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18 MATEEL ENVIRONMENTAL JUSTICE  
19 FOUNDATION

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22 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
23 **FOR THE COUNTY OF SAN FRANCISCO**

24 MATEEL ENVIRONMENTAL  
25 JUSTICE FOUNDATION,,

26 Plaintiff,

27 v.

28 CROSMAN CORPORATION,

Defendant.

Case No. RG 07355984

**CONSENT JUDGMENT AS TO  
DEFENDANT CROSMAN  
CORPORATION**

**1. INTRODUCTION**

1.1 On November 13, 2007, the MATEEL ENVIRONMENTAL JUSTICE FOUNDATION ("Mateel") acting on behalf of itself and the general public, filed a Complaint for civil penalties and injunctive relief ("Complaint") in Alameda County Superior Court, Case No. RG 07355984, against Defendant Crosman Corporation ("Crosman" or "Defendant"). The Complaint alleges, among other things, that Defendant violated provisions of the Safe Drinking Water and Toxic Enforcement Act of 1986,

1 Health and Safety Code Sections 25249.5, *et seq.* (“Proposition 65”). In particular,  
2 Mateel alleges that Crosman has knowingly and intentionally exposed persons to paintball  
3 guns and accessories that utilize fittings made of brass containing lead and/or lead  
4 compounds (hereinafter “leaded brass”), which are chemicals known to the State of  
5 California to cause cancer and birth defects or other reproductive harm, without first  
6 providing a clear and reasonable warning to such individuals.

7       **1.2** On May 10, 2007, a 60-Day Notice letter (“Notice Letter”) was sent by  
8 Mateel to Crosman, the California Attorney General, all California District Attorneys, and  
9 all City Attorneys of every California city with populations exceeding 750,000.

10       **1.3** Crosman is a business that employs ten or more persons and manufactures,  
11 distributes, and/or markets paintball guns and accessories, within the State of California.  
12 Some of those products are alleged to contain lead and/or lead compounds. Lead and lead  
13 compounds are chemicals known to the State of California to cause cancer, and lead is a  
14 chemical known to the State of California to cause reproductive toxicity pursuant to  
15 Health and Safety Code Section 25249.9. Under specified circumstances, products  
16 containing lead and/or lead compounds that are sold or distributed in the State of  
17 California are subject to the Proposition 65 warning requirement set forth in Health and  
18 Safety Code Section 25249.6. Plaintiff Mateel alleges that leaded brass fittings on  
19 paintball guns and their accessories manufactured, distributed, sold and/or marketed by  
20 Crosman for use in California require a warning under Proposition 65.

21       **1.4** For purposes of this Consent Judgment, the term “Covered Products” shall  
22 be defined as BB guns, pellet guns and paintball guns and the accessories for such guns  
23 that utilized leaded-brass fittings, to the extent such products are distributed and sold  
24 within the state of California, and that are manufactured, distributed, marketed and/or sold  
25 by Crosman, regardless of whether they bear Crosman labels.

26       **1.5** For purposes of this Consent Judgment, the parties stipulate that this Court  
27 has jurisdiction over the allegations of violations contained in the Complaint and personal  
28 jurisdiction over Crosman as to the acts alleged in the Complaint, that venue is proper in  
NB1:705484.5

1 the County of San Francisco and that this Court has jurisdiction to enter this Consent  
2 Judgment as a full settlement and resolution of the allegations contained in the Complaint  
3 and of all claims that were or could have been raised by any person or entity based in  
4 whole or in part, directly or indirectly, on the facts alleged therein or arising therefrom or  
5 related thereto.

6       **1.6** This Consent Judgment resolves claims that are denied and disputed. The  
7 parties enter into this Consent Judgment pursuant to a full and final settlement of any and  
8 all claims between the parties for the purpose of avoiding prolonged litigation. This  
9 Consent Judgment shall not constitute an admission with respect to any material allegation  
10 of the Complaint, each and every allegation of which Crosman denies, nor may this  
11 Consent Judgment or compliance with it be used as evidence of any wrongdoing,  
12 misconduct, culpability or liability on the part of Crosman or any other Defendant.

13       **2.       SETTLEMENT PAYMENT**

14       **2.1** In settlement of all of the claims referred to in this Consent Judgment  
15 against the Settling Defendant, within thirty (30) business days of notice entry of this  
16 Consent Judgment, Crosman shall pay \$20,000 to the Klamath Environmental Law Center  
17 (“KELC”) to cover Mateel’s attorneys’ fees and costs.

18       **2.2** Within thirty (30) business days of notice of entry of this Consent Judgment,  
19 Crosman shall pay \$10,000 to the Ecological Rights Foundation and \$10,000 to  
20 Californians for Alternatives to Toxics. Both are California non-profit environmental  
21 organizations that advocate for workers’ and consumers’ safety, and for awareness and  
22 reduction of toxic exposures.

23       **3.       ENTRY OF CONSENT JUDGMENT**

24       **3.1** The parties hereby request that the Court promptly enter this Consent  
25 Judgment. Upon entry of the Consent Judgment, Crosman and Mateel waive their  
26 respective rights to a hearing or trial on the allegations of the Complaint.

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

1           **4.1** This Consent Judgment is a final and binding resolution between Mateel,  
2 acting on behalf of itself and the general public, and Crosman, of: (i) any violation of  
3 Proposition 65 with respect to the Covered Products, and (ii) any other statutory or  
4 common law claim, to the fullest extent that any of the foregoing described in (i) or (ii)  
5 were or could have been asserted by any person or entity against Crosman based upon,  
6 arising out of or relating to Crosman's compliance with Proposition 65, or regulations  
7 promulgated thereunder, with respect to the Covered Products, and any other claim based  
8 in whole or part on the facts alleged in the Complaint, whether based on actions  
9 committed by Crosman, or by any other Defendant or entity within the chain of  
10 distribution, including, but not limited to, manufacturers, wholesale or retail sellers or  
11 distributors and any other person in the course of doing business. As to alleged exposures  
12 to Covered Products, compliance with the terms of this Consent Judgment resolves any  
13 issue, now and in the future, concerning compliance by Crosman and its parents,  
14 subsidiaries or affiliates, predecessors, officers, directors, employees, and all of their  
15 manufacturers, customers, distributors, wholesalers, retailers or any other person in the  
16 course of doing business, and the successors and assigns of any of these who may  
17 manufacture, use, maintain, distribute, market or sell Covered Products, with the  
18 requirements of Proposition 65.

19           **4.2** As to alleged exposures to Covered Products, Mateel, acting on behalf of  
20 itself and the general public, and its agents, successors and assigns, waives all rights to  
21 institute any form of legal action, and releases all claims against Crosman and its parents,  
22 subsidiaries or affiliates, predecessors, officers, directors, employees, and all of its  
23 customers, manufacturers, distributors, wholesalers, retailers or any other person in the  
24 course of doing business, and the successors and assigns of any of them, who may  
25 manufacture, use, maintain, distribute or sell the Covered Products, whether under  
26 Proposition 65 or otherwise, arising out of or resulting from, or related directly or  
27 indirectly to, in whole or in part, the Covered Products and claims identified in Mateel's  
28 Notice Letter. In furtherance of the foregoing, Mateel, acting on behalf of itself hereby  
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1 waives any and all rights and benefits which it now has, or in the future may have,  
2 conferred upon it with respect to the Covered Products by virtue of the provisions of  
3 Section 1542 of the California Civil Code, which provides as follows:

4 "A GENERAL RELEASE DOES NOT EXTEND TO  
5 CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR  
6 SUSPECT TO EXIST IN HIS FAVOR AT THE TIME OF  
7 EXECUTING THE RELEASE, WHICH IF KNOWN BY  
8 HIM MUST HAVE MATERIALLY AFFECTED HIS  
9 SETTLEMENT WITH THE DEBTOR."

10 Mateel understands and acknowledges that the significance and consequence of this  
11 waiver of California Civil Code Section 1542 is that even if Mateel suffers future damages  
12 arising out of or resulting from, or related directly or indirectly to, in whole or in part, the  
13 Covered Products, it will not be able to make any claim for those damages against  
14 Crosman, its parents, subsidiaries or affiliates, predecessors, officers, directors,  
15 employees, and all of its customers, manufacturers, distributors, wholesalers, retailers or  
16 any other person in the course of doing business, and the successors and assigns of any of  
17 them, who may manufacture, use, maintain, distribute or sell the Covered Products.  
18 Furthermore, Mateel acknowledges that it intends these consequences for any such claims  
19 which may exist as of the date of this release but which Mateel does not know exist, and  
20 which, if known, would materially affect its decision to enter into this Consent Judgment,  
21 regardless of whether its lack of knowledge is the result of ignorance, oversight, error,  
22 negligence, or any other cause.

23 **5. ENFORCEMENT OF JUDGMENT**

24 **5.1** The terms of this Consent Judgment shall be enforced exclusively by the  
25 parties hereto. The parties may, by noticed motion or order to show cause before the  
26 Superior Court of San Francisco County, giving the notice required by law, enforce the  
27 terms and conditions contained herein.

1           **6.       MODIFICATION OF JUDGMENT**

2           Except as provided for in Paragraph 7.2(c), this Consent Judgment may be  
3 modified only upon written agreement of the parties and upon entry of a modified Consent  
4 Judgment by the Court thereon, or upon motion of any party as provided by law and upon  
5 entry of a modified Consent Judgment by the Court.

6           **7.       INJUNCTIVE RELIEF - CLEAR AND REASONABLE WARNING**

7           7.1 Covered Products shall be deemed to comply with Proposition 65 and be  
8 exempt from any Proposition 65 warning requirements if the brass fittings that are part of  
9 the Covered Products meet the following criteria: (a) the brass alloy from which the  
10 brass fittings are made shall have no lead as an intentionally added constituent; and (b) the  
11 brass alloy from which the brass fittings are made shall have a lead content by weight of  
12 no more than 0.03% (300 parts per million, or "300 ppm"). Crosman may comply with  
13 the above requirements by relying on information obtained from its suppliers regarding  
14 the content of the brass alloy from which the brass fittings are made, provided such  
15 reliance is in good faith. Obtaining test results showing that the lead content is no more  
16 than 0.03%, using a method of sufficient sensitivity to establish a limit of quantification  
17 (as distinguished from detection) of less than 300 ppm shall be deemed to establish good  
18 faith reliance.

19           7.2 Covered Products that do not meet the warning exemption standard set forth  
20 in Section 7.1 of the Consent Judgment shall be accompanied by a warning as described in  
21 paragraph 7.3 below. The warning requirements set forth in paragraph 7.3 shall apply  
22 only to: (1) Covered Products that Crosman ships for distribution after 270 days after  
23 entry of this Consent Judgment ("the Effective Date"); and (2) Covered Products  
24 manufactured, distributed, marketed, sold or shipped for sale or use inside the State of  
25 California.

26           7.3 Crosman shall provide Proposition 65 warnings as follows:

- 27           (a) Defendant Crosman shall provide either of the following warning  
28 statements:

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**WARNING:** This product contains lead, a chemical known to the State of California to cause cancer and birth defects or other reproductive harm. Do not place your hands in your mouth after handling the product. ***Wash your hands after touching this product.***

or

**WARNING:** This product contains one or more chemicals known to the State of California to cause cancer and birth defects or other reproductive harm. ***Wash hands after handling.***

The word “WARNING” shall be in bold. The words “Wash hands after handling” shall be in bold and italicized.

Crosman shall provide such warning with the unit package of the Covered Products. Such warning shall be prominently affixed to or printed on each Covered Product’s label or package. The warning shall be at least the same size as the largest of any other safety warnings, if any, on the product container. If printed on the label itself, the warning shall be contained in the same section that states other safety warnings, if any, concerning the use of the product.

(b) The requirements for product labeling, set forth in subparagraph (a) above are imposed pursuant to the terms of this Consent Judgment. The parties recognize that product labeling is not the exclusive method of providing a warning under Proposition 65 and its implementing regulations.

(c) If Proposition 65 warnings for lead or lead compounds should no longer be required, Crosman shall have no further warning obligations pursuant to this Consent Judgment. In the event that Crosman ceases to implement or modifies the warnings required under this Consent Judgment (because of a change on the law or otherwise), Crosman shall provide written notice to Mateel (through KELC) of its intent to do so, and of the basis for its intent, no less than thirty (30) days in advance. Mateel shall

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notify Crosman in writing of any objection within thirty (30) days of its receipt of such notice, or such objection by Mateel shall be waived.

**8. AUTHORITY TO STIPULATE**

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

**9. RETENTION OF JURISDICTION**

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

**10. ENTIRE AGREEMENT**

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

**11. GOVERNING LAW**

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

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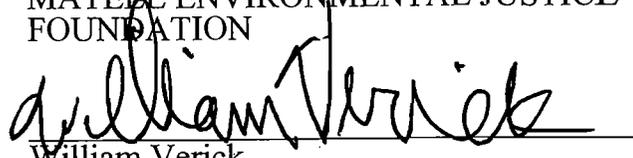
**12. COURT APPROVAL**

If this Consent Judgment is not approved by the Court, it shall be of no force or effect, and cannot be used in any proceeding for any purpose.

**IT IS SO STIPULATED:**

DATED: *Dec. 17, 2007*

MATEEL ENVIRONMENTAL JUSTICE  
FOUNDATION



William Verick  
CEO Mateel Environmental Justice  
Foundation,  
Klamath Environmental Law Center

DATED:  
*November 27, 2007*

CROSMAN CORPORATION



By: *Ken D'Arcy*  
Its: *President & CEO*

**IT IS SO ORDERED, ADJUDGED AND DECREED:**

DATED:

\_\_\_\_\_  
JUDGE OF THE SUPERIOR COURT

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