

DOCKETED

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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 1516 Ninth Street, Sacramento, California 95814, and Homewell Group, Ltd. (Homewell), with a place of business at Room 301-2, Hang Seng Wanchai Building, 3rd Floor No. 200 Hennessy Road Wanchai, Hong Kong 999077 P.R.China, 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),¹ 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) Homewell manufactures several models of YOO.MEE brand showerheads that it sells or offers for sale in California, either directly or through retailers or distributors.
- (4) YOO.MEE brand plumbing fittings are subject to the testing, efficiency, marking, and certification requirements for this appliance class as described in paragraph I(1) above.

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

(5) From July 2015 to August 2020, Homewell sold or offered for sale through retailers or distributors showerheads in California, that were not listed in MAEDbS as required in section 1606, did not meet the efficiency standards set forth in section 1605.3(h)(5) when tested using the appropriate test method as described in section 1604(h), and were not marked as required in section 1607. Some of the showerhead panels were sold in California, packaged with alternative flow restrictors that permit the showerheads to achieve flow rates in excess of the applicable efficiency standards, and with instructions on how to install them.

(6) Based on the above Recitals, CEC, through adjudication, could impose penalties for each violation alleged, obtain injunctive relief to prohibit Homewell from continuing to sell or offer for sale, non-compliant showerheads 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 Homewell cooperated with CEC in the investigation by redesigning their products; promptly testing, certifying, and marking the units; notifying retailers and removing the non-compliant units from the California market; and by providing to CEC sales data of non-compliant units. The efforts by Homewell saved CEC time and resources in investigating the violations and minimized the impacts on the competitive business environment, and energy consumption and the environment in California, from the non-compliant units. Also, Homewell demonstrated by providing financial information, that a higher penalty would cause it financial hardship. This documentation is confidential and CEC does not retain it in the regular course of business.

(9) Homewell 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 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 Homewell agree as follows:

(1) This Agreement covers the following Homewell showerheads:

X000UZL50Z	102008	102026	R02BN
101004	102013	101004BN	R02ORB
101014	102016	101008MB	SH91003
102005	102020	HS71003	

(2) For selling or offering for sale in California, showerheads 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, in consideration of the factors listed in paragraph I(7) and I(8) above, Homewell shall pay as an administrative civil penalty the total sum of \$35,000.00, by electronic transfer to CEC, following the schedule listed below. Banking information and instructions necessary to complete the electronic transfer shall be provided by CEC.

Payment Number	Due Date	Amount
1	September 1, 2021	\$5,000.00
2	October 1, 2021	\$2,000.00
3	November 1, 2021	\$2,000.00
4	December 1, 2021	\$2,000.00
5	January 1, 2022	\$2,000.00
6	February 1, 2022	\$2,000.00
7	March 1, 2022	\$2,000.00
8	April 1, 2022	\$2,000.00
9	May 1, 2022	\$2,000.00
10	June 1, 2022	\$2,000.00
11	July 1, 2022	\$2,000.00
12	August 1, 2022	\$2,000.00
13	September 1, 2022	\$2,000.00
14	October 1, 2022	\$2,000.00
15	November 1, 2022	\$2,000.00
16	December 1, 2022	\$2,000.00

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, Homewell shall pay all costs of investigating and prosecuting the action, including expert fees, reasonable attorney's fees, and costs.

It is agreed that if Homewell, 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 Homewell, 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 Homewell, its subsidiary, or parent company, or a trustee in bankruptcy, custodian, receiver or agent is appointed or authorized to take charge of any of Homewell's, its subsidiary's, or parent company's properties, or if any deposit account or other property of Homewell'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 Homewell, 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) Homewell also agrees to take each of the following actions for any and all regulated appliance 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. In addition to complying with all other applicable testing requirements Homewell will not package, mark, or provide products with instructions directing the user to an alternative water-use setting that would exceed the applicable efficiency standards. Instructions related to the maintenance of the product, including changing or cleaning showerhead components, shall direct the user on how to return the device to the flow rate provided by the applicable efficiency standard.
- 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) that have been redesigned to meet water efficiency standards
- d. Add the required marking to the unit.

(4) This Agreement shall apply to and be binding upon Homewell 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 releases Homewell 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 frame and appliances identified in paragraph I(5), whose model numbers are identified in paragraph II(1).

(6) This Agreement constitutes the entire agreement and understanding between CEC and Homewell 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 Homewell 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) Homewell 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.

