

**SETTLEMENT AGREEMENT BETWEEN APS&EE, LLC AND STERLING  
CUT GLASS COMPANY, INC.**

**1. RECITALS**

**1.1 The Parties**

**1.1.1** This Settlement Agreement (“Agreement”) is entered into by and between Sterling Cut Glass Company, Inc. (“Sterling”) and APS&EE, LLC (“APS&EE”) (each individually referred to as a “Party” and collectively as the “Parties”).

**1.1.2** APS&EE is an organization based in California with an interest in protecting the environment, improving human health and the health of ecosystems, and supporting environmentally sound practices, which includes promoting awareness of exposure to toxic chemicals and reducing exposure to hazardous substances found in consumer products.

**1.1.3** APS&EE alleges that Sterling is a person in the course of doing business as the term is defined in California *Health & Safety Code* section 25249.6 et seq. (“Proposition 65”).

**1.2 Allegations**

**1.2.1** APS&EE alleges that Sterling either imported, manufactured, distributed, or directly or indirectly sold or offered for sale leaded crystal glasses, and other leaded crystal products, that have been used, and in the future will be used, as trophies, gifts, awards, souvenirs, mementos, or keepsakes at golf clubs, at other sporting clubs or at charitable or social events, including but not limited to “Director’s On The Rocks” (hereinafter, collectively, the “Trophies”) in the State of California causing users in California to be exposed to Lead without providing “clear and reasonable warnings” in violation of Proposition 65. Under Proposition 65 Lead is listed as known to cause cancer and birth defects or other reproductive harm.

**1.2.2** On January 23, 2024, APS&EE sent a Sixty-Day Notice of Violation (the “Notice”), along with a Certificate of Merit, to Sterling and the various

public enforcement agencies regarding the alleged violation of Proposition 65 with respect to the Trophies.

### **1.3 No Admissions**

Sterling denies all allegations in APS&EE's Notice and maintains that the Trophies have been, and are, in compliance with all laws, and that Sterling has not violated Proposition 65. This Agreement shall not be construed as an admission against interest of liability by Sterling but to the contrary is a compromise of claims that are expressly contested and denied. However, nothing in this section shall affect the Parties' obligations, duties, and responsibilities under this Agreement.

### **1.4 Compromise**

The Parties enter into this Agreement in order to resolve the controversy described above in a manner consistent with prior Proposition 65 settlements and consent judgments that were entered in the public interest and to avoid prolonged and costly litigation between them. Sterling asserts that it is a party bound under the Consent Judgment entered in *Mangini v. Action Industries, Inc., et al.*, San Francisco Superior Court, Consolidated Case Nos. 932724, 931884, 938173, on August 23, 2001 (hereinafter, "Mangini Consent Judgment") and that Sterling has faithfully implemented the terms of the Mangini Consent Judgment for over two decades. APS&EE asserts that the Mangini Consent Judgment does not apply to the specific methods of distribution and/or direct or indirect sales of certain leaded crystal products when constituting Trophies, which are the alleged violations of Proposition 65 that APS&EE asserts are at issue in the Notice. For the sake of clarity, the Parties do not intend for this Agreement to modify Sterling's ongoing Proposition 65 warning program which Sterling maintains constitutes full compliance with the Mangini Consent Judgment. Rather, this Agreement governs only distribution and sales by Sterling of the Trophies that are provided or given away to California residents.


### 1.5 Effective Date

The “Effective Date” shall be the date upon which a complete and fully executed copy of the Agreement is delivered to each Party or its counsel.

## 2. INJUNCTIVE RELIEF

### 2.1 Warning Program/Continuing Injunctive Relief

The injunctive relief of this Agreement is limited only to distribution and sales by Sterling of the Trophies that are provided or given away to California residents (the “Trophy Sales”). As of the Effective Date, for Trophies that Sterling knows or has reason to know are Trophy Sales, then Sterling shall provide a warning on the Trophy, or on or inside of its consumer-ready boxing or packaging, substantially similar to one of the following:

“ **WARNING:** This product can expose you to Lead which is known to the State of California to cause cancer and birth defects or other reproductive harm. For more information go to [www.P65Warnings.ca.gov](http://www.P65Warnings.ca.gov).”

The warning shall be accompanied by a symbol consisting of a black exclamation point in a yellow equilateral triangle with a bold black outline. Where the label for the product is not printed using the color yellow, the symbol may be printed in black and white. The symbol shall be placed to the left of the text of the warning, in a size no smaller than the height of the word “WARNING”.

Alternatively, the warning may be an on-product warning that complies with Title 27, California Code of Regulations § 25603(b) and (c) or any successor regulations thereto. To the extent the warning statement used is clear and reasonable in accordance with Title 27, California Code of Regulations § 25600 *et seq.* (and as those regulations may hereafter be amended), it will be deemed substantially similar to the warning alternatives specified above and below.

Alternatively, Sterling also may elect to affix on the Trophy, or on its consumer-ready packaging or box, or place a card (as a package insert) inside the consumer-ready packaging or box holding a Trophy(ies) containing the text attached hereto as Exhibit A.<sup>1</sup>

Finally, for all of the warning alternatives herein, if the Trophy contains consumer information in a foreign language, the warning must be provided in the foreign language. So long as Sterling utilizes one or more of the warning alternatives specified herein, Sterling may also, at its option, include a sticker on the Trophy, or on its consumer-ready packaging or box, with the words “Lead Crystal,” “Leaded Crystal,” “Lead,” or a substantially similarly worded sticker. Sterling may elect which alternative it uses in its sole discretion and can elect to use more than one alternative.

**2.2** The warnings shall be provided on each unit or on the consumer-ready packaging or box, or via a card inserted in the consumer ready packaging or box, with such conspicuousness as compared with other words, statements or designs as to render it likely to be read and understood by an ordinary consumer prior to use. Alternatively, Sterling may provide written notice to the authorized agent of the downstream entity for its direct Trophy Sales to that entity that complies with Title 27, California Code of Regulations § 25600.2(b) and shall provide all necessary warning materials (e.g., warning stickers) with instruction that the downstream entity affix the warnings to each Trophy or its consumer-ready packaging or box in accordance with the above.

**2.3** Nothing herein is intended to conflict with the injunctive relief described in the Mangini Consent Judgment. In the event an ambiguity or conflict arises, then Sterling shall follow the injunctive requirements described in the Mangini Consent Judgment.

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<sup>1</sup> The Parties agree that Sterling may elect to warn consumers with a package insert because this Agreement is limited to potential exposures from Trophies that are provided or given away to California residents (as opposed to situations where residents shop for leaded crystal products), the package insert is likely to be seen prior to exposure, and residents need not go through a return process if they do not want to use the Trophy after seeing the warning.

**3. PAYMENTS**

**3.1 Civil Penalty Pursuant To Proposition 65**

In settlement of all claims referred to in this Agreement, Sterling shall pay a total civil penalty of four thousand dollars (\$4,000.00) to be apportioned in accordance with *Health and Safety Code* section 25249.12(c)(1) and (d), with 75% (\$3,000.00) for State of California Office of Environmental Health Hazard Assessment (“OEHHA”), and the remaining 25% (\$1,000.00) for APS&EE.

Sterling shall issue these payments collectively as part of the total payment described below in Section 3.2 via wire transfer to Law Offices of Lucas T. Novak. After receipt of the wire transfer, Law Offices of Lucas T. Novak shall be responsible for promptly forwarding the respective payments to OEHHA and APS&EE.

**3.2 Reimbursement Of APS&EE’s Fees And Costs**

Sterling shall reimburse APS&EE’s reasonable experts’ and attorneys’ fees and costs incurred in prosecuting the instant action, for all work performed through execution of this Agreement, in the amount of twenty-one thousand dollars (\$21,000.00).

Accordingly, Sterling shall collectively remit total payment via wire transfer to Law Offices of Lucas T. Novak in the amount of twenty-five thousand dollars(\$25,000.00), which includes the civil penalty described in Section 3.1, within thirty-five (35) days of the Effective Date. Wire instructions have been exchanged between the Parties’ counsel. Prior to the Effective Date APS&EE shall provide taxpayer identification information necessary for Sterling to process the payment, including IRS Form W-9 for Law Offices of Lucas T. Novak.

**4. RELEASES**

**4.1 APS&EE’s Release Of Sterling**

APS&EE, acting in its individual capacity, in consideration of the promises and monetary payments contained herein, hereby releases Sterling, its parents, subsidiaries, corporate affiliates, shareholders, directors, members, officers, employees, attorneys,

predecessors, successors and assignees, as well as their respective upstream suppliers and/or downstream distributors, retailers, franchisees, and entities involved in supplying Trophies (collectively "Released Parties"), from any alleged Proposition 65 violation claims asserted in APS&EE's Notice, including claims for attorney's fees and costs, penalties or any other relief whatsoever, regarding failure to warn about Lead exposure from the Trophies that Sterling either has imported, distributed or directly or indirectly sold or offered for sale, or given away, in California or to California residents before and up to, and including, the Effective Date.

#### **4.2 Sterling's Release Of APS&EE**

Sterling, by this Agreement, waives all rights to institute any form of legal action against APS&EE, its shareholders, directors, members, officers, employees, attorneys, experts, successors and assignees for actions or statements made or undertaken, whether in the course of investigating claims or seeking enforcement of Proposition 65 against Sterling in this matter up to, and including, the Effective Date. If any Released Party should institute any such action, then APS&EE's release of said Released Party in this Agreement shall be rendered void and unenforceable.

#### **4.3 Waiver Of Unknown Claims**

Each of the Parties acknowledges that it is familiar with Section 1542 of California Civil Code which provides as follows:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY.

Each of the Parties waives and relinquishes any right or benefit it has or may have under Section 1542 of California Civil Code or any similar provision under the statutory or non-statutory law of any other jurisdiction to the full extent that it may lawfully waive

all such rights and benefits. The Parties acknowledge that each may subsequently discover facts in addition to, or different from, those that it believes to be true with respect to the claims released herein. The Parties agree that this Agreement and the releases contained herein shall be and remain effective in all respects notwithstanding the discovery of such additional or different facts.

**5. SEVERABILITY**

Should any part or provision of this Agreement for any reason be declared by a Court to be invalid, void or unenforceable, the remaining portions and provisions shall continue in full force and effect.

**6. GOVERNING LAW**

This Agreement is entered into in the State of California and the terms of this Agreement shall be governed by the laws of the State of California.

**7. NOTICE**

All correspondence and notice required to be provided under this Agreement shall be in writing and delivered personally or sent by first class or certified mail addressed as follows:

<p>TO STERLING: Judith M. Praitis, Esq. Faegre Drinker Biddle &amp; Reath LLP 1800 Century Park East, Suite 1500 Los Angeles, CA 90067</p>	<p>TO APS&amp;EE: Lucas T. Novak, Esq. Law Offices of Lucas T. Novak 8335 W Sunset Blvd., Suite 217 Los Angeles, CA 90069</p>
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**8. COUNTERPARTS**

This Agreement may be executed in counterparts, each of which shall be deemed an original, and all of which, when taken together, shall constitute the same document. Execution and delivery of this Agreement by e-mail, facsimile, or other electronic means shall constitute legal and binding execution and delivery. Any photocopy of the executed Agreement shall have the same force and effect as the originals.

9. **ENFORCEMENT**

This Agreement is enforceable solely by the Parties hereto in the state of California. Prior to enforcement of any terms, the Parties shall meet and confer in good faith in an effort to negotiate a resolution of their dispute. Sterling's compliance with this Agreement shall be deemed compliance with Proposition 65 with respect to warnings for Lead for Trophy Sales, regardless of when such Trophies are sold, or by whom, unless a downstream person or entity removes, obscures, or defaces any warning that Sterling has provided, or fails to follow Sterling's instructions as provided pursuant to Section 2.2 above, in which case Sterling is not liable for, or responsible for, such third party's conduct and shall not be deemed in breach of this Agreement or out of compliance with Proposition 65. For the sake of clarity, the releases of claims in this Agreement apply to all Trophy Sales where Products already entered the stream of commerce downstream from Sterling prior to or on the Effective Date, meaning Sterling does not physically possess such Trophies in its own current inventory.

10. **PUBLIC BENEFIT**

The Parties hereby agree that it is their intention that this Agreement provides a significant public benefit as set forth in California Civil Procedure Code section 1021.5, in that Sterling is agreeing to pay a civil penalty to the State of California, and to provide warnings in connection with Trophy Sales after the Effective Date. As such, it is the intent of the Parties that to the extent any other private party initiates an action alleging a violation of Proposition 65 with respect to Sterling's failure to warn of Lead exposure from the Trophies in the scenario of Trophy Sales, such private party action would not confer a significant public benefit as to those Trophies addressed in this Agreement, provided that Sterling is in material compliance with this Agreement.

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11. AUTHORIZATION

The undersigned are authorized to execute this Agreement on behalf of their respective Parties. Each Party has read, understood, and agrees to all of the terms and conditions of this Agreement. Each Party warrants to the other that it is free to enter into this Agreement and is not subject to any conflicting obligation that will or might prevent or interfere with the execution or performance of this Agreement by said Party.

**AGREED TO:**

Date: 4/11/24

By:   
Authorized Representative of APS&EE, LLC

**AGREED TO:**

Date: 4-11-24

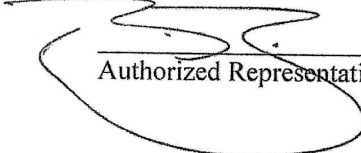
By:   
J. Brook Dyer, President  
Authorized Representative of Sterling Cut Glass Company, Inc.

Exhibit A

The text for the card insert, if used as a warning alternative, is the following:

**California Proposition 65 WARNING:**

Consuming foods or beverages that have been kept or served in leaded crystal products or handling products made of leaded crystal will expose you to lead – a chemical known to the State of California to cause birth defects or other reproductive harm.

For more information, go to [www.P65Warnings.ca.gov](http://www.P65Warnings.ca.gov)