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Environmental Health Advocates, Inc.

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11 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

12 **IN AND FOR THE COUNTY OF ALAMEDA**

13 ENVIRONMENTAL HEALTH
ADVOCATES, INC.,

14 Plaintiff,

15 v.

16 KAMPARTS, INC., a California corporation;
17 and DOES 1 through 100, inclusive,

18 Defendants.
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Case No. 24CV094327

[PROPOSED] CONSENT JUDGMENT

(Health & Safety Code § 25249.6 *et seq.* and
Code Civ. Proc. § 664.6)

1 **1. INTRODUCTION**

2 **1.1 Parties**

3 This Consent Judgment is entered into by and between Environmental Health Advocates, Inc.,
4 (“EHA” or “Plaintiff”) and Kamparts, Inc. (“Defendant” or “Kamparts”) with EHA and Kamparts each
5 individually referred to as a “Party” and collectively referred to as the “Parties.”

6 **1.2 Plaintiff**

7 EHA is a corporation organized in the state of California, acting in the interest of the general
8 public. It seeks to promote awareness of exposures to toxic chemicals and to improve human health by
9 reducing or eliminating hazardous substances contained in consumer products.

10 **1.3 Defendant**

11 Kamparts employs ten or more individuals and for purposes of this Consent Judgment only, is
12 a “person in the course of doing business” for purposes of the Safe Drinking Water and Toxic
13 Enforcement Act of 1986, Health and Safety Code section 25249.6 et seq. (“Proposition 65”).

14 **1.4 General Allegations**

15 EHA alleges that Kamparts manufactures, imports, sells, and distributes for sale Gympak
16 Rubber Hex Dumbbell that contains lead. EHA further alleges that Kamparts does so without providing
17 a sufficient health hazard warning as required by Proposition 65 and related Regulations. Kamparts
18 denies these allegations and asserts that its products are safe and in compliance with all applicable laws,
19 rules and regulations.

20 **1.5 Notice of Violation**

21 On or around January 19, 2024, EHA served Defendant Kamparts, the California Attorney
22 General, and all other required public enforcement agencies with a 60-Day Notice of Violation of
23 Proposition 65 (“Notice”). The Notice alleged that Kamparts had violated Proposition 65 by failing to
24 sufficiently warn consumers in California of the health hazards associated with exposures to lead
25 contained in dumbbells products, including but not limited to Gympak Rubber Hex Dumbbell
26 manufactured or processed by Kamparts that allegedly contain lead and are imported, sold, shipped,
27 delivered, or distributed for sale in California by Releasees (as defined in section 4.1).

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1 No public enforcer has commenced or is otherwise prosecuting an action to enforce the
2 violations alleged in the Notice.

3 **1.6 Product Description**

4 The products covered by this Consent Judgment are dumbbells products, including but not
5 limited to Gympak Rubber Hex Dumbbell manufactured or processed by Kamparts that allegedly
6 contain lead and are imported, sold, shipped, delivered, or distributed to consumers in California by
7 Releasees (as defined in section 4.1) (“Covered Products”).

8 **1.7 State of the Pleadings**

9 On or around October 2, 2024, EHA filed a Complaint against Kamparts for the alleged
10 violations of Proposition 65 that are the subject of the Notice (“Complaint”).

11 **1.8 No Admission**

12 Kamparts denies the material factual and legal allegations of the Notice and Complaint and
13 maintains that all of the products it has manufactured, imported, sold, and/or distributed for sale in
14 California, including Covered Products, have been, and are, in compliance with all applicable laws,
15 rules and regulations. Nothing in this Consent Judgment shall be construed as an admission of any fact,
16 finding, conclusion of law, issue of law, or violation of law, nor shall compliance with this Consent
17 Judgment be construed as an admission of any fact, finding, conclusion of law, issue of law, or violation
18 of law. This Section shall not, however, diminish or otherwise affect Kamparts' obligations,
19 responsibilities, and duties under this Consent Judgment.

20 **1.9 Jurisdiction**

21 For purposes of this Consent Judgment and the Complaint only, the Parties stipulate that this
22 Court has jurisdiction over Kamparts as to the allegations in the Complaint, that venue is proper in the
23 County of Alameda, and that the Court has jurisdiction to enter and enforce the provisions of this
24 Consent Judgment pursuant to Proposition 65 and Code of Civil Procedure section 664.6.

25 **1.10 Effective Date**

26 For purposes of this Consent Judgment, the term “Effective Date” means the date on which this
27 Consent Judgment is approved and entered as a judgment of the Court, as discussed in Section 5.


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1 **2. INJUNCTIVE RELIEF**


2 **2.1 General Warning Requirements**

3 Commencing 60 days after the Effective Date, Kamparts agrees any Covered Products sold in
4 California shall contain a “clear and reasonable” Proposition 65 warning, within the meaning of Section
5 25249.6 of the Act. Kamparts agrees that each warning shall be prominently placed with such
6 conspicuousness, as compared with other words, statements, designs, or devices as to render it likely
7 to be seen, read and understood by an ordinary individual under customary conditions before purchase
8 or use. Each warning shall be provided in a manner such that the consumer or user understands to
9 which *specific* Covered Products the warning applies, and except as otherwise provided herein, lists
10 chemical(s) is/are implicated, so as to minimize the risk of consumer confusion.


11 For purposes of this Settlement Agreement, a clear and reasonable warning for the Covered
12 Products shall consist of a product-specific warning via one or more of the following methods: (1) A
13 posted sign, shelf tag, or shelf sign for the consumer product at each point of display of the product;
14 (2) Any electronic device or process that automatically provides the warning to the purchaser (not
15 applicable to internet purchases, which are subject to the provisions of § 25602(b)); (3) A warning
16 directly affixed to the product’s label or tag; or (4) A short-form warning on the label that complies
17 with the content requirements set forth in §§ 25603(b) and 25603(a). Specifically, pursuant to §
18 25603(a) – (d), one of the following statements must be utilized:

19 1)  **“WARNING:” [or] “CA WARNING:” [or] “CALIFORNIA**
20 **WARNING:”** This product can expose you to lead which is known
21 to the State of California to cause cancer and birth defects or other
22 reproductive harm. For more information go to
 www.P65Warnings.ca.gov.

23 **OR**


24 SHORT FORM 2)  **“WARNING:” [or] “CA WARNING:” [or] “CALIFORNIA**
25 **WARNING: Risk of cancer and reproductive harm from exposure to lead. See**
 www.P65Warnings.ca.gov.

26 **OR**

1 SHORT FORM 3)  “WARNING:” [or] “CA WARNING:” [or] “CALIFORNIA
2 WARNING: Can expose you to lead, a carcinogen and
reproductive toxicant. See www.P65Warnings.ca.gov.

3 OR

4 SHORT FORM ON
5 A PRODUCT
6 MANUFACTURED/
7 LABELED PRIOR
TO 1/1/28,
REGARDLESS OF
DATE OF SALE

4)  WARNING: Cancer and Reproductive Harm–
www.P65Warnings.ca.gov.

8 The triangle above shall be yellow on the warning statement. Where the sign, label, or shelf tag
9 for the product is not printed using the color yellow, the symbol may be printed in black and white. The
10 symbol shall be placed to the left of the warning text, in a size no smaller than the height of the word,
11 “WARNING.” A short-form warning must be provided on a product in a type size that complies with
12 Cal. Code Regs Tit. 27, § 25601(c). In no case shall a warning statement displayed on the Covered
13 Products’ packaging appear in a type size smaller than 6-point type. Where a sign, labeling, or label as
14 defined in Section 256001.1 is used to provide a warning that includes consumer information about a
15 product in a language other than English, the warning must also be provided in that language in addition
16 to English.

17 As set forth in Cal. Code Regs. Tit. 27, § 25602(b), to the extent Covered Products are sold
18 online, a warning that complies with the content requirements of Cal. Code Regs Tit. 27, § 25603 must
19 be provided via one of the following methods: (1) A warning on the product display page; (2) A clearly
20 marked hyperlink using the word “WARNING” or the words “CA WARNING” or “CALIFORNIA
21 WARNING” on the product display page that links to the warning; or (3) An otherwise prominently
22 displayed warning provided to the purchaser prior to completing the purchase. If a warning is provided
23 using the short-form label content pursuant to Section 25602(a)(4), the warning provided on the website
24 may use the same content. For purposes of this section, a warning is not prominently displayed if the
25 purchaser must search for it in the general content of the website. For internet purchases made prior to
26 1/1/28, a retail seller is not responsible under Section 25600.2(e)(4) for conspicuously posting or
27 displaying the new warning online until 60 calendar days after the retailer receives a warning or a written
28 notice under Section 25600.2(b) and (c) which updates a short-form warning compliant with Section

25603(c) with content compliant with Section 25603(b). These requirements extend to any websites under the exclusive control of Kamparts where Covered Products are sold into California. In addition, Kamparts shall instruct any third-party website to which it directly sells its Covered Products to include the same online warning, as set forth above, as a condition of selling the Covered Products in California.

There shall be no obligation for Kamparts to provide a warning for Covered Products that entered the stream of commerce prior to 60 days after the Effective Date, and the Section 4 release applies to all such Covered Products.

(i) Changes in Warning Regulations or Statutes

In the event that the Office of Environmental Health Hazard Assessment modifies one or more regulations requiring or permitting Proposition 65 warning text and/or methods of transmission applicable to the Covered Products and the chemical at issue, Kamparts can move for a modification pursuant to the modification provision in Section 12 of this Agreement.

2.2 Sell-Through Period

Notwithstanding anything else in this Consent Judgment, Covered Products that are manufactured, packaged, or put into commerce on or before the Effective Date shall be subject to the release of liability pursuant to this Consent Judgment, without regard to when such Covered Products were, or are in the future, distributed or sold to customers. As a result, the obligations of Kamparts, or any Releasees (if applicable), stated in this Section 2 do not apply to Covered Products manufactured, packaged, or put into commerce prior to the Effective Date.

3. MONETARY SETTLEMENT TERMS

3.1 Settlement Amount

Except as otherwise provided herein, Kamparts shall pay fifty thousand dollars (\$50,000.00) in settlement and total satisfaction of all the claims referred to in the Notice(s), the Complaint, and this Consent Judgment (the "Settlement Amount"). This Settlement Amount includes civil penalties in the amount of five thousand dollars (\$5,000.00) pursuant to Health and Safety Code section 25249.7(b) and, except as otherwise provided herein, attorneys' fees and costs in the amount of forty-five thousand dollars (\$45,000.00) pursuant to Code of Civil Procedure section 1021.5.

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3.2 Civil Penalty

The portion of the Settlement Amount attributable to civil penalties shall be allocated according to Health and Safety Code section 25249.12(c)(1) and (d), with seventy-five percent (75%) of the penalty paid to the California Office of Environmental Health Hazard Assessment ("OEHHA"), and the remaining twenty-five percent (25%) of the penalty paid to EHA individually. The five thousand dollars (\$5,000.00) in civil penalties shall be paid as follows:

- One payment of \$3,750.00 to OEHHA, due 14 (fourteen) days after the Effective Date.
- One payment of \$1,250.00 to EHA, due 14 (fourteen) days after the Effective Date.

The portion of the Settlement Amount owed to EHA shall be delivered to the following address:

Isaac Fayman
Environmental Health Advocates
225 Broadway, Suite 2100
San Diego, CA 92101

The portion of the Settlement Amount owed to OEHHA (EIN: 68-0284486) shall be delivered directly to OEHHA (Memo Line "Prop 65 Penalties") at the following addresses:

For United States Postal Service Delivery:

Mike Gyurics
Fiscal Operations Branch Chief
Office of Environmental Health Hazard Assessment
P.O. Box 4010
Sacramento, CA 95812-4010

For Federal Express 2-Day Delivery:

Mike Gyurics
Fiscal Operations Branch Chief
Office of Environmental Health Hazard Assessment
1001 I Street
Sacramento, CA 95814

Kamparts agrees to provide EHA's counsel with a copy of the check payable to OEHHA, simultaneous with its penalty payment to EHA.

Plaintiff and its counsel will provide completed IRS 1099, W-9, or other tax forms as reasonably required. Relevant information is set out below:

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- “Environmental Health Advocates, Inc.” (EIN: 84-2322975) at the address provided above.
- “Office of Environmental Health Hazard Assessment” 1001 I Street, Sacramento, CA 95814.

All payments of the Settlement Amount referenced in this section shall be paid within fourteen (14) days of the Effective Date.

3.3 Attorney’s Fees and Costs

The portion of the Settlement Amount attributable to attorneys’ fees and costs shall be paid to EHA’s counsel, who are entitled to attorneys’ fees and costs reasonably incurred by it in this action, including but not limited to investigating potential violations, bringing this matter to Kamparts’ attention, as well as litigating and negotiating a settlement in the public interest.

Kamparts shall provide its payment of the attorneys’ fees and costs portion of the Settlement Amount to EHA’s counsel by physical check or by electronic means, including wire transfers, at Kamparts’ discretion, as set forth in the following table. If the 1st Payment, 2nd Payment, 3rd Payment, and 4th Payment are timely paid by Kamparts, EHA agrees to waive the 5th Payment, in which event Kamparts’ portion of the Settlement Amount attributable to Attorneys’ Fees and costs will total Thirty-Five Thousand Dollars (\$35,000.00).

Payment Number	Amount	Due Date
1st Payment	\$5,000	Due 14 days after the Effective Date
2nd Payment	\$10,000	Due 30 days after the Effective Date
3rd Payment	\$10,000	Due 60 days after the Effective Date
4th Payment	\$10,000	Due 90 days after the Effective Date
5th Payment (waived if first four payments are timely made)	\$10,000	Due 120 days after the Effective Date

Kamparts shall make all payments of the portion of the Settlement Amount attributable to Attorneys’ Fees and costs to Entorno Law, LLP. The address for this entity is:

Noam Glick
Entorno Law, LLP
225 Broadway, Suite 1900
San Diego, CA 92101

1 **4. CLAIMS COVERED AND RELEASE**

2 **4.1 EHA's Public Release of Proposition 65 Claims**

3 Plaintiff, acting on its own behalf and in the public interest, releases Kamparts, and its parents,
4 subsidiaries, affiliated entities under common ownership or control, its directors, officers, principals,
5 agents, employees, attorneys, insurers, accountants, predecessors, successors, and assigns ("Defendant
6 Entities"), each entity to whom Defendant directly or indirectly receives, distributes, ships, or sells the
7 Covered Products, including but not limited to upstream manufacturers, suppliers and distributors and
8 downstream distributors, wholesalers, customers, retailers, and marketplaces franchisees, franchisors,
9 cooperative members, suppliers, licensees, and licensors, and all of the foregoing entities' owners,
10 directors, officers, agents, principals, employees, attorneys, insurers, accountants, representatives,
11 predecessors, successors, and assigns (collectively referred to as the "Releasees") from all claims for
12 violations of Proposition 65 up through the Effective Date based on exposure to lead from Covered
13 Products as set forth in the Notice(s). Compliance with the terms of this Consent Judgment constitutes
14 compliance with Proposition 65 with respect to exposures to lead from Covered Products as set forth
15 in the Notice(s). This Consent Judgment is a full, final, and binding resolution of all claims under
16 Proposition 65 that were or could have been asserted against Kamparts and/or Releasees for failure to
17 comply with Proposition 65 for alleged exposure to lead from Covered Products. This release does not
18 extend to any third-party retailers selling the product on a website who, after receiving instruction from
19 Kamparts to include a warning as set forth above in section 2.2, do not include such a warning.

20 **4.2 EHA's Individual Release of Claims**

21 EHA, in its individual capacity, also provides a release to Kamparts and Releasees, which shall
22 be a full and final accord and satisfaction of, as well as a bar to, all actions, causes of action, obligations,
23 costs, expenses, attorneys' fees, damages, losses, claims, liabilities, and demands of every nature,
24 character, and kind, whether known or unknown, suspected or unsuspected, arising out of alleged or
25 actual exposures to lead in Covered Products received by, manufactured, imported, sold, or distributed
26 by Kamparts before the Effective Date.

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1 **4.3 Kamparts’s Release of EHA**

2 From and after the Effective Date, Kamparts on its own behalf, and on behalf of Releasees as
3 well as its past and current agents, representatives, attorneys, successors, and assignees, hereby waives
4 any and all claims against EHA and its attorneys and other representatives, for any and all actions taken
5 or statements made by EHA and its attorneys and other representatives, whether in the course of
6 investigating claims, otherwise seeking to enforce Proposition 65 against them, in this matter or with
7 respect to the Covered Products.

8 **4.4 No Other Known Claims or Violations**

9 EHA and EHA’s counsel affirm that they are not presently aware of any actual or alleged
10 violations of Proposition 65 by Kamparts or for which Kamparts bears legal responsibility other than
11 those that are fully resolved by this Consent Judgment.

12 **5. COURT APPROVAL**

13 This Consent Judgment is not effective until it is approved by the Court and shall be null and
14 void if it is not approved by the Court within one year after it has been fully executed by the Parties, or
15 by such additional time as the Parties may agree to in writing.

16 **6. SEVERABILITY**

17 Subsequent to the Court’s approval and entry of this Consent Judgment, if any provision is held
18 by a court to be unenforceable, the validity of the remaining provisions shall not be adversely affected.

19 **7. GOVERNING LAW**

20 The terms of this Consent Judgment shall be governed by the laws of the state of California as
21 applied within the state of California. In the event that Proposition 65 is repealed, or is otherwise
22 rendered inapplicable for reasons, including but not limited to changes in the law; or in the event the
23 State of California and/or the California Office of Health Hazard Assessment adopts a regulation or
24 safe use determination that would allow lead at some level in the Covered Products without requirement
25 for a Proposition 65 warning, or issues an interpretive guideline that exempts Covered Products from
26 meeting the requirements of Proposition 65; or if lead cases are permanently enjoined by a court of
27 competent jurisdiction; or if Proposition 65 is determined to be preempted by federal law or a burden
28 on First Amendment rights with respect to lead in Covered Products or Covered Products substantially

similar to Covered Products, then Kamparts may seek relief from the injunctive obligations imposed by this Consent Judgment to the extent any Covered Products are so affected by modifying the agreement via the mechanisms set forth in Section 12

8. ENFORCEMENT

In any action to enforce the terms of this Consent Judgment, the prevailing party shall be entitled to its reasonable attorneys' fees and costs.

9. NOTICE

Unless otherwise specified herein, all correspondence and notice required by this Consent Judgment shall be in writing and sent by: (i) personal delivery; (ii) first-class, registered, or certified mail, return receipt requested; or (iii) a recognized overnight courier; and (iv) with a copy by email; to the following addresses:

If to Kamparts:

David Schneider
Fennemore LLP
8080 N. Palm Ave., Third Floor
Fresno, CA 93711
dschneider@fennemorelaw.com

If to EHA:

Noam Glick
Entorno Law, LLP
225 Broadway, Suite 2100
San Diego, CA 92101
noam@entornolaw.com

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

10. COUNTERPARTS; DIGITAL SIGNATURES

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

11. POST EXECUTION ACTIVITIES

EHA agrees to comply with the reporting form requirements referenced in Health and Safety Code section 25249.7(f). The Parties further acknowledge that, pursuant to Health and Safety Code section 25249.7(f), a noticed motion is required to obtain judicial approval of the settlement, which motion EHA shall draft and file. In furtherance of obtaining such approval, the Parties agree to mutually

1 employ their reasonable best efforts, including those of their counsel, to support the entry of this
2 agreement as judgment, and to obtain judicial approval of their settlement in a timely manner. For
3 purposes of this Section, “best efforts” shall include, at a minimum, supporting the motion for approval,
4 responding to any objection that any third-party may make, and appearing at the hearing before the
5 Court if so requested.

6 **12. MODIFICATION**

7 This Consent Judgment may be modified by: (i) a written agreement of the Parties and entry of
8 a modified consent judgment thereon by the Court; or (ii) a successful motion or application of any
9 Party, and the entry of a modified consent judgment thereon by the Court.

10 **13. AUTHORIZATION**

11 The undersigned are authorized to execute this Consent Judgment and acknowledge that they
12 have read, understand, and agree to all of the terms and conditions contained herein.

13 **14. GOOD FAITH ATTEMPT TO RESOLVE DISPUTES**

14 If a dispute arises with respect to either Party’s compliance with the terms of this Consent
15 Judgment entered by the Court, the Parties shall meet and confer in person, or by telephone, and/or in
16 writing and endeavor to resolve the dispute in an amicable manner. No action or motion may be filed
17 in the absence of such a good faith attempt to resolve the dispute beforehand.

18 **15. ENTIRE AGREEMENT**

19 This Consent Judgment contains the sole and entire agreement and understanding of the Parties
20 with respect to the entire subject matter herein, and any and all prior discussions, negotiations,
21 commitments, and understandings related hereto. No representations, oral or otherwise, express or
22 implied, other than those contained herein have been made by any Party. No other agreements, oral or
23 otherwise, unless specifically referred to herein, shall be deemed to exist or to bind any Party.

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1 Date: June 16, 2025

2 Date: Ad,

3 By: [Signature]

4 By: 6/12/25

5 ENVIRONMENTAL HEALTH
6 ADVOCATES, INC.

7 KAMPARTS, INC.

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9 **IT IS SO ORDERED.**

10 Date: _____

11 _____
12 JUDGE OF THE SUPERIOR COURT
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