

SETTLEMENT AGREEMENT

1. INTRODUCTION

1.1 Maureen Parker and JLR Gear Company

This Settlement Agreement is entered into by and between Maureen Parker (hereinafter “Parker”) and National Broom Co. dba JLR GEAR Company (hereinafter “JLR GEAR”). JLR GEAR contracted to manufacture a Propane Level Gauge (hereinafter “Product”) and sold it to downstream retailers. (Parker and JLR GEAR are collectively referred to as the “Parties.”) Parker is an individual residing in California who seeks to promote awareness of exposures to toxic chemicals and improve human health by reducing or eliminating hazardous substances contained in consumer products. Plaintiff contends that JLR GEAR is a company in the course of doing business for purposes of Proposition 65.

1.2 General Allegations

Parker alleges that Kmart Corporation, a wholly owned subsidiary of Sears Holding Company, (“Kmart” or “Sears”) sold Product in the State of California with exposed brass containing lead and that such sales have not all included warnings pursuant to the Safe Drinking Water and Toxic Enforcement Act of 1986, California Health & Safety Code §§ 25249.6 *et seq.* (“Proposition 65”). Lead is listed under Proposition 65 as a chemical known to the State of California to cause cancer and reproductive harm. Parker has cited “Propane Level Gauge UPC 0 3069804017 0” as a specific example of the Product that is the subject of her allegations. JLR GEAR represents that the Product is manufactured for and distributed to Kmart and others in California by JLR GEAR.

1.3 Product Description

The Product that is covered by this Settlement Agreement is defined as follows: Propane Level Gauge, (See Attachment “A” for a representative photo of the specific Product covered by this Agreement with exposed leaded brass distributed by JLR GEAR and sold in California.)

1.4 Notice of Violation

On or about January 24, 2011, Parker served Kmart and JLR GEAR and all public enforcement agencies eligible to initiate Proposition 65 actions on behalf of the People of the State of California with a document entitled “60-Day Notice of Violation” (the “Notice”) that provided Kmart, JLR GEAR and such public enforcers with notice that alleged that JLR GEAR and Kmart were in violation of California Health & Safety Code § 25249.6 for failing to warn consumers and customers that the Product exposed users in California to lead. No public enforcer has diligently prosecuted the allegations set forth in the Notice.

1.5 No Admission

JLR GEAR denies the material factual and legal allegations contained in Parker’s Notice and maintains that the Product is in compliance with Proposition 65 and all other applicable laws. Nothing in this Settlement Agreement shall be construed as an admission by JLR GEAR of any fact, finding, issue of law, or violation of law; nor shall compliance with this Settlement Agreement constitute or be construed as an admission by JLR GEAR of any fact, finding, conclusion, issue of law, or violation of law, such being specifically denied by JLR GEAR. However, this section shall not diminish or otherwise affect the obligations, responsibilities, and duties of JLR GEAR under this Settlement Agreement.

1.6 Effective Date

For purposes of this Settlement Agreement, the term “Effective Date” shall mean the date this Settlement Agreement is fully executed.

2. INJUNCTIVE RELIEF: WARNINGS AND REFORMULATION

2.1 Reformulation Option.

The Product shall be deemed to comply with Proposition 65 with regard to lead and be exempt from any Proposition 65 warning requirements for lead if the exposed brass components that are part of the Product meet the following criteria: (a) the brass alloy from which the brass components are made shall have no lead as an intentionally added constituent; and (b) the brass alloy from which the brass components are made shall have a lead content by weight of no more than 0.03% (300 parts per million, or “300 ppm”). JLR GEAR may comply with the above requirements by relying on information obtained from its suppliers regarding the content of the brass alloy from which the brass components are made, provided such reliance is in good faith. Obtaining test results showing that the lead content is no more than 0.03%, using a method of sufficient sensitivity to establish a limit of quantification (as distinguished from detection) of less than 300 ppm, while not a requirement of this Agreement, shall be deemed to establish good faith reliance.

2.2 Warning Alternative.

Product that does not meet the warning exemption standard set forth in Section 2.1 above shall be accompanied by a warning as described in Section 2.3 below. The warning requirements set forth in Section 2.3 below shall be applicable thirty (30) days after the Effective Date and apply to Product that JLR GEAR distributes, supplies, manufactures, markets, sells or ships for sale or use inside the State of California.

2.3 Where required under Sections 2.1 and 2.2 above, JLR GEAR shall provide Proposition 65 warnings as follows:

- (a) JLR GEAR may use either of the following warning statements:

- (1) **WARNING:** This product contains lead, a chemical known to the State of California to cause birth defects or other reproductive harm.

or, where JLR GEAR has reason to believe that chemicals listed under Proposition 65 in addition to lead are present in a Product,

- (2) **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.

(b) Where utilized as an alternative to meeting the criteria set forth in Section 2.1, JLR GEAR shall provide the warning language set forth in subsection 2.3(a) either:

- (1) with the unit package of the Product. Such warning shall be prominently affixed to or printed on each Product's label or package. 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; or
- (2) in the owner's manual of another product in which the Product is a component, but only if the other product: (i) may cause serious injury or bodily harm unless used as directed; (ii) is sophisticated, difficult to understand or install, set-up, or assemble; or (iii) has one or more features a consumer must read about in order to know how to program or use the Product. If the warning is given in the owner's manual pursuant to this subsection, it shall be located in one of the following places in the manual: the outside of the front cover; the inside of the front cover; the first page other than the cover; or the outside of the back cover. The warning shall be printed or stamped in the manual or contained in a

durable label or sticker affixed to the manual in a font no smaller than the font used for other chemically-related safety warnings in the manual (if any). Alternatively, the warning may be included in a safety warning section of the owner's manual. Owner's manual warnings may only be allowed if the owner's manual is sold in the same package and at the same time as the other product and not for Products sold separately.

(c) The requirements for warnings, set forth in subsections (a)-(b) above are imposed pursuant to the terms of this Settlement. The parties recognize that these are not the exclusive methods of providing a warning under Proposition 65 and its implementing regulations and those they may or may not be appropriate in other circumstances.

(d) If Proposition 65 warnings for lead or lead compounds should no longer be required, JLR GEAR shall have no further warning obligations pursuant to this Settlement. Except as provided in Section 2.1 above, in the event that JLR GEAR ceases to implement or modifies the warnings required under this Settlement (because of a change in the law or otherwise), JLR GEAR shall provide written notice to Parker (through counsel) of its intent to do so, and of the basis for its intent, no less than thirty (30) days in advance.

3. **PAYMENT IN LIEU OF PENALTIES PURSUANT TO HEALTH & SAFETY CODE §25249.7(B)**

In lieu of civil penalties and in settlement of all claims that have been threatened or could be raised with respect to failure to warn pursuant to Proposition 65 with regard to lead in the Products, JLR GEAR shall pay \$250.00 in the name of Maureen Parker to Susan G. Komen for the Cure, a

501(c)(3) non-profit organization dedicated to the fight against breast cancer (federal tax identification number 75-1835298). JLR GEAR shall mail this payment in Parker's name within thirty days following the Effective Date, to the following address, providing a copy of its check and transmittal letter to Parker:

Susan G. Komen for the Cure
5005 L.B.J. Freeway, Suite 250
Dallas, TX 75244

4. REIMBURSEMENT OF FEES AND COSTS

The parties reached an accord on the compensation due to Parker and her counsel under the private attorney general doctrine and principles of contract law. Under these legal principles, JLR GEAR shall reimburse Parker's counsel for fees and costs, incurred as a result of investigating, bringing this matter to JLR GEAR's attention, and negotiating a settlement in the public interest. JLR GEAR shall pay Parker's counsel \$29,750.00 for all attorneys' fees, expert and investigation fees, and related costs associated with this matter and the Notice. JLR GEAR shall wire \$29,750.00 to the account of "Law Offices of Stephen Ure, PC" on or before July 7, 2011. The Law Offices of Stephen Ure, PC., will provide and JLR GEAR will confirm receipt of bank wire instructions prior to that date. Other than the payment required hereunder, each side is to bear its own attorneys fees and costs.

5. RELEASE OF ALL CLAIMS

5.1 Release of JLR GEAR and All Downstream Customers

In further consideration of the promises and agreements herein contained, and for the payments to be made pursuant to Sections 3 and 4 above, Parker, on behalf of herself, her past and current agents, representatives, attorneys, successors and/or assignees, hereby waives all rights to institute or participate in, directly or indirectly, any form of legal action and releases all claims, including, without limitation, all actions, and causes of action, in law or in equity, suits, liabilities, demands, obligations,

damages, costs, fines, penalties, losses or expenses (including, but not limited to, investigation fees, expert fees and attorneys' fees) of any nature whatsoever, whether known or unknown, fixed or contingent (collectively "Claims"), against JLR GEAR and its downstream distributors, wholesalers, licensors, licensees, auctioneers, retailers, franchisees, dealers, and customers, including but not limited to Kmart, Sears Holding Company and Harbor Freight, and each of their customers, owners, purchasers, users, parent companies, corporate affiliates, subsidiaries, and their respective officers, directors, attorneys, representatives, shareholders, agents, and employees, and sister and parent entities (collectively "Releasees"). This release is limited to those claims that arise under Proposition 65, as such claims relate to JLR GEAR's or the Releasee's alleged failure to warn about exposures to or identification of lead contained in the Products whether sold before or after the Effective Date, provided JLR GEAR hereafter reformulates or warns for the Products as required under Section 2 of this settlement agreement.

Plaintiff also, on behalf of itself, its past and current agents, representatives, attorneys, successors, and/or assignees and *not* in her representative capacity, provides a general release herein which shall be effective as a full and final accord and satisfaction, as a bar to all actions, causes of action, obligations, costs, expenses, attorneys' fees, damages, losses, claims, liabilities and demands of any nature, character or kind, known or unknown, suspected or unsuspected, against JLR GEAR and the Releasees arising under Proposition 65, as such claims relate to JLR GEAR and the Releasees' alleged failure to warn about exposures to or identification of, under Proposition 65, lead contained in the Product sold by JLR GEAR and the Releasees. Plaintiff acknowledges that she is familiar with Section 1542 of the California Civil Code, which provides as follows:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH
THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN
HIS FAVOR AT THE TIME OF EXECUTING THE RELEASE,

WHICH IF KNOWN BY HIM MUST HAVE MATERIALLY
AFFECTED HIS SETTLEMENT WITH THE DEBTOR.

Plaintiff, in her individual capacity, and on behalf of herself, her past and current agents, representatives, attorneys, successors, and/or assignees expressly waives and relinquishes any and all rights and benefits which she may have under, or which may be conferred on her by the provisions of Civil Code Section 1542 as well as under any other state or federal statute or common law principle of similar effect, to the fullest extent that he may lawfully waive such rights or benefits pertaining to the released matters.

5.2 JLR GEAR's Release of Parker

JLR GEAR waives any and all claims against Parker, her attorneys and other representatives, for any and all actions taken or statements made (or those that could have been taken or made) by Parker and her attorneys and other representatives, whether in the course of investigating claims or otherwise seeking enforcement of Proposition 65 against it in this matter, and/or with respect to the Product.

JLR GEAR acknowledges that it is familiar with Section 1542 of the California Civil Code, which provides as follows:

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

JLR GEAR on behalf of itself, its past and current agents, representatives, attorneys, successors, and/or assignees expressly waives and relinquishes any and all rights and benefits which it may have under, or which may be conferred on it by the provisions of Civil Code Section 1542 as well as under

any other state or federal statute or common law principle of similar effect, to the fullest extent that it may lawfully waive such rights or benefits pertaining to the released matters.

6. SEVERABILITY

If, subsequent to the execution of this Settlement Agreement, any of the provisions of this Settlement Agreement are held by a court to be unenforceable, the validity of the enforceable provisions remaining shall not be adversely affected.

7. GOVERNING LAW

The terms of this Settlement Agreement shall be governed by the laws of the State of California and apply within the State of California. In the event that Proposition 65 is repealed or is otherwise rendered inapplicable by reason of law generally, or as to the Product, then JLR GEAR shall provide written notice to Parker of any asserted change in the law, and shall have no further obligations pursuant to this Settlement Agreement.

8. NOTICES

Unless specified herein, all correspondence and notices required to be provided pursuant to this Settlement Agreement shall be in writing and personally delivered or sent by: (i) first-class, (registered or certified mail) return receipt requested; or (ii) overnight courier on any party by the other party at the following addresses:

For JLR GEAR:

John Claassen
JLR GEAR Company
National Broom Company, Inc.
14023 Catalina Street
San Leandro, CA 94577-2225

And

For Parker:

Mr. Stephen Ure
Law Offices of Stephen Ure, PC.
1518 Sixth Avenue
San Diego, California 92101

Any party, from time to time, may specify in writing to the other party a change of address to which all notices and other communications shall be sent.

9. COUNTERPARTS; FACSIMILE SIGNATURES

This Settlement Agreement may be executed in counterparts and by facsimile, each of which shall be deemed an original, and all of which, when taken together, shall constitute one and the same document.

10. COMPLIANCE WITH HEALTH & SAFETY CODE § 25249.7(F)


Parker agrees to comply with the reporting form requirements referenced in California Health & Safety Code §25249.7(f).

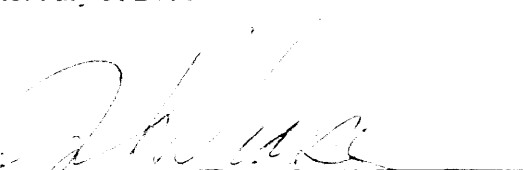
11. MODIFICATION

This Settlement Agreement may be modified only by a written agreement of the Parties.

12. AUTHORIZATION

The undersigned are authorized to execute this Settlement Agreement on behalf of their respective Parties and have read, understood and agree to all of the terms and conditions of this Settlement Agreement.

<p style="text-align: center;">AGREED TO:</p> <p>Date: July 5, 2011</p> <p>By:  Maureen Parker</p>	<p style="text-align: center;">AGREED TO:</p> <p>Date: July 5, 2011</p> <p>By: _____ JLR Gear Company</p>
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<p style="text-align: center;">AGREED TO:</p> <p>Date: July 5, 2011</p> <p>By: _____ Maureen Parker</p>	<p style="text-align: center;">AGREED TO:</p> <p>Date: July 5, 2011</p> <p>By:  _____ JLR Gear Company</p>
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Attachment “A”

This Settlement Agreement is limited to the Product pictured below. All other JLR GEAR items are, by mutual agreement of the parties, specifically excluded.

To be clear, and without exception, all packaging containing the Product, regardless of package design, UPC, or other descriptive used from time to time by JLR GEAR or downstream Releasees is subject to the Warning Requirements of Clause 2 of the Agreement.