-05-437581

 ~~PROPOSED~~ CONSENT JUDGMENT  
AS TO AXL MUSICAL  
INSTRUMENTS COMPANY, LTD

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1     1.     INTRODUCTION

2           1.1     On or about October 22, 2004, the Mateel Environmental Justice Foundation  
3     ("MEJF") and its attorneys, Klamath Environmental Law Center ("KELC"), sent 60 Day Notice  
4     Letters to the Office of the California Attorney General of the State of California ("California  
5     Attorney General"), all California counties' District Attorneys and all City Attorneys of California  
6     cities with populations exceeding 750,000, (collectively, "Public Enforcers"), charging certain  
7     businesses with violating the Safe Drinking Water and Toxic Enforcement Act of 1986, California  
8     Health and Safety Code Section 25249.5 et seq. ("Proposition 65"), in their manufacture, distribution  
9     and/or sale of wires and cables coated with polyvinyl chloride ("PVC"). Specifically, MEJF charged  
10    that persons handling the PVC-coated wires, cords, cables, and the like (hereinafter referred to as the  
11    "Cables") were exposed to certain chemicals, listed under Proposition 65, including cadmium,  
12    hexavalent compounds of chromium, vinyl chloride, lead and lead compounds, lead acetate, lead  
13    phosphate, lead subacetate and di(2ethylhexyl) phthalate, ethylene thiourea, nickel, toluene,  
14    chloroform, chlorinated paraffins, antimony trioxide, carbon black extracts, ethyl acrylate and  
15    acrylonitrile.

16           1.2     On or about January 24, 2005, MEJF, acting on behalf of itself, the public interest, and  
17    the general public for the matters described in the Notice Letter, filed a Complaint for civil penalties  
18    and injunctive relief ("Complaint") in the San Francisco Superior Court, fashioned, *MATEEL*  
19    *ENVIRONMENTAL JUSTICE FOUNDATION v. SCUNCI INTERNATIONAL, INC.*, Case No. CGC-  
20    05-437581 based on the Notice Letter. The Complaint alleged, among other things, that AXL  
21    MUSICAL INSTRUMENTS COMPANY, LTD. ("AXL") violated Proposition 65 by manufacturing,  
22    marketing, and/or distributing to California residents products that are themselves or which  
23    incorporate Cables that are PVC-coated without providing clear and reasonable warnings to  
24    California residents that the handling and use of those products in their normally intended manner  
25    will cause those persons to be exposed to Proposition 65 Chemicals. Since being served with notice  
26    that AXL's Cables violated Proposition 65, AXL represents that it has reformulated its Cables. AXL  
27    further represents that it has provided a representative example of these reformulated Cables to  
28

1 MEJF, which MEJF represents has been tested by West Coast Analytical Lab and found to have no  
2 detectable lead on the bulk lead test.

3 1.3 MEJF and AXL are, for purposes of this Consent Judgment, collectively referred to as  
4 the "Parties," with each of them a "Party".

5 1.4 For purposes of this Consent Judgment, the term "Covered Products" means products  
6 that are themselves, or that incorporate, utilize, or have appended to them, Cables, and that are  
7 manufactured, distributed, marketed, or sold by AXL or on AXL's behalf. The term Covered  
8 Products includes both such products that are subject to the Warning Requirements of Section 7, and  
9 those that are not, including those products that are exempted from the warning requirements of this  
10 Consent Judgment pursuant to Sections 7.1 or 7.3. The term "Covered Products" also includes  
11 products which are manufactured, distributed, marketed, and/or sold by AXL either under its own  
12 name or brand or under the name or brand of another (e.g., privately labeled products).

13 1.5 For purposes of this Consent Judgment only, AXL admits that: (a) it is a business that  
14 employs more than ten persons and manufactures, distributes and/or sells Covered Products into the  
15 State of California; (b) the Covered Products contain one or more Proposition 65 Chemicals; and  
16 (c) Proposition 65 Chemicals are chemicals listed under Proposition 65 as being known to the State  
17 of California to cause cancer and/or reproductive toxicity.

18 1.6 For purposes of this Consent Judgment only, the Parties stipulate: that this Court has  
19 jurisdiction over the allegations of violations contained in the Complaint and has personal jurisdiction  
20 over AXL as to the acts alleged in the Complaint; that venue is proper in the County of San  
21 Francisco; and that this Court has jurisdiction to enter this Consent Judgment as a full settlement and  
22 resolution of the allegations contained in the Complaint and Notice Letters and of all claims which  
23 were or could have been raised by any person or entity based in whole or in part, directly or  
24 indirectly, on the facts alleged therein, arising therefrom or related thereto.

25 1.7 The Parties enter into this Consent Judgment pursuant to a full and final settlement of  
26 any and all claims between the Parties for the purpose of avoiding prolonged litigation. This Consent  
27 Judgment shall not constitute an admission with respect to any material allegation of the Complaint,  
28 each and every allegation of which AXL denies; nor may this Consent Judgment or compliance with

1 it be used as evidence of any wrongdoing, misconduct, culpability, or liability on the part of any  
2 AXL. AXL maintains that its Covered Products have at all times complied with all applicable laws,  
3 including Proposition 65.

4 2. **SETTLEMENT PAYMENT**

5 2.1 In settlement of all of the claims referred to in this Consent Judgment against AXL:

6 (a) AXL shall pay, within thirty (30) days of entry of this Consent Judgment, \$25,000.

7 The payments required by the preceding sentence may be made payable to KELC and shall  
8 subsequently and within a commercially reasonable time be divided by KELC as follows: (i) fifty  
9 percent (50%) shall be paid to KELC for attorneys fees and costs incurred by KELC on behalf of  
10 MEJF in investigating this matter and negotiating this Consent Judgment on behalf of itself and the  
11 general public, (ii) fifty percent (50%) shall, subject to Paragraph 2.2 below, be distributed by KELC  
12 at the direction of MEJF among the following non-profit organizations: Californians for Alternatives  
13 to Toxics; the Center for Ethics and Toxics, a project of the Tides Foundation; the Center on Race,  
14 Poverty and the Environment; the Ecological Rights Foundation; the Environmental Protection  
15 Information Center; the Golden Gate University School of Law Environmental Litigation Clinic;  
16 KPFA Radio; and Pacifica Reporters Against Censorship.

17 2.2 MEJF and KELC represent and warrant that each of the organizations identified in  
18 Paragraph 2.1(a)(ii) above is a tax exempt, section 501(c)(3) non-profit organization and that funds  
19 distributed to these organizations pursuant to this Consent Judgment may only be spent to reduce  
20 harm from toxic chemicals, or to increase consumer, worker, and community awareness of health  
21 hazards posed by lead and other toxic chemicals.

22 2.3 Except as specifically provided in this Consent Judgment, each side shall bear its own  
23 costs and attorney's fees.

24 3. **ENTRY OF CONSENT JUDGMENT**

25 The Parties request that the Court promptly enter this Consent Judgment and waive their  
26 respective rights to a hearing or trial on the allegations of the Complaint.

1 4. **MATTERS COVERED BY THIS CONSENT JUDGMENT**

2 4.1 For purposes of Section 4 of this Consent Judgment, the term AXL shall include its  
3 past, present, and future parents, divisions, subdivisions, brands, subsidiaries, and affiliates and the  
4 predecessors, successors, and assigns of any of them (including but not limited to Alan Liu and The  
5 Music Link), as well as their past, present and future officers, directors, employees, agents, attorneys,  
6 representatives, shareholders, and assigns. For purposes of Section 4, the term AXL shall also be  
7 deemed to include AXL's suppliers, distributors, marketers, and retailers (including but not limited to  
8 Fender), but only with respect to Covered Products.

9 4.2 As to Covered Products, this Consent Judgment is a final and binding resolution  
10 between MEJF acting on behalf of itself and, (as to those matters referenced in the Notice Letter) in  
11 the public interest pursuant to Health and Safety Code Section 25249.7(d) and AXL as to: (a) any  
12 violation of Proposition 65 by AXL; (b) with respect to exposures to the Proposition 65 Chemicals  
13 associated with the use of Covered Products, any other statutory or common law claim, to the fullest  
14 extent that any such claims were or could have been asserted by any person or entity against AXL  
15 based on its exposure of persons to chemicals contained in or otherwise associated with the use of  
16 Covered Products and/or AXL's alleged failure to provide a clear and reasonable warning of such  
17 exposure to such individuals; and (c) as to exposures to chemicals contained in or otherwise  
18 associated with the use of Covered Products, any other claim based in whole or part on the facts  
19 alleged in the Complaints or Notice Letter, whether based on actions or omissions committed by  
20 AXL or any other entity within AXL's chain of distribution, including, but not limited to, customers,  
21 wholesale, or retail sellers or distributors and any other person in the course of doing business  
22 ("Downstream Entity").

23 4.3 As to any claims, violations (except violations of this Consent Judgment), actions,  
24 damages, costs, penalties, or causes of action which may arise after the original date of entry of this  
25 Consent Judgment, compliance by AXL with the terms of this Consent Judgment shall be deemed to  
26 constitute its full and complete compliance with Proposition 65 with respect to the provision of  
27 warnings for chemicals contained in or otherwise associated with the use of Covered Products,  
28 provided that the concentrations of those chemicals other than lead are materially similar to, or less

1 than, that associated with the Covered Products with respect to Proposition 65 at the time this  
2 Consent Judgment is entered.

3 4.4 Notwithstanding Sections 4.2 or 4.3 above, as to all customers, distributors,  
4 wholesalers, retailers or any other Downstream Entity, except as otherwise indicated in Section 4.5  
5 below, which may in the course of doing business use, maintain, distribute, or sell Covered Products  
6 which are manufactured, distributed, or sold by AXL (including Covered Products which are  
7 privately labeled by AXL for a Downstream Entity), MEJF (acting on behalf of itself and, as to those  
8 matters raised in the Notice Letter, on behalf of the general public) waives all rights to institute any  
9 form of legal action whether under Proposition 65 or otherwise, arising out of or resulting from or  
10 related directly or indirectly to, in whole or in part, exposure to, or otherwise associated with the use  
11 of and alleged failure to warn with respect to Proposition 65 Chemicals contained in Covered  
12 Products.

13 4.5 Nothing in this Consent Judgment shall be deemed to require an out of state  
14 manufacturer of Covered Products to provide a Proposition 65 warning for occupational exposures  
15 occurring within the State of California. Nothing in this Consent Judgment will be deemed to release  
16 a California employer from liability for failure to comply with its obligations, if any, to provide  
17 warnings under Proposition 65 for the exposures of its employees to chemicals contained in or  
18 otherwise associated with Non-Retail Covered Products (as defined in Section 7.6 below) unless such  
19 employer makes Proposition 65 warning information available to its employees in the manner  
20 specified in Section 7.6 below or as otherwise permitted by 8 Cal. Code Regs. § 5194.

21 4.6 In furtherance of the foregoing, MEJF hereby waives any and all rights and benefits  
22 which it now has, or in the future may have, conferred upon it by virtue of the provisions of  
23 Section 1542 of the California Civil Code, which provides as follows:

24 A general release does not extend to claims which the creditor does not  
25 know or suspect to exist in his favor at the time of executing the  
26 release, which if known by him must have materially affected his  
settlement with the debtor.

27 MEJF understands and acknowledges that the significance and consequence of its waiver of  
28 California Civil Code Section 1542 is that even if MEJF and/or, with respect to the matters raised in

1 the Notice Letter, any person or entity on whose behalf they purport to act or could act, suffers future  
2 damages or harm arising out of, resulting from, or related directly or indirectly to, in whole or in part,  
3 the matters covered in Sections 4.2, 4.3 and 4.4 above (“Damages”), MEJF and any person or entity  
4 on whose behalf they purport to act or could act, will not be able to make any claim for such  
5 Damages against AXL or any of its customers, distributors, wholesalers, retailers, or any other person  
6 in the course of doing business who may use, maintain, distribute, or sell the Covered Products.  
7 Furthermore, MEJF acknowledges that it intends these consequences for any such Damages which  
8 may exist as of the date of this release but which MEJF does not know exist, and which, if known,  
9 would materially affect its decision to enter into this Consent Judgment, regardless of whether its lack  
10 of knowledge is the result of ignorance, oversight, error, negligence, or any other cause, no matter  
11 how justifiable such cause may be.

12 4.7 AXL waives all rights to institute any form of legal action against MEJF, its officers,  
13 directors, attorneys, consultants, and representatives for all legal actions undertaken or statements  
14 made in the course of such legal actions to seek enforcement of this action and judgment.

15 5. **ENFORCEMENT OF JUDGMENT**

16 5.1 The terms of this Consent Judgment shall be enforced exclusively by the Parties hereto  
17 by means of noticed motion or order to show cause before the San Francisco Superior Court.

18 6. **MODIFICATION OF JUDGMENT**

19 6.1 This Consent Judgment may be modified only upon written agreement of the Parties  
20 and upon entry of a modified amended Consent Judgment by the Court, or upon motion of any Party  
21 as provided by law and upon entry of a modified amended Consent Judgment by the Court.

22 Notwithstanding the immediately preceding sentence or any other term or provision of this Consent  
23 Judgment, if MEJF or any affiliated entity, or the California Attorney General, enters into, or agrees  
24 to in writing, or is otherwise bound by injunctive relief terms or provisions relating to the provision  
25 of Proposition 65 warnings for Covered Products, with regard to their Cables, which, taken together,  
26 are more favorable to AXL than the terms or provisions that this Consent Judgment provide for a  
27 Covered Product of like kind and characteristics with respect to its thermoset/thermoplastic-coated  
28 electrical cord and use, the terms of injunctive relief provided for in Section 7 of this Consent

1 Judgment shall automatically be deemed to have been modified to add such more favorable terms or  
2 provisions as an option which AXL may elect for compliance with this Consent Judgment.

3 7. **INJUNCTIVE RELIEF**

4 7.1 Covered Products shall be deemed to comply with Proposition 65 and be exempt  
5 from any Proposition 65 warning requirements if the Cables that are sold as a part of or in association  
6 with those Covered Products meet the following criteria: (a) the surface contact layer of the Cables  
7 shall have no lead as an intentionally added constituent; and (b) the surface contact layer of the  
8 Cables shall have lead content by weight of no more than 0.03% (300 parts per million, or “300  
9 ppm”). AXL may comply with the above requirements by relying on information obtained from its  
10 suppliers regarding the content of the surface contact layer of the Cables, provided such reliance is in  
11 good faith. Obtaining test results showing that the lead content is no more than 0.03%, using a  
12 method of sufficient sensitivity to establish a limit of quantification (as distinguished from detection)  
13 of less than 300 ppm shall be deemed to establish good faith reliance. Provided that the level of  
14 quantitation requirement set forth in the preceding sentence is met, the test protocol and methods  
15 described on Exhibit D hereto may be relied on. Nothing in the preceding two sentences shall  
16 preclude a AXL from establishing good faith reliance by an alternative means.

17 7.2 Covered Products manufactured and shipped for distribution to or sale in California on  
18 or after the Effective Date that do not meet the warning exemption standard set forth in Section 7.1 of  
19 this Consent Judgment and are not exempt pursuant to Section 7.3 shall be accompanied by a warning  
20 as described in Section 7.4 below. For purposes of this Section, one year after the entry of this  
21 Consent Judgment shall be considered the “Effective Date.”

22 7.3 The following Covered Products are deemed to be exempt from any Proposition 65  
23 warning requirements with respect to Cables: (a) Covered Products which because of their size,  
24 weight or function have Cables that are handled only infrequently (such as upon their installation in a  
25 setting where they are not typically plugged and unplugged) (“Infrequently Handled Products”);  
26 (b) those Covered Products that: (i) are sold at retail before the Effective Date; or (ii) are distributed  
27 or shipped for sale outside the State of California; (c) Covered Products that use Cables only as  
28 internal components not normally accessible to the consumer during ordinary use; and/or (d) Covered

1 Products which contain the Proposition 65 Chemical only as part of the inner conductor or other  
2 component not normally accessible to the consumer during ordinary use. Exhibit E contains a list of  
3 Covered Products/Product types that are deemed to meet the criteria for Infrequently Handled  
4 Products set forth in this Section 7.3 and are therefore exempt. MEJF has previously provided the  
5 California Attorney General's Office and AXL with a list of Covered Products/Product types that are  
6 deemed not to meet the criteria for Infrequently Handled Products set forth in this Section 7.3 and  
7 therefore are not exempt ("Non-Exempt Products List"). Exhibit E and the Non-Exempt Products  
8 List may be used as guidance in determining whether other Covered Products meet these criteria;  
9 Exhibit E and the Non-Exempt Products List may also be used by the Parties in the course of dispute  
10 resolution pursuant to Section 9. The Parties acknowledge that common usage of the terms  
11 "portable" and "non-portable" do not affect the classification of any Covered Products under this  
12 Consent Judgment. Covered Products may be considered Infrequently Handled Products regardless  
13 of their weight or the likelihood that they may be used while moving, whether that be on a person, in  
14 a car, on an airplane or otherwise.

15 7.4 Should AXL's Covered Products require Proposition 65 warnings under Section 7.2,  
16 AXL shall, except as otherwise provided in Section 7.5 below, either provide the warning described  
17 below or any other Proposition 65 warning that has been reviewed and approved in writing by the  
18 California Attorney General for use with Covered Products regarding their thermoset/thermoplastic-  
19 coated wires and/or cables:

20 "WARNING: This product contains chemicals including lead known to the State of  
21 California to cause cancer, birth defects, or other reproductive harm. *Wash hands  
22 after handling.*"

23 or

24 WARNING: Handling the cord on this product will expose you to lead, a chemical  
25 known to the State of California to cause [cancer, and] birth defects or other  
26 reproductive harm. *Wash hands after handling.*

or

27 WARNING: The power cord on this product contains lead, a chemical known to the  
28 State of California to cause [cancer, and] birth defects or other reproductive harm.  
*Wash hands after handling.*

The word "WARNING" shall be in all capital letters and in bold typeface. The hand-washing  
admonition shall be in bold typeface and italicized.

1           7.5     Unless otherwise indicated herein, the warning required or authorized in Section 7.4  
2 shall be given by having it: (a) affixed to the Covered Product itself or to the unit package of such  
3 Covered Product; (b) printed on the Covered Product itself or on the unit package of such Covered  
4 Product; (c) displayed on an internet site for those units of Covered Products sold on the internet;  
5 (d) included in the owner's manual if the conditions set forth in Section 7.9 below are satisfied  
6 ("Owner's Manual Warning"); or, (e) printed on the invoice issued directly to the consumer by AXL  
7 to confirm the sale, where AXL sells Covered Products directly to consumers by telephone, mail  
8 order, or internet sale, but never has physical possession of the Covered Product or its packaging.

9           7.6     If the warning is printed on the product, package label, or invoice, then the warning  
10 shall be contained in the same section of the label that contains other safety warnings, if any,  
11 concerning the use of the Covered Product or near its displayed price and/or UPC code. Such  
12 warning shall be prominently affixed to or printed on each such Covered Product, its label or package  
13 or invoice, and displayed with such conspicuousness, as compared with other words, statements,  
14 designs, or devices on such Covered Product, its label, package or display or invoice as to render it  
15 likely to be read and understood by an ordinary individual under customary conditions of purchase or  
16 use. With respect to the preceding sentence, the type size of any warning required by paragraph 7.4  
17 must be legible, but otherwise need not be larger than any other warning language used in  
18 conjunction with the Covered Product in question and its relative size may take into account the  
19 nature, immediacy, and acuteness of the risks for which other warnings are given. If the size of a  
20 Covered Product and its packaging is such that a warning required by this Consent Judgment cannot  
21 physically be printed on its non-transparent portion in a legible size, the warning may be printed on a  
22 separate piece of paper or cardstock and inserted into the Covered Product's packaging, provided that  
23 i) the cardstock or paper containing the warning is not white or uncolored and contains only the  
24 warning language, and ii) a substantial portion of the exterior of the packaging material is  
25 transparent.

26           7.7     If a warning is provided on the internet pursuant to (c) above, the warning message  
27 shall be displayed (or, upon the internet site user's identification as a California resident, such as  
28 when the user types in a zip code, automatically appear) either: (a) on the same page on which the

1 Covered Product is displayed, (b) on the same page as the order form for the Covered Product, or (c)  
2 on the same page as the price for the Covered Product.

3 7.8 If the warning is given in the owners manual pursuant to Section 7.9 below, it shall be  
4 located in one of the following places in the manual: the outside of the front cover; the inside of the  
5 front cover; the first page other than the cover; or the outside of the back cover. The warning shall be  
6 printed or stamped in the manual or contained in a durable label or sticker affixed to the manual in a  
7 font no smaller than the font used for other safety warnings in the manual. Alternatively, the warning  
8 may be included in a safety warning section of the owner's manual consistent with specifications  
9 issued by Underwriters Laboratories.

10 7.9 A warning in the owner's manual of a Covered Product may be used to satisfy the  
11 warning requirements of this Section 7 only under the following circumstances: the Covered Product  
12 (i) may cause serious injury or bodily harm (other than by means of fire or electrocution) unless used  
13 as directed; or (ii) is sophisticated, difficult to understand or install, set-up, or assemble; or (iii) has  
14 one or more features a consumer must read about in order to know how to program or use the  
15 Covered Product. However, a Covered Product may not utilize an owner's manual warning if it  
16 meets the following criteria: (a) the Covered Product is unlikely to cause serious injury or bodily  
17 harm other than by means of fire or electrocution; (b) the Covered Product is easily assembled or  
18 programmed by an ordinary consumer without need to reference instructions; and (c) fundamental  
19 operation of the Covered Product is easily understood and commonly performed by an ordinary  
20 consumer without training or need to reference operating instructions. Exhibit F contains a list of  
21 Covered Products/product types for which Owner's Manual Warnings are deemed to be an allowable  
22 method of communicating the warnings required by this Section 7. MEJF has previously provided  
23 the California Attorney General's Office and AXL with a list of Covered Products/product types for  
24 which Owner's Manual Warnings are deemed not to be an allowable method of communicating the  
25 warnings required by this Section 7 (the "Non-Owner's Manual Product List"). Exhibit F and the  
26 Non-Owner's Manual Product List may be used as guidance in determining whether the criteria for  
27 use of owner's manual warnings set forth in this Section are satisfied. Exhibit F and the Non-

1 Owner's Manual Products List may also be used by the Parties in the course of dispute resolution  
2 pursuant to Section 9.

3 7.10 AXL may provide an Owner's Manual Warning on any Covered Products/product  
4 types, except for those listed on the Non-Owner's Manual Product List, that satisfy the criteria in  
5 Section 7.9, whether or not that Covered Product or product type is listed on Exhibit F. AXL shall  
6 provide to MEJF, by certified mail or other confirmable delivery, a list of those Covered Products for  
7 which an owners manual warning is proposed to be given. MEJF shall, within 60 days, notify AXL  
8 as to whether MEJF agrees that an owner's manual warning is appropriate. In the event that MEJF  
9 determines that an Owner's Manual Warning is not appropriate, it shall provide a written explanation  
10 of the basis therefore. In the event that AXL disagrees with MEJF's determination AXL may elect to  
11 invoke the Dispute Resolution process provided for in Section 9 hereof. Products not existing as of  
12 the Effective Date that are introduced for sale after January 1, 2006 may use a owner's manual  
13 warning if approved in writing by the California Attorney General's office, following 60 days prior  
14 notice to MEJF.

15 7.11 The requirement for product labeling, set forth herein, is imposed pursuant to the  
16 terms of this Consent Judgment. The Parties recognize that product labeling is not the exclusive  
17 method of providing a warning under Proposition 65 and its implementing regulations.

18 7.12 MEJF represents and acknowledges that the Cable provided to MEJF by AXL and  
19 described by AXL as representative of the AXL reformulated Cables was tested by West Coast  
20 Analytical Labs and found to have no detectable amounts of lead in the bulk lead test and  
21 consequently to meet the exemption from warning standards required in section 7.1.

22 8. **ADDED INFREQUENTLY HANDLED PRODUCTS**

23 8.1 Exhibit E contains a list of Infrequently Handled Products that are deemed to meet the  
24 criteria of Section 7.3(a) and, therefore, deemed to be exempt from Proposition 65 warning  
25 requirements. The Products appearing on Exhibit E and the Non-Exempt Products List may be used  
26 as guidance to interpret the criteria of Section 7.3(a). A Covered Product not appearing on the Non-  
27 Exempt Products List, is exempt if it meets the criteria of Section 7.3(a) whether or not it appears on  
28 Exhibit E.

1           8.2     At Least 60 days prior to retail sale, AXL shall provide to MEJF by certified mail or  
2 other confirmable delivery, a list of those Covered Products which do not exist as of the Effective  
3 Date for which AXL contends are infrequently handled products for which no warning is required.  
4 MEJF shall, within 60 days, notify AXL as to whether MEJF agrees that that the Covered Product is  
5 infrequently handled and does not require a warning. In the event that MEJF determines that a  
6 warning is required it shall provide a written explanation of the basis therefore. In the event that  
7 AXL disagrees with MEJF's determination, AXL may elect to invoke the Dispute Resolution process  
8 provided for in Section 9 hereof. Products not existing as of the Effective Date that are introduced  
9 for sale after January 1, 2006 may be sold without a warning because they are infrequently handled if  
10 so approved in writing by the California Attorney General's office, following 60 days prior notice to  
11 MEJF.

12     9.       **DISPUTE RESOLUTION**

13           9.1     Wherever this Consent Judgment provides that AXL may invoke the Dispute  
14 Resolution process or file a motion to have the Court resolve an issue, AXL shall first mail (by  
15 certified mail) and fax a notice to MEJF, setting forth the dispute and the basis for the Party's  
16 position. The Parties interested in the dispute shall then meet and confer in good faith within sixty  
17 (60) days to determine whether the dispute may be resolved in order to avoid further litigation of the  
18 issue, unless both Parties waive, in writing, notice and the opportunity to meet and confer. In the  
19 event that MEJF fails to meet and confer within the sixty (60) day period, AXL's position shall be  
20 deemed to have prevailed. In the event that, after meeting and conferring, MEJF disapproves or  
21 disagrees with a position taken by AXL, MEJF shall notify AXL in writing, sent by an overnight  
22 delivery service requiring a signature upon delivery, within 14 (fourteen) days of meeting and  
23 conferring. Should the MEJF do so and should AXL wish to pursue its position, AXL shall then seek  
24 to have the California Attorney General concur with AXL's position. If the California Attorney  
25 General concurs in writing with AXL, AXL shall provide notice thereof to MEJF and AXL's view  
26 shall prevail. If, however, the California Attorney General does not concur with AXL within ninety  
27 (90) days of the date on which AXL sought the California Attorney General's concurrence, AXL  
28 shall have the right to bring the issue to the Court by noticed motion for its de novo review and,

1 provided that it is proceeding in good faith, shall not be subject to further penalties during the  
2 pendency of such motion and/or if the motion is not contested by MEJF. In the event that the MEJF  
3 chooses to contest such a motion and prevails, 1) AXL shall be deemed to be in compliance with the  
4 terms of this Consent Judgment provided that it implements the warning requirements imposed as the  
5 result of the Court's determination within ninety (90) days that the Court's determination is final; and  
6 2) MEJF may elect to seek to recover its attorney fees incurred in association with such motion as  
7 provided for by California Civil Procedure Code Section 1021.5.

8 10. **TERMINATION**

9 AXL may elect (but is not required) to terminate its participation in this Consent Judgment  
10 beginning on January 31, 2006 or any date thereafter by means of filing with the court and serving on  
11 the MEJF, the California Attorney General, and counsel of record to AXL with a notice of  
12 termination. In the event of the exercise of such an election, the AXL's obligations and rights and  
13 benefits hereunder shall immediately be deemed to cease to exist.

14 11. **APPLICATION OF JUDGMENT**

15 The obligations of this Consent Judgment shall apply to and be binding upon all plaintiffs,  
16 acting in the public interest pursuant to Health and Safety Code section 25249.7(d) AXL, and the  
17 successors or assigns of any of them.

18 12. **AUTHORITY TO STIPULATE**

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

22 13. **NOTICES**

23 Whenever a notice is called for by this Consent Judgment, it shall be provided to AXL at the  
24 addresses identified in Exhibit B hereto. If any Party desires to change the individual and/or address  
25 designated to receive notice on its behalf, such Party shall provide notice to all other Parties pursuant  
26 to the terms of this Section.

27 14. **RETENTION OF JURISDICTION**

28 This Court shall retain jurisdiction of this matter to implement this Consent Judgment.

1 15. ENTIRE AGREEMENT

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

8 16. GOVERNING LAW

9 The validity, construction and performance of this Consent Judgment shall be governed by the  
10 laws of the State of California, without reference to any conflicts of law provisions of California law.

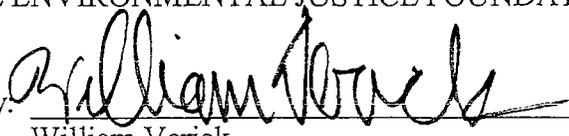
11 17. COURT APPROVAL

12 If this Consent Judgment is not approved and entered by the Court, or if the entry of this  
13 Consent Judgment is successfully challenged, this Consent Judgment shall be of no force or effect,  
14 and cannot be used in any proceeding for any purpose.

15  
16 IT IS SO STIPULATED:

17 DATED: 5-9-05

MATEEL ENVIRONMENTAL JUSTICE FOUNDATION

18 By:   
19 William Verick

20  
21 DATED: 5-5-2005

AXL MUSICAL INSTRUMENTS COMPANY, LTD

22 By: 

23  
24  
25 IT IS SO ORDERED. **JUL 11 2005**

26 DATED: \_\_\_\_\_

**PAUL H. ALVARADO**  
\_\_\_\_\_  
JUDGE, SUPERIOR COURT OF CALIFORNIA

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127	Mobil telephone battery cables (internal wires and cords only)
128	Mobile telephone accessories (only those using corded base charging unit or permanently installed in automobiles)
129	Mobile video screens designed for permanent installation (such as for use in automobiles or boats)
130	Multi-function office support device (combines functions such as copier, printer, fax machine, PBX, voice mail into one)
131	Neon sign & oil burner ignition cable
132	NIC/Modem cables
133	Optical Cable/Stereo Optical Cords (unless designed to plug into front of system)
134	Optical Disc AC Adapter (non-portable and not for use with portable computer systems)
135	Optical Disc Power Cords (non-portable and not for use with portable computer systems)
136	Ovens
137	Over-Range Microwave Ovens/Hoods
138	Paper shredder
139	Parrafin/wax Bath for Hands
140	Patch/pin cords, and cables, adapter cord, coaxial cable, A/V cord, S-VHS cord (when sold with device otherwise excluded)
141	Pencil sharpener
142	Personal Hygiene System and assoicated power cord
143	Pest Repeller
144	Pet Cage Dryers
145	Portable Dishwasher
146	Portable heater (only if designed for permanent installation)
147	Portable Washer
148	Postage meters
149	Postal scales
150	Potpourri heater
151	Power bases for charging wireless devices (if designed for long term installation)
152	Power tools (corded, cordless, stationary, or portable)
153	Power/control/instrumentation tray cable (except for non-permanently-installed public address systems)
154	Pressure Cooker
155	Printer cables
156	Printer power cord
157	Projector, non-portable (no handle or carrying case)
158	Public Address Amplifier and Accessories (non-portable or otherwise designed for permanent or long term installation)
159	Radiator
160	Radios with attached cord and without handles (including clock radios)
161	Range
162	Range Hoods/Vent
163	Rechargeable Flashlights
164	Rechargeable Lanterns
165	Refrigerator
166	Rice Cake Maker
167	Rice Cooker
168	Riser/Plenum cable (if designed for permanent/long term installation)

1	169	Roaster Oven
2	170	Rope Lights (other than holiday string lights) if designed for permanent/long term installation
3	171	Satellite dish
4	172	Scales
5	173	Scanner antenna
6	174	Shavers - Cordless w/Corded Recharger Base only
7	175	Sink Top Switch for Disposer or Hot Water Dispenser (air activated switch mounted to sink or countertop, designed for permanent/long term installation)
8	176	Smoke detector (internal wires or if designed for permanent/long term installation)
9	177	Speaker wire (designed for use with components designed for long term/permanent installation; speaker wire associated with portable equipment with attached handle or carrying case not excluded)
10	178	Stapler
11	179	Steam cooker
12	180	Stereo and audio power/patch/pin cords (for use with non-portable components and except where designed to plug into front of system)
13	181	Surge protector
14	182	Telecom Data Cable (installed)
15	183	Telecom Power Cable (installed)
16	184	Tele-Homecare System (power cords)
17	185	Telephone power and data cord (phone to wall cords only)
18	186	Television (except small mobile models with attached/built in handle or carrying case)
19	187	Television Antenna
20	188	Television distribution system/swapper
21	189	Television Monitor (including computer monitors except small mobile models with attached/built in handle or carrying case)
22	190	Television peripheral cords (unless designed for use with devices that plug into the front of the set)
23	191	Thermostat Cable
24	192	Toaster
25	193	Toaster Oven
26	194	Towel Warmer
27	195	Transcriber and foot pedal and associated power and interconnecting cords
28	196	Underground Low-Energy Cable (exclusion applies to consumer uses only)
	197	Vanity/lighted makeup mirror
	198	VCR (unless portable with attached handle or carrying case)
	199	Video mixer and switcher (if component of desktop system with no separate mice)
	200	Video printer power cords/connecting cables (unless used with laptop)
	201	Warming drawer
	202	Washer/Dryer
	203	Water distiller
	204	Water filter units designed for permanent/long term installation
	205	Water heater designed for permanent/long term installation
	206	Water jet - Dental
	207	Waxers - hair removal (corded base unit only)
	208	Wine cellars
	209	Diesel Locomotive and Motor Cable

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<b>210</b>	Ignition Cable for Gas Tube Signage
<b>211</b>	Hook-Up Wire (intended for permanent or long-term installation)
<b>212</b>	Telephone Switching Station Cable
<b>213</b>	Loop Detector Wire Used in Traffic Counting
<b>214</b>	Utility Cable and Wire (Power and Communications)
<b>215</b>	Signal Cable
<b>216</b>	Power/Control/Instrumentation/Signal CableUtility Cable and Wire (Power and Communications)

EXHIBIT F

(Examples of Products For Which Warnings May Be Given In Owner's Manual)

1	Patch/pin cords, and cables, adapter cord, coaxial cable, A/V cord, S-VHS cord (when sold concurrently with equipment that also appears on this list)
2	AC adaptor cords (when sold concurrently with equipment that also appears on this list)
3	Air Pumps
4	Power and patch cords for professional/commercial audio/video equipment used in field (when sold concurrently with the equipment)
5	Interconnection or patchcables for portable audio/video/computer components or peripheral devices (when sold concurrently with equipment that also appears on this list)
6	Power adapters and cord for use with automotive cigarette lighter or similar power outlet (when sold concurrently with equipment that also appears on this list)
7	Power and interconnector cords for broadcast equipment used in field (when sold concurrently with the broadcast equipment)
8	Coffee warmer/urn (party-size)
9	Adapter and power cords for laptop and desktop computers/peripherals (when sold concurrently with computer or peripheral device)
10	Computer Joystick (owner's manual warning authorized only where reference to the owners manual is necessary to program or install software for use; alternatively, warning that otherwise would be placed in owner's manual must appear as part of on-screen programming/installation instructions)
11	Computer Mouse (when sold concurrently with equipment that also appears on this list)
12	Digital camera cords and cables (when sold concurrently with digital camera)
13	Portable DVD Player (e.g., with handles/carrying case)
14	Power and adaptor cords for portable electronic musical instruments and keyboards (when sold concurrently with the electronic musical instrument or keyboard)
15	Foot Massagers (wet)
16	Laptop Computer
17	Sandwich Maker
18	Telephone handset cord (handset-to-phone portion only where sold concurrently with telephone with programmable features)
19	Thermoelectric coolers
20	Travel Steamer
21	Vacuum cleaner, deep cleaner/extractor and/or carpet shampoo machine (both regular or retractable cord models)
22	Vaporizer
23	Video Camera power cords, adaptor cords (e.g., AC, auto), charger cords, connecting cables (when sold concurrently with video camera)
24	Video game accessories (owner's manual warning authorized where: i) accessory is sold with another product for which owners manual warnings are allowed; or ii) reference to the owners manual is necessary to program or install software for use). Warning that would otherwise be placed in owner's manual may alternatively be displayed as part of on-screen programming/installation instructions where use of such are necessary for initial product use.

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25	Stand alone video mixer or switcher with non-integrated mouse
26	Portable warming tray
27	Cord of handheld waxers used for hair removal
28	Mobile telephones
29	Camera Cords and cables (only if sold concurrently with camera)
30	Telephones with programmable features

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7 Facsimile: (510) 271-0829

8 Attorneys for Plaintiff  
MATEEL ENVIRONMENTAL JUSTICE FOUNDATION  
9

10  
11 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
12

13 COUNTY OF SAN FRANCISCO  
14

15  
16 MATEEL ENVIRONMENTAL JUSTICE  
FOUNDATION,

17 Plaintiff,

18  
19 vs.

20 SCUNCI INTERNATIONAL, INC.,  
21 et al.,

22 Defendants.

CASE NO. 437581

 [Proposed] ORDER  
APPROVING PROPOSITION 65  
SETTLEMENT AS TO DEFENDANT AXL  
MUSICAL INSTRUMENTS CO. LTD.

Date: July 11, 2005  
Time: 9:30 a.m.  
Dept. No.: 301

23  
24 Plaintiff's motion for approval of settlement and entry of Consent Judgment as to  
25 Defendant AXL Musical Instruments Co. Ltd., was heard on regular noticed motion on July 11,  
26 2005, at 9:30 a.m. in Department No. 301. Having reviewed the pleadings and the moving  
27 papers, having reviewed and considered the terms of the proposed consent judgment and having  
28 considered the arguments of counsel, the Court finds as follows:

ENDORSED  
FILED  
San Francisco County Superior Court  
JUL 11 2005  
GORDON PARK-LI, Clerk  
BY: S. PENG  
Deputy Clerk

1           1.       The warnings and reformulation the Consent Judgment requires comply with the  
2 requirements of Proposition 65.

3           2.       The payments in lieu of civil penalties specified in the Consent Judgment are  
4 reasonable and conform to the criteria of Health and Safety Code § 25249.7(b)(2).

5           3.       The attorneys fees awarded under the Consent Judgment and the underlying  
6 hourly rates, time expended, and costs incurred are reasonable.

7  
8           IT IS SO ORDERED.

9                               **JUL 11 2005**

10 Dated: \_\_\_\_\_

**PAUL H. ALVARADO**

\_\_\_\_\_  
Judge of the Superior Court