

**DOCKETED**

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<b>Project Title:</b>	Settlement Agreements
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<b>Document Title:</b>	Suneli Fixtures Center Inc Settlement Agreement and Release
<b>Description:</b>	N/A
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## SETTLEMENT AGREEMENT AND RELEASE

This Settlement Agreement and Release (Agreement) is entered into between the California Energy Commission (“CEC”), with its principal office at 715 P Street, Sacramento, California 95814, and Suneli Fixtures Center Inc. (“Suneli”), with a place of business at 9408 Pittsburgh Avenue, Rancho Cucamonga, California 91730, collectively referred to as the Parties.

### I. RECITALS

(1) CEC’s Appliance Efficiency Regulations at California Code of Regulations, Title 20, Article 4, sections 1601-1609 (Appliance Efficiency Regulations),<sup>1</sup> set forth the requirements to sell or offer for sale regulated appliances in California. The pertinent requirements include:

- Testing: The appliance is tested as required in section 1603, using the applicable test method set forth in section 1604.
- Efficiency: The appliance meets the required efficiency standards set forth in sections 1605.2 or 1605.3.
- Marking: The appliance is correctly marked and labeled as required under section 1607.
- Certification: The appliance is certified to CEC and appears in CEC’s most recent Modernized Appliance Efficiency Database System (MAEDbS) as required under section 1606.

(2) CEC’s enforcement authority includes the removal of non-complying appliances from MAEDbS, as set forth in section 1608, and the issuance of administrative civil penalties under section 1609.

(3) Suneli distributes several models of plumbing fittings and plumbing fixtures that it sells or offers for sale in California, either directly or through retailers or distributors.

(4) Suneli plumbing fittings and plumbing fixtures are subject to the testing, efficiency, marking, and certification requirements for this appliance class as described in paragraph I(1) above.

(5) CEC asserts that, from July 2015 to April 2021, Suneli sold or offered for sale in California through retailers or distributors showerheads, lavatory faucets, and kitchen faucets that were not listed in MAEDbS as required in section 1606, did not meet the efficiency standards set forth in section 1605.3(h) when tested using the appropriate test method as described in section 1604(h), and were not marked as required in section 1607. During this time, Suneli also sold or offered for sale in California through retailers or distributors water closets that were not listed in MAEDbS as required in section 1606.

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<sup>1</sup> All references are to California Code of Regulations, Title 20, Article 4, unless otherwise specified.

(6) On or about March 18, 2021, CEC issued a letter titled Alleged Violations of California's Appliance Efficiency Regulations – Reference Number ENF-237 (the "Letter") to Suneli. Based on the above Recitals, CEC, through administrative adjudication, could impose penalties for each violation alleged, obtain injunctive relief to prohibit Suneli from continuing to sell or offer for sale, non-compliant plumbing fittings and plumbing fixtures in California, and take any other enforcement action as allowed by law.

(7) Section 1609(b)(3) and California Public Resources Code section 25402.11(a)(2) identify the following factors CEC shall consider when determining the amount of an administrative civil penalty:

- The nature and seriousness of the violation.
- The persistence of the violation, meaning a responsible person's history of past violations of the Appliance Efficiency Regulations over the previous seven years.
- The number of violations arising from the course of conduct that is subject of the enforcement proceeding.
- The length of time over which the violation occurred.
- The willfulness of the persons responsible for the violation.
- The harm to consumers and to the state that resulted from the amount of energy wasted due to the violation.
- The number of persons responsible for the violation.
- The efforts of the persons responsible for the violation to correct the violation prior to initiation of an enforcement action by CEC.
- The cooperation, by the persons responsible for the violation, with CEC during its investigation.
- The assets, liabilities, and net worth of the persons responsible for the violation. This information will be considered to reduce the administrative civil penalty amount, should a responsible person or persons elect to provide asset, liability, and net worth documentation to the Executive Director to demonstrate that a reduction in a penalty amount is necessary to avoid an undue burden.

(8) Penalties must be set at levels sufficient to deter violations. In developing this Agreement, CEC considered the facts of the case and applied the above factors to determine an appropriate settlement. Further, in this case Suneli cooperated with CEC in the investigation by notifying retailers and removing the non-compliant units from the California market; by promptly testing, certifying, and marking the units; and by providing to CEC sales data of non-compliant units. The efforts by Suneli saved CEC time and resources in investigating the violations and minimized the impacts on the competitive business environment and on energy consumption and the environment in California, from the non-compliant units.

(9) Suneli is willing to enter into this Agreement solely for the purpose of settlement and resolution of this matter with CEC. CEC accepts this Agreement in termination of this matter. Accordingly, the Parties agree to resolve this matter completely by means of this Agreement, without the need for



administrative adjudication.

## II. TERMS AND RELEASE

In consideration of the Recitals listed above which are incorporated into this section by reference, and the mutual agreements set forth below, CEC and Suneli agree as follows:

- (1) This Agreement covers the following Suneli plumbing fitting and plumbing fixture models:

Model Number	Appliance Type
CT-8008-WH	Water Closet
F81005-PC	Lavatory Faucet
N10111-BN	Lavatory Faucet
N10120B2-BN	Lavatory Faucet
N10165T2-BN	Lavatory Faucet
N10167N2-BN	Lavatory Faucet
N12119B1-BN	Lavatory Faucet
N2010001SP-BN	Lavatory Faucet
N2010001SP-ORB	Lavatory Faucet
N2010002SP-BN	Lavatory Faucet
N2070189SP	Kitchen Faucet
N2070950SP	Kitchen Faucet
N2080307SP	Showerhead
N40118A1-ORB	Lavatory Faucet
N40118-BN	Lavatory Faucet
N40166-BN	Lavatory Faucet
N40166-PC	Lavatory Faucet
N88119A1-BN	Lavatory Faucet

Model Number	Appliance Type
N88119A1-ORB	Lavatory Faucet
N88402-BN	Kitchen Faucet
N88408-BN	Kitchen Faucet
N88413B3-BN	Kitchen Faucet
N88478-BN	Kitchen Faucet
N88478-PC	Kitchen Faucet
N88485B1-BN	Kitchen Faucet
N88486-BN	Kitchen Faucet
N88501B3-BN	Kitchen Faucet
N88502B5-BN	Kitchen Faucet
N88503B2-BN	Kitchen Faucet
N88586-BN	Kitchen Faucet
N88620B1-BN	Kitchen Faucet
N88903-BN	Kitchen Faucet
N96466-BN	Kitchen Faucet
N96565-BN	Kitchen Faucet
N96565-PC	Kitchen Faucet

(2) For selling or offering for sale in California, the plumbing fittings and plumbing fixtures identified in paragraph I(5), whose model numbers are identified in paragraph II(1), that did not meet the energy efficiency standards prescribed by section 1605.3, were not certified to MAEDbS as required by section 1606, and were not marked per section 1607, and, in consideration of the factors listed in paragraph I(7) and I(8) above, Suneli shall pay as an administrative civil penalty the total sum of \$40,000.00. Payment shall be made by electronic transfer to CEC, in 8 monthly payments of \$5,000.00 each, as shown below:

<b>Payment Number</b>	<b>Due Date</b>	<b>Amount</b>
1	October 1, 2021	\$5,000.00
2	November 1, 2021	\$5,000.00
3	December 1, 2021	\$5,000.00
4	January 1, 2022	\$5,000.00
5	February 1, 2022	\$5,000.00
6	March 1, 2022	\$5,000.00
7	April 1, 2022	\$5,000.00
8	May 1, 2022	\$5,000.00

Banking information and instructions necessary to complete the electronic transfer shall be provided by CEC.

Effect of untimely payment: If any payment is more than 15 days late, the entire remaining balance becomes immediately due and payable. In addition, if CEC takes action to enforce this Agreement, Suneli shall pay all costs of investigating and prosecuting the action, including expert fees, reasonable attorney's fees, and costs.

It is agreed that if Suneli, including its subsidiary or parent company, at any time becomes insolvent, or makes an assignment for the benefit of creditors or similar action adversely involving Suneli, its subsidiary, or parent company, or a proceeding or petition under any bankruptcy, reorganization, arrangement of debt, insolvency, readjustment of debt, or receivership law or statute is filed by or against Suneli, its subsidiary, or parent company, or a trustee in bankruptcy, custodian, receiver or agent is appointed or authorized to take charge of any of Suneli's, its subsidiary's, or parent company's properties, or if any deposit account or other property of Suneli's, its subsidiary, or parent company be attempted to be obtained or held by writ of execution, garnishment, attachment, condemnation, levy, forfeiture or other legal process, or Suneli, its subsidiary, or parent company takes any action to authorize any of the foregoing, the entire remaining balance becomes immediately due and payable without notice or demand.



(3) Suneli also agrees to take each of the following actions for any and all regulated appliances it will sell or offer for sale in California:

- a. Test all basic models, utilizing the applicable test method, to ensure conformance with the Appliance Efficiency Regulations.
- b. Certify all basic models in MAEDbS, and ensure listings are kept current and up to date.
- c. Use a new model number for any of the basic models described in II(1) if they are ever redesigned to meet energy efficiency standards.
- d. Add the required marking to the unit.

(4) This Agreement shall apply to and be binding upon Suneli and its principals, officers, directors, receivers, trustees, employees, successors and assignees, subsidiary and parent corporations, and upon CEC and any successor agency that may have responsibility for and jurisdiction over the subject matter of this Agreement.

(5) In consideration of the payment specified above, CEC hereby irrevocably releases and forever discharges Suneli and its parent corporation, principals, directors, officers, agents, employees, shareholders, subsidiaries, predecessors, and successors from any and all claims for violations of section 1608 (efficiency, marking, certification), relating to the time period and appliances identified in paragraph I(5), whose model numbers are identified in paragraph II(1), and any and all claims alleged in the Letter.

(6) This Agreement constitutes the entire agreement and understanding between CEC and Suneli concerning the claims and settlement in this Agreement, and this Agreement fully supersedes and replaces any and all prior negotiations and agreement of any kind or nature, whether written or oral, between CEC and Suneli concerning these claims.


(7) No agreement to modify, amend, extend, supersede, terminate, or discharge this Agreement, or any portion thereof, shall be valid or enforceable unless it is in writing and signed by all Parties to this Agreement.

(8) Suneli further agrees that if the subject matter of this Agreement comes before CEC in an administrative adjudication, neither any member of CEC, nor the Executive Director, shall be disqualified because of prior consideration of this Agreement.

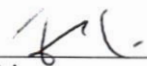
(9) Each Party to this Agreement has reviewed the Agreement independently, has had the opportunity to consult counsel, is fully informed of the terms and effect of this Agreement, and has not relied in any way on any inducement, representation, or advice of any other Party in deciding to enter into this Agreement.

- (10) This Agreement shall be interpreted and enforced in accordance with the laws of the State of California, without regard to California's choice of law rules. Any litigation arising out of or related to this Agreement shall be filed in the Superior Court of California, County of Sacramento.
- (11) Each provision of this Agreement is severable, and in the event that any provision of this Agreement is held to be invalid or unenforceable, the remainder of this Agreement remains in full force and effect.
- (12) The failure of any Party to enforce any provision of this Agreement shall not be construed as a waiver of any such provision, nor prevent such Party thereafter from enforcing such provision or any other provision of this Agreement.
- (13) This Agreement is deemed to have been drafted equally by the Parties; it will not be interpreted for or against either Party on the ground that said Party drafted it.
- (14) This Agreement is effective upon signature by a representative of Suneli with authority to bind the company, and signature by the Executive Director of CEC. The Parties agree that fax or scanned signatures and multiple signature pages are acceptable for purposes of executing this Agreement, which may be signed in counterparts.

**California Energy Commission**

By:   
Name: Drew Bohan  
Title: Executive Director  
Date: September 29, 2021

**Suneli Fixtures Center Inc.**

By:   
Name: Eric Li  
Title: President  
Date: September 15, 2021