

**MOTOBRAVO**

**El Sol Trading, Inc**



February 17, 2010

Renee K. Haslett  
Trial Attorney  
Division of Compliance  
Office of the General Counsel  
U.S Consumer Product Safety Commission  
4330 East-West Highway  
Bethesda, MD 20814

MFR/PRVLR NOTIFIED 5/18/10  
COMMENTS: YES NO  
OVERRULED; ATTACHED  
EXCISIONS/FOIA H. 346(a)(2)  
DO NOT RE-NOTIFY RE-NOTIFY

**ATV Action Plan of El Sol Trading, Inc DBA Motobravo**

El Sol Trading, Inc DBA Motobravo is fully committed to the goal of reducing ATV-related accidents. We have implemented new policies in accordance with the rules set forth by Section 232 of the Consumer Product Safety Improvement Act of 2008. El Sol Trading, Inc DBA Motobravo will be a participating member of ASI's Safety Program for non-ASI members. If at any time El Sol Trading, Inc DBA Motobravo is no longer a participating member of ASI's Safety Program, El Sol Trading, Inc. DBA Motobravo will cease to import ATVs or distribute ATVs in commerce until such time that El Sol Trading, Inc DBA Motobravo is able to meet all requirements of the action plan. The actions outlined below are part of our continuing effort to promote safe and responsible use of our ATVs.

**Age Recommendations**

El Sol Trading, Inc DBA Motobravo will only recommend, market, advertise, and sell ATVs for use under the age category/speed guidelines specified at Section 6 of the ANSI/SVIA-1-2007 Standard for ATV's ("the ATV Standard"). El Sol Trading, Inc DBA Motobravo will not recommend, market, advertise, or sell adult-sized ATVs for the use of persons less than 16 years of age. El Sol Trading, Inc DBA Motobravo will use its best efforts to ensure that its dealers comply with these requirements.

**ATV Labels**

El Sol Trading, Inc DBA Motobravo will use all required labels and will conform to Section 4.23 of the ATV Standard.

**Owner's Manuals**

El Sol Trading, Inc DBA Motobravo owner's manuals will conform to section 4.21 of the ATV Standard.

**Safety Video**

The video shall comply with all requirements in Section H.3.b.(4)(b), and paragraphs II.A and II.C of Appendix I of 1988 ATV Consent Decrees. El Sol Trading, Inc DBA Motobravo will provide a safety video to all retail purchasers of El Sol Trading, Inc DBA Motobravo ATVs at the point of purchase. If at any time El Sol Trading Inc.DBA Motobravo is no longer a participating member of ASI's Safety Program, and no longer able to distribute ASI's DVD, El Sol Trading, Inc. DBA Motobravo will cease to import ATVs or distribute ATVs in commerce until such time that El Sol Trading, Inc. DBA Motobravo is able to supply its dealers with its own safety video which complies with all requirements described at Section H-3.b.(4)(b) and paragraphs II.A and II.C of Appendix I of the 1988 ATV Consent Decree.

**Hang Tags**

El Sol Trading, Inc DBA Motobravo will provide a hang tag with every ATV. The hang tags shall comply with the requirements of Section 4.24 of the ATV Standard and shall include information about free, hands-on ATV training availability.

**Training**

- a. El Sol Trading, Inc DBA Motobravo Inc. will require that all of its authorized dealers offer ATV purchasers, and members of the ATV purchaser's immediate family, the opportunity to register for free hands-on ATV training through the ATV Safety Institute ("ASI") at the time of purchase. If any time El Sol Trading Inc. DBA Motobravo is no longer a participating member of ASI's Safety Program, El Sol Trading Inc. DBA Motobravo will require all dealers to provide the registration information for the training course to the consumer at the time of purchase and will reimburse the incurred registration expenses of the purchaser, upon receiving proof of completion of the course. El Sol Trading, Inc. DBA Motobravo will also email all purchasers about the availability of the ASI training course.
- b. Information about the ASI course and "how to register" can also be found on hang tags and safety alerts, in owner's manuals and advertisements, and by calling the toll-free hotline, El Sol Trading, Inc DBA Motobravo will also email purchasers with information about registering for ASI safety training.
- c. After completion of the ASI course, the rider will qualify for an incentive worth \$100. The \$100 incentive for training will include at least \$50 in cash, with the balance offered (at the consumer's choice) as a rebate for already purchased safety equipment or a credit towards the purchase of new safety equipment.
- d. El Sol Trading, Inc DBA Motobravo will pay for all the cost.

## Dealer Monitoring

El Sol Trading, Inc DBA Motobravo requires that its dealers verify the intended ATV rider's age prior to selling that rider or his/her guardian an ATV. El Sol Trading, Inc DBA Motobravo warranty registration cards require the identification of the intended rider's name and date of birth to ensure that dealers do not sell El Sol Trading, Inc DBA Motobravo ATVs to under-aged riders.

El Sol Trading, Inc DBA Motobravo will use its best efforts to obtain dealer compliance with the age recommendation requirements of the ATV Standard.

(b)(3):CPSA Section 6(a),(b)(4)

(b)(3):CPSA Section 6(a),(b)(4)

When El Sol Trading, Inc DBA Motobravo learns of dealers who do not abide by the age requirements of the ATV Standard, it will arrange follow-up inspections. If El Sol Trading, Inc DBA Motobravo finds evidence of continued violations, El Sol Trading, Inc DBA Motobravo will take remedial actions, up to and including possible termination or non-renewal of the dealer's contract with El Sol Trading, Inc DBA Motobravo.

## Safety Alerts

El Sol Trading, Inc DBA Motobravo will supply its dealers "Safety Alert" documentation to be provided at the point of purchase to all retail purchasers of El Sol Trading, Inc DBA Motobravo ATVs. The document will contain the same substantive safety information as the Safety Alert described at H.3.b.(4)(c) and Appendix J of the 1988 ATV Consent Decrees. This information includes: death and injury statistics for ATVs, safety rules, age recommendations, and the availability of safety training.

## Advertising

For all ATV advertising and promotional materials, El Sol Trading, Inc DBA Motobravo will include the substance of the safety message described in Section J.1 and Appendix K of the 1988 ATV Consent Decree and will depict ATVs in a manner consistent with safe and responsible use of the product. All riders shown in such advertisements shall wear helmets and full protective gear. El Sol Trading, Inc DBA Motobravo will use its best efforts to promote dealer compliance with the advertising requirements.

## **Toll-free Telephone Hotline**

El Sol Trading, Inc DBA Motobravo will provide through participation in the ASI Safety Program a Toll-free Telephone Hotline administered by ASI, which will be available to consumers 24 hours a day and will conform to Section H.4 of the 1988 ATV Consent Decree. If at any time El Sol Trading Inc. DBA Motobravo is no longer a participating member of ASI's Safety Program, El Sol Trading Inc. DBA Motobravo will cease to import ATVs or distribute ATV's in commerce until such time that El Sol Trading, Inc. DBA Motobravo is able to provide a toll-free 24-hour consumer hotline, which will meet all of the requirements of Section H.4 of the 1988 ATV Consent Decree.

## **Information and Education Program**

El Sol Trading, Inc DBA Motobravo through a portion of the fees paid to ASI, will directly help fund ASI's Information and Education program. Additionally, El Sol Trading Inc. DBA Motobravo will enact its own Information and Education Program directed primarily at providing safety information and deterring children under sixteen from operating adult-sized ATVs. Elements of the program include the following:

- a. **Interactive CD-ROM**  
The CD-ROM will be designed to provide an exciting way to warn children against the use of adult-sized ATVs and to teach them about other risks associated with ATV use. The CD-ROM will be packaged with all new El Sol Trading, Inc DBA Motobravo ATVs.
- b. **Video**  
The video will feature the safety themes and messages. The video will also promote participation in the hands-on training program offered through ASI. Copies of the new video will be packaged with all new ATVs.
- c. **Safety Reminders**  
El Sol Trading, Inc DBA Motobravo will launch a direct mail or email effort to new ATV purchasers directed at parents. A direct mail or email piece incorporating the safety messages and the information about the free ATV training and the incentives offered for completing that training will be sent to new owners within a few weeks of vehicle purchase. El Sol Trading, Inc DBA Motobravo will also use dealer's customer data to reach new purchasers by telephone with the safety reminders.
- d. **Poster**  
El Sol Trading, Inc DBA Motobravo will disseminate a poster with safety message for El Sol Trading, Inc DBA Motobravo's dealers to post. El Sol Trading, Inc DBA Motobravo will email safety & training reminders to dealers.

# MOTOBRAVO.

El Sol Trading, Inc



**e. Website**

El Sol Trading, Inc DBA Motobravo will expand its company website to provide on-line access to the CD-ROM program and other safety information.

**f. Print Ad**

El Sol Trading, Inc DBA Motobravo will advertise the availability of its new Safety program through monthly advertising in various ATV magazines (e.g., ATV Magazine and Dirt Bike Magazine) along with ATV safety messages for 10 years.

**g. (b)(3):CPSA Section 6(a),(b)(4)**

If at any time El Sol Trading, Inc. DBA Motobravo is no longer a participating member of ASI's Safety Program, El Sol Trading Inc. DBA Motobravo will cease to import ATVs or distribute ATVs in commerce until such time that El Sol Trading Inc. DBA Motobravo is able to enact its own Information and Education Program that complies with Appendix N of the 1988 ATV Consent Decree and is approved by the Office of the General Counsel of the CPSC.

**Advance Notice of Changes**

El Sol Trading, Inc DBA Motobravo will provide information about these activities upon reasonable requests from CPSC, and shall give the CPSC at least 60 days advance notice of its intention to terminate or materially change any commitment under the action plan. If El Sol Trading, Inc. DBA Motobravo stops participating in ASI's Safety Program, that will constitute a material change in this action plan. El Sol Trading, Inc. DBA Motobravo will alert the CPSC and cease to import ATVs or distribute ATVs in commerce until such time that it is able to meet all requirements of the action plan on its own and has received approval of a revised action plan from the Office of the General Counsel at the Consumer Product Safety Commission."

A copy of El Sol's fully executed agreement with ASI is attached to the action plan.  
Thank you

Sincerely,

Gloria Ma  
CEO

El Sol Trading, Inc DBA Motobravo

Agreement # <del>EST</del> 2010 - 001
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## ASI SAFETY PROGRAM PARTICIPATION AGREEMENT

This Agreement is entered into between the Specialty Vehicle Institute of America by and through its division, the All-Terrain Vehicle Safety Institute (ASI) and El Sol Trading, Inc (Participating Company). This Agreement becomes effective on the date when executed by ASI and expires on December 31, 2010 unless renewed upon mutual written consent of the parties, specifying the renewal terms.

I. ASI shall:

- A. Provide Participating Company with products and services, pursuant to the terms and conditions of this Agreement, to assist Participating Company to comply with the following elements of its ATV Action Plan:
  - 1. Age Recommendations
  - 2. Hands-On Training
  - 3. ATV Safety Video
  - 4. Safety Alert
  - 5. Toll-Free Telephone Hotline
  - 6. Information & Education Program
- B. Provide ATV training, upon request, to the retail purchaser of a Participating Company's ATV who provide a valid Vehicle Identification Number (VIN) or Product Identification Number (PIN) that has been previously reported to ASI by the Participating Company in the form of ASI's *ATV RiderCourse* or other ASI training program(s) approved by the U.S. Consumer Product Safety Commission (CPSC).
- C. Provide Participating Company and CPSC with quarterly reports of training activity in substantially the form set forth in Exhibit A, Sample Quarterly ATV Rider Training Summary Report.
- D. Identify Participating Company in select ASI publications as set forth in Exhibit B, ASI Deliverables and Costs, which is incorporated herein by reference.

II. Participating Company shall:

- A. Complete, submit and update as necessary, the ASI Participating Company Training Profile (see Exhibit C), which when completed and submitted is incorporated herein by reference.
- B. Deposit with ASI one-half of the projected annual per unit fees or \$2,500.00, whichever greater, at the time this Agreement is executed and one-half of the projected annual per unit fees or \$2,500.00, whichever greater, on or before July 1 of each year. Projected annual per unit fees shall be determined based on the prior calendar year's retail sales volume.

- C. Report to ASI all units imported into, or manufactured in, the United States on or before the date they arrive in, or are completed in, the United States in the manner set forth in Exhibit D, ASI OEM Rider Training Participation Overview, which is incorporated herein by reference.
- D. Pay ASI the following per unit fees for each unit imported into the United States:
- \$15.00 – If not offering an incentive payable through ASI
  - \$16.25 – if offering a \$50.00 incentive payable through ASI
  - \$18.00 – if offering a \$100.00 incentive payable through ASI

Provided, however, that Participating Company shall pay ASI a minimum of \$5,000.00 in fees per year regardless of the number of units imported.

1. In the event the cumulative fees owed by Participating Company (pursuant to Section I.D.) in connection with a report submitted pursuant to Section I.C. have not yet exceeded Participating Company's deposit, ASI will credit fees against the deposit.
  2. In the event the cumulative fees owed by Participating Company (pursuant to Section I.D.) in connection with a report submitted pursuant to Section I.C. exceed Participating Company's deposit, ASI shall send Participating Company an invoice for fees owed, which shall be paid within 30 days.
- E. Pay ASI, as applicable, for products and services set forth in Exhibit B, ASI Deliverables and Costs, which is incorporated herein by reference.
1. Note, ASI shall provide training to all persons described in Section I.B. above. Participating Company shall pay the per student tuition set forth in Exhibit B, ASI Deliverables & Costs, for any students trained pursuant to a VIN or PIN not previously reported by Participating Company to ASI pursuant to Section II.C.
- F. Provide ASI with the total number of annual retail sales of Participating Company's units, through the Motorcycle Industry Council's Retail Sales Reporting System (see Exhibit E, Powersports Retail Sales Reporting System Agreement) or a certified annual accounting, no later than seven days following the end of the year.

### III. Use of ASI PROPERTY

ASI shall utilize ASI curriculum materials, including, without limitation, Instructor Guides, Range Cards, Rider Handbooks, and other printed and audio/visual training aids, and all revisions thereto, to educate and train Participating Company's customers and make other materials set forth in Exhibit B available for purchase by Participating Company (collectively, ASI PROPERTY).

- A. Participating Company shall not use or promote ASI PROPERTY in a manner which, in ASI's reasonable judgment, affects in a negative and detrimental manner ASI's business or goodwill, or tends to deceive or mislead the public, or which creates a likelihood of confusing the public. Participating Company shall discontinue any use or promotion that ASI reasonably finds to be negative or injurious to ASI.
- B. For the term of this Agreement, and thereafter, Participating Company agrees not to use ASI PROPERTY without permission of ASI or names, trademarks, or images identical with, or substantially or confusingly similar to, ASI PROPERTY.
- C. Participating Company shall not modify or adapt ASI PROPERTY in any manner without prior written permission of ASI.
- D. In the event that ASI supersedes or ceases to recommend any ASI PROPERTY in possession of Participating Company, Participating Company agrees to cease all use of such ASI PROPERTY. Participating Company may return up to a one-year supply of ASI PROPERTY in its possession (based on prior 12-month ordering history) to ASI, and ASI agrees to repurchase such ASI PROPERTY (or any successor publication) at the price paid by Participating Company.
- E. Upon termination of this Agreement, or upon non-renewal or non-replacement of this Agreement, Participating Company agrees to cease all use of ASI PROPERTY. Participating Company may return up to a one-year supply of ASI PROPERTY (or any successor publication) in its possession (based on prior 12-month ordering history) to ASI, and ASI agrees to repurchase such ASI PROPERTY (or any successor publication) at the price paid by Participating Company.
- F. The terms of this Section III shall survive termination of this Agreement.

#### IV. TERMINATION

This Agreement shall remain in full force and effect until the expiration date or until such time as the terminating party shall deliver to the other written notice of their intent to terminate this Agreement.

- A. Participating Company may terminate this Agreement, without cause, upon ninety (90) days written notice to ASI.
- B. ASI may terminate or suspend this Agreement if Participating Company materially breaches this Agreement and such breach is not cured by Participating Company within thirty (30) days after Participating Company is notified in writing or, if the matter cannot reasonably be cured within such thirty (30) day period, Participating Company does not initiate a cure within thirty (30) days and complete the cure within such longer period which is reasonably required to cure.

- C. ASI may terminate this Agreement, without cause, upon ninety (90) days written notice to Participating Company.

V. GENERAL

- A. Participating Company's status does not imply any endorsement by ASI of Participating Company or any manufacturers, distributors, retailers, equipment, ATVs or other materials.
- B. All legal action arising out of, or in any way related to, this Agreement shall be brought in either the Superior Court of the State of California for the County of Orange or the United States District Court for the Central District of California. Each party submits and consents to the jurisdiction of those courts.
- C. This Agreement shall be interpreted and governed by the substantive law of the State of California.
- D. Participating Company acknowledges that ASI has no adequate remedy under this Agreement or at law in the event Participating Company breaches the terms of this Agreement, and that ASI would, in such circumstances, be entitled to injunctive or other equitable relief, including interlocutory and preliminary injunctive relief. Participating Company also acknowledges that ASI's rights and remedies under this Agreement at law or in equity are intended to be cumulative, and not mutually exclusive.

For Participating Company

  
 Authorized Signature      Date

GLORIA MA  
 Print Name

PRESIDENT  
 Title

For Specialty Vehicle Institute of America

  
 Authorized Signature      Date

THOMAS YAEGER  
 Print Name

VICE PRESIDENT  
 Title