



PERMISSION TO GC  
MER/PRV/LBR NOTIFIED 4/20/10  
COMMENTS: \_\_\_ YES \_\_\_ NO  
\_\_\_ OVERRULED; \_\_\_ ATTACHED  
\_\_\_ EXCISIONS FOIA Hxs. \_\_\_  
 DO NOT RE-NOTIFY \_\_\_ RE-NOTIFY

October 29, 2009

**VIA OVERNIGHT MAIL**

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 20814-4408

Re: ATV Action Plan of ZAP Corporation

Dear Ms. Haslett,

The ZAP Corporation ("ZAP") is a distributor of electric vehicles based in Northern California. We direct a substantial amount of our resources to marketing products for commercial usage. Our intention is to import a small number of all-electric ATVs for distribution to agricultural use. We believe that in the geographic area where we are headquartered, dominated by wine production, industry will respond favorably to this endeavor. We do not anticipate large scale distribution of these ATV products to the recreational market at any time.

ZAP is an ASI non-member participating company. As such, we are party to an agreement with ASI to access services, including safety training, through the ASI Safety Program for non-members. ZAP's fully executed contract with ASI is herewith attached. In the event that ZAP is no longer a participating member in the ASI Safety Program, ZAP will cease to import ATVs or distribute ATVs in commerce until such time that ZAP is able to meet all of the actions described in this action plan.

ZAP is fully committed to reducing the number of 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. The actions outlined below are part of our continuing effort to promote the safe and responsible use of our ATV's.

ZAP, 501 Fourth Street, Santa Rosa ⚡ CA 95401 USA  
tel: (707) 525-8658 • fax: (707) 525-8692 • web site: www.zapworld.com  
e-mail: zap@zapworld.com • Stock Symbol: ZAPZ

## I. AGE RECOMMENDATIONS

ZAP will not recommend, market, advertise, or sell new adult-size ATVs for the use by persons less than 16 years of age. In addition, ZAP will use only the maximum speed and speed limitations specified at Section 6 of the ANSI/SVIA 1-2007 Standard for ATVs ("The ATV Standard"). ZAP will use its best efforts, including monitoring dealers outlined in the next section, to assure that ZAP retail dealers do not recommend or sell ATV's for use by individuals under the minimum age.

## II. DEALER MONITORING

**Monitoring Program.** ZAP requires that its dealers verify the intended ATV rider's age prior to selling that rider or his/her guardian an ATV. ZAP warranty registration cards require the identification of the intended rider's name and date of birth to ensure that dealers do not sell ZAP ATVs to under-aged riders.

ZAP will use its best efforts to obtain dealer compliance with the age recommendation requirements of the ATV Standard. ZAP will conduct on-site inspections of each of its authorized ATV dealers at least twice a year, with a minimum of 50 on-site inspections per year. These inspections will be conducted by means of independent, undercover investigators to ensure that these dealers follow age requirements and other safety related practices during sales or promotional functions. ZAP will also modify the visitation criteria of its field support staff so that inspecting for dealer compliance becomes a normal function of the dealer visit.

ZAP intends to adopt a forceful program of corrective action against non-compliant dealers including but not limited to, termination for repeat violations. To effectuate this part of the program, ZAP will work with the leading industry group, the Specialty Vehicle Institute of America (SVIA) and its dedicated subdivision, the All Terrain Vehicle Safety Institute (ASI). These industry groups have developed programs for their members to engage the services of an independent company that will provide dealer monitoring utilizing a system of random sampling. If at any time ZAP is no longer a participating member of ASI's safety program, and if ZAP is no longer able to utilize ASI's program, ZAP will cease to import ATVs or to distribute ATVs in commerce until such time that ZAP is able to implement a dealer monitoring program which meets all of the requirements detailed above.

## III. TRAINING

- a. **Incentives.** ZAP will provide free, hands-on ASI training to first-time purchasers and age-appropriate members of their immediate families. Specifically, after the completion of the ASI course, the rider will qualify for an incentive worth One Hundred Dollars (\$100.00). The \$100 incentive for training will include at least \$50.00 in cash, with the balance offered (at the consumers choice) as a rebate for already purchased safety equipment or as a credit toward the purchase of new safety equipment.
- b. **ATV Loan Program.** ZAP will look to provide dealers with favorable financing terms for ATV's that dealers may lend to instructors for training purposes. We expect that the

financing terms would be adjusted to be consistent with ZAP's developing promotional loan program, whereby dealers receive a discount from standard dealer net cost as well as potential deferred billing.

- c. **Rider Training Certificates.** ZAP will continue using rider training certificates to standardize the training course enrollment process at the dealership, and to present key safety messages to the purchaser. Such messages will be consistent with other point-of-purchase safety materials and the information and education effort.
- d. **Dealer Mandates.** Purchasers will be given safety training information and registration materials at the culmination of the purchase from the selling dealer. ZAP, through its participation in ASI's safety program, will mandate that these selling dealers directly register purchasers and thoroughly superintend the customer training registration process prior to the completion of sale. ZAP will also send follow-up emails to purchasers with information about registering for safety training. The training course enrollment process will not be dependent on ZAP's participation in the ASI safety program. In the event that ZAP dealers can no longer directly enroll purchasers, ZAP will require all dealers to provide registration information for the training course to the consumer at the time of purchase. ZAP will also reimburse the registration expenses of the purchaser, upon receiving proof of completion of the course.

#### IV. INFORMATION AND EDUCATION EFFORTS

ZAP will work with other ATV distributors under the auspices of the SVIA to assist in the administration of a new safety information and education effort. The fees that ZAP pays ASI will go toward funding ASI's Information and Education Program. The effort will focus on educating consumers and users about the risk of injury to children and deterring those under 16 from operating adult-sized ATVs. The program as administered by the SVIA includes, but is not limited to the following: Interactive CD-ROM of ATV safety; video safety presentations for all purchasers; direct mail and telephone follow-up safety alerts to all purchasers aimed at parents; school and public library distributions of information regarding ATV safety; and dedicated safety website dissemination. Again ZAP, as a participating member of the SVIA, intends to adopt the fully developed SVIA programs in this and all other regards. ZAP's contribution in collecting and sharing data regarding the safety issues extant with their particular segment of the marketplace (i.e., agricultural) will serve to broaden the knowledge base of the SVIA and lead to improved safety protocols.

If at any time ZAP is no longer a participating member of ASI's safety program, and if ZAP is no longer able to utilize ASI's program; ZAP will cease to import ATVs or to distribute ATVs in commerce until such time that ZAP 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. ZAP will maintain its information and education efforts for at least ten years and will commit at a minimum, \$10,000.00 yearly to this effort. ZAP will create its own personalized safety materials relating to agriculture for distribution on an annual basis to its dealer body as well. ZAP will create its own posters for ZAP dealers and consumers; produce dedicated website segments and develop video presentations for young people and parents to further spread information

about the safe use of ATV's on an annual basis. ZAP's efforts in this regard can best be directed at its target audience, the agricultural community. ZAP will disseminate its safety advertising on a quarterly basis, via local newspapers and agricultural publications such as the Santa Rosa Press Democrat and the Sonoma County Times.

## V. POINT-OF-PURCHASE MATERIALS

- a. **Videotape.** ZAP will supply its dealers a safety video to be provided at the point of purchase to all retail purchasers of ZAP ATVs. This video shall comply 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. If at any time ZAP is no longer a participating member of ASI's Safety Program and no longer able to distribute ASI's DVD, ZAP will cease to import ATVs or distribute ATV's in commerce until such time that ZAP is able to supply its dealers with ZAP's own safety video that 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.
- b. **Safety Alerts.** ZAP will provide to dealers for dissemination to each purchaser at point of purchase a Safety Alert comporting with such specifications contained in Section H.3.b. (4)(c) and Appendix J of the 1988 ATV Consent Decree. The Safety Alert will contain information concerning death and injury statistics for ATVs; ATV safety rules; ATV age recommendations; and information about the ATV training course and incentives.

## VI. TOLL-FREE ATV HOTLINE

ZAP will fund the 24 hour, toll-free ATV hotline through the ASI Safety Program administered by SVIA and will include the hotline phone number in owner's manuals, brochures, and print advertisements. If at any time ZAP is no longer a participating member of ASI's Safety Program, ZAP will cease to import ATVs or distribute ATVs in commerce until such time that ZAP is able to provide a toll-free 24-hour consumer hotline which meets all the requirements of Section H.4 of the 1988 ATV Consent Decree.

## VII. ADVERTISING

In advertising and promotional materials, ZAP will depict the operation of ATV's in a safe and responsible manner which is appropriate to the machine and the situation demonstrated. Specifically, all riders shown in such advertisements shall be depicted as wearing helmets and full protective gear. Furthermore, ZAP will continue to use the substantive information content described at section J.1 and Appendix K of the 1988 ATV Consent Decree in all of its advertising and promotional materials.

ZAP will use its best efforts to promote Dealer compliance with these guidelines, including requiring that advertisements submitted to ZAP for co-payment comply with the guidelines. Co-payment refers to localized advertising that Dealer and manufacturer collaborate to produce and fund.

## VIII. TECHNICAL ISSUES

ZAP will participate with other ATV distributors and CPSC staff in revising the ANSI standard as appropriate. ZAP products will continue to comply with the current standard until the standard is modified.

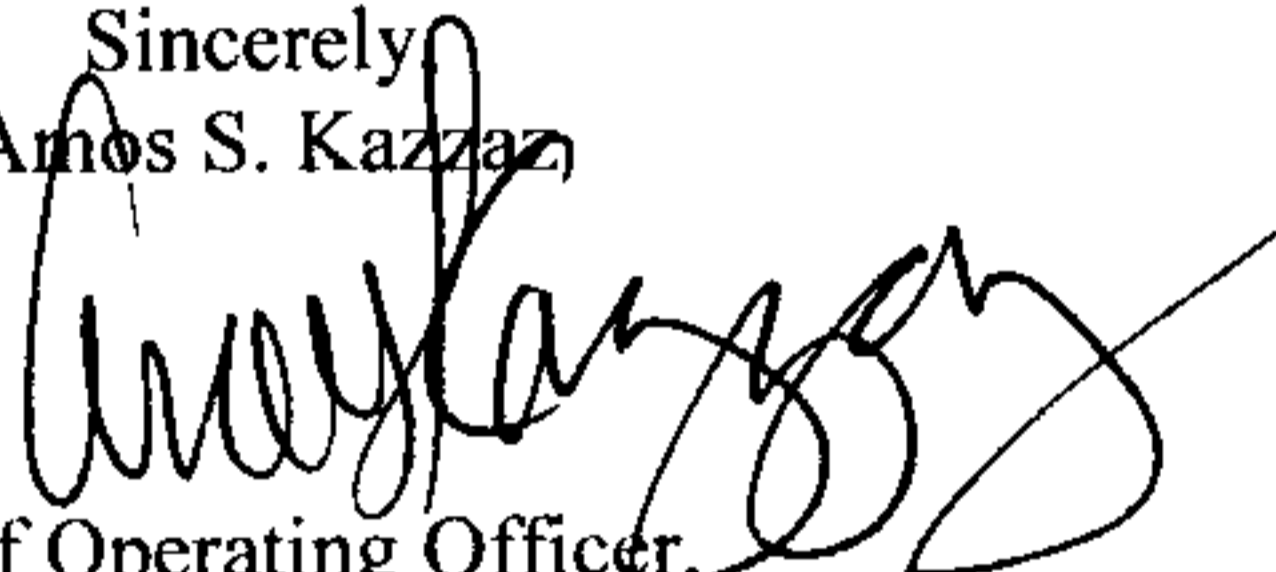
## IX. NOTIFICATION

ZAP intends to conduct its business in accordance with the plans outlined in this letter for the foreseeable future. ZAP will give CPSC 60 days advance notice of any material change in these plans. ZAP will provide information about these activities upon reasonable requests from the Consumer Product Safety Commission.

## X. CONCLUSION

ZAP will remain responsive and innovative in shaping its safety efforts to fit a particular marketplace. We will continue to work with our Dealer network to promote the safe and responsible use of ATVs by our customers. The plans outlined in this letter represent a major undertaking by ZAP and we anticipate that these plans will be ultimately well received by the Commission.

Sincerely  
Amos S. Kazzaz



Chief Operating Officer,  
ZAP

## 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 ZAP (Participating Company). This Agreement becomes effective on the date when executed by ASI and expires on December 31, 2009 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 to Participating Company's customers who provide a valid Vehicle Identification Number for one of Participating Company's ATV units, upon request from the customer, 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 OEM 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 the United States on or before the date they arrive 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
  - \$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 at Vehicle Identification Number 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

Amos S. Kazza 6/24/09  
Authorized Signature Date  
Amos S Kazza  
Print Name  
COO  
Title

For Specialty Vehicle Institute of America

Paul C. Vitramo 8/10/09  
Authorized Signature Date  
Paul C. Vitramo  
Print Name  
EVP  
Title