

SETTLEMENT AGREEMENT  
BETWEEN  
CONSUMER ADVOCACY GROUP, INC.  
AND  
SUZYLEE INC.

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Consumer Advocacy Group, Inc. (“CAG”) and Suzylee Inc. (hereto referred to as “Suzylee”), (CAG and Suzylee collectively referred to as, the “Parties”) enter into this agreement (“Settlement Agreement”) for the purpose of avoiding prolonged and costly litigation to settle CAG’s allegations that Suzylee violated Proposition 65. The effective date of this Settlement Agreement shall be the date upon which it is fully executed by all Parties hereto (the “Effective Date”).

**1.0 Introduction**

1.1 CAG is a California-based entity that seeks to promote awareness of exposures to toxic chemicals and improve human health by reducing or eliminating hazardous substances contained in consumer and industrial products.

1.2 Suzylee previously sold, at various times: (collectively referred to throughout as the “Covered Products”):

1.2.1 Glasses Case, including but not limited to: “Nikky by Nicole Lee U.S.A”; “www.nikkybag.com”; “Glasses Case”; “Style # NK20340”; “Designed with pride in U.S.A.”; “980727669458”.

1.2.2. Cosmetic Bags, including but not limited to “Nikky® by Nicole Lee® U.S.A.”; “Cosmetic Bag”; “Pop Generation”; “Style # NK20347L”; “SKU# NK20347L-PGN”; “UPC 1 91680 09617 6”.

1.2.3. The Covered Products are limited to those sold by Suzylee only.

1.3 CAG alleges that Covered Products contain Diisononyl Phthalate (“DINP”), or Diethyl Hexyl Phthalate and Bis (2-ethylhexyl) phthalate (“DEHP”), and that Suzylee did not provide a required warning in compliance with the California Safe Drinking Water and Toxic Enforcement Act (*Cal. Health & Safety Code § 25249.5, et seq.* (“Proposition 65”)).

1.4 On December 20, 2013, the Governor of California added Diisononyl Phthalate (“DINP”) to the list of chemicals known to the State to cause cancer (*Cal. Code Regs. tit. 27, § 27001(b)*). Pursuant to Health and Safety Code sections 25249.9 and 25249.10, twenty (20) months after addition of DINP to the list of chemicals known to the State to cause cancer, DINP became fully subject to Proposition 65 warning requirements and discharge prohibitions.

1.5 On January 1, 1988, the Governor of California added Diethyl Hexyl Phthalate and Bis (2-ethylhexyl) phthalate (“DEHP”) to the list of chemicals known to the State to cause cancer, (*Cal. Code Regs. tit. 27, § 27001(b)*) and on October 24, 2003, the Governor added DEHP to the list of chemicals known to the State to cause developmental male reproductive toxicity (*Cal. Code Regs. tit. 27, § 27001(c)*). Pursuant to Health and Safety Code sections 25249.9 and 25249.10, twenty (20) months after addition of DEHP to the list of chemicals

known to the State to cause reproductive toxicity, DEHP became fully subject to Proposition 65 warning requirements and discharge prohibitions.

1.6 DINP and DEHP are referred to hereafter as the “Listed Chemicals”.

1.7 On or about July 28, 2023 (Attorney General Notice #2023-02337), CAG served, Suzylee Inc., and certain relevant public enforcement agencies with documents entitled “Sixty-Day Notice Of Intent To Sue For Violations Of The Safe Drinking Water And Toxic Enforcement Act of 1986” regarding Glasses Cases containing the DINP.

1.8 On or about June 6, 2023 (Attorney General Notice # 2023-01607), CAG served, Suzylee Inc., and certain relevant public enforcement agencies with documents entitled “Sixty-Day Notice Of Intent To Sue For Violations Of The Safe Drinking Water And Toxic Enforcement Act of 1986” regarding Cosmetic Bags containing the DEHP.

1.9 The Sixty-Day Notices (referred to as “Notices”) alleged that Suzylee and the other noticed parties violated Proposition 65 by failing to warn consumers in California that use of Covered Products exposes persons to the Listed Chemical.

1.10 The Parties enter into this Settlement Agreement to settle disputed claims between the Parties as set forth below concerning the Parties’ and the Covered Products’ compliance with Proposition 65 (the “Dispute”).

1.11 By execution of this Settlement Agreement, the Parties do not admit any facts or conclusions of law, including, but not limited to, any facts or conclusions

of law regarding any violation of Proposition 65, or any other statutory, regulatory, common law, or equitable doctrine. Nothing in this Settlement Agreement shall be construed as an admission by the Parties of any fact, conclusion of law, issue of law, or violation of law. Nothing in this Settlement Agreement, nor compliance with its terms, shall constitute or be construed, considered, offered, or admitted as evidence of an admission or evidence of fault, wrongdoing, or liability by Suzylee, its officers, directors, employees, or parents, subsidiaries or affiliated corporations, in any administrative or judicial proceeding or litigation in any court, agency, or forum. Except for the allegations settled and compromised, nothing in this Settlement Agreement shall prejudice, waive, or impair any right, remedy, argument, or defense that CAG or Suzylee may have against one another in any other pending legal proceeding as to allegations unrelated to the Dispute or claims released herein.

## **2.0 Release**

This Settlement Agreement is a full, final, and binding resolution between CAG, acting in its individual capacity, on the one hand, and (a) Suzylee, and its owners, parents, subsidiaries, affiliates, sister and related companies, licensors, employees, shareholders, officers, directors, insurers, attorneys, predecessors, successors, and assigns (collectively “Releasees”) and (b) all entities to whom Releasees directly or indirectly provide, distribute, or sell the Covered Products, including but not limited to distributors, wholesalers, customers, retailers (including, but not limited to: The TJX Companies, Inc., Marshalls Co., Burlington Coat Factory of Texas, Inc., Burlington Stores, and their respective parents, subsidiaries, and affiliated

entities), franchisees, cooperative members, and licensees (“Downstream Releasees”), on the other hand, of any violation(s) or claimed violation(s) of Proposition 65 or any statutory or common law claim that has been, could have been or may in the future be asserted against the Releasees and Downstream Releasees regarding exposing persons to the Listed Chemical and the failure to warn about exposure to the Listed Chemical arising only in connection with the Covered Products manufactured, shipped, and/or otherwise distributed prior to the Effective Date, even if sold by Downstream Releasees after the Effective Date. The Covered Products are limited to those sold by Suzylee.

CAG, its past and current agents, representatives, attorneys, successors, and/or assignees, hereby waives and releases with respect to the Covered Products all rights to institute or participate in, directly or indirectly, any form of legal action, including, without limitation, all actions, and causes of action, in law or in equity, suits, liabilities, demands, obligations, damages, costs, fines, penalties, losses, or expenses (including, but not limited to, investigation fees, expert fees, and attorneys’ fees) (collectively “Claims”), against Releasees and/or Downstream Releasees that arise under Proposition 65 or any other statutory or common law claims that were or could have been asserted in respect of any Covered Products sold up to the Effective Date, only to the extent that such Claims relate to Releasees’ and/or Downstream Releasees’ alleged exposure of persons to the Listed Chemical contained in the Covered Products or any failure by Releasees and Downstream Releasees to warn about exposures to the Listed Chemical contained in the Covered Products.

CAG acknowledges that it is familiar with Section 1542 of 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.

CAG, its past and current agents, representatives, attorneys, successors, and/or assignees expressly waives and relinquishes any and all rights and benefits which it may have under, or which may be conferred on it by the provisions of Civil Code § 1542 as well as under any other state or federal statute or common law principle of similar effect, to the fullest extent that it may lawfully waive such rights or benefits pertaining to the released matters. The release in this section shall have no force or effect until the full amount of payments set forth in Section 4.0 below are paid in full.

### **3.0 Suzylee's Duties**

3.1 Suzylee agrees, promises, and represents that after the Effective Date Suzylee shall reformulate any Covered Products manufactured after the Effective Date and offered for sale in California to a point where the level of DINP and/or DEHP in the Covered Products does not exceed 0.1% by weight.

3.2 Suzylee agrees, promises, and represents that, as of the Effective Date, to the extent it ships or sells any Covered Products in its existing inventory that have

not been reformulated, it will provide warnings on such Covered Products that comply with Proposition 65. The warnings shall be provided in such a conspicuous and prominent manner that will assure the message is made available and likely to be read, seen, or heard by the consumer prior to or at the time of the sale or purchase. The Parties agree that product labeling stating the following:

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For Glasses Cases containing DINP:

**⚠ WARNING:** This product can expose you to chemicals including Diisononyl Phthalate (DINP) which is known to the State of California to cause cancer. For more information go to [www.P65Warnings.ca.gov](http://www.P65Warnings.ca.gov).

For Cosmetic Bags containing DEHP:

**⚠ WARNING:** This product can expose you to chemicals including Di(2-ethylhexyl) phthalate (DEHP), 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).

shall constitute compliance with Proposition 65 with respect to the Listed Chemical in the Covered Products for any Covered Products in Suzylee's existing inventory that had not been reformulated and were distributed and/or sold by Releasees or Downstream Releasees after the Effective Date. Where a label used for the Covered product in existing inventory, that exceeds 0.1% of DINP and/or DEHP includes consumer information as defined by California Code of Regulations title 27 §25600.1(c) in a language other than English, the warning must also be provided in that language in addition to English. Should Suzylee sell or distribute any Covered Products in its existing inventory, that exceeds 0.1% of DINP and/or DEHP, through the internet the warning will be posted in the manner

provided for with respect to internet sales, as provided for in 27 CCR sections 25601 and 25602, as they may be subsequently amended.

#### **4.0 Payments**

4.1 Suzylee agrees, to pay a total of ninety thousand dollars (\$90,000.00), by separate checks apportioned as follows:

4.1.1 Penalty: Suzylee shall issue two separate checks for a total amount of twelve thousand dollars (\$12,000.00) as follows: (a) one check made payable to the State of California's Office of Environmental Health Hazard Assessment (OEHHA) in the amount of nine thousand dollars, (\$9,000.00), representing 75% of the total penalty; and (b) one check to Consumer Advocacy Group, Inc. in the amount of three thousand dollars (\$3,000), representing 25% of the total penalty. OEHHA's check shall be delivered to Office of Environmental Health Hazard Assessment P.O. Box 4010 Sacramento, CA 95812-4010, Attn: Mike Gyurics. CAG's check shall be delivered to: Reuben Yeroushalmi, Yeroushalmi & Yeroushalmi, 9100 Wilshire Boulevard, Suite 240W, Beverly Hills, California 90212. Additionally, two separate 1099s shall be issued for the above payments: The first 1099 shall be issued to OEHHA, P.O. Box 4010 Sacramento, CA 95812-4010, Attn: Mike Gyurics (EIN: 68-0284486) in the amount of \$9,000.00. The second 1099 shall be issued in the amount of \$3,000.00 to CAG and delivered to Yeroushalmi & Yeroushalmi, 9100 Wilshire Boulevard, Suite 240W, Beverly Hills, CA 90212.



4.1.2 Attorneys' Fees and Costs: Seventy-eight thousand dollars (\$78,000.00) of such payment shall be paid to Yeroushalmi & Yeroushalmi, as CAG's attorneys, for reasonable investigation fees and costs, attorneys' fees, and any other costs incurred as a result of investigating and bringing this matter to Suzylee's attention. The check shall be delivered to: Reuben Yeroushalmi, Yeroushalmi & Yeroushalmi, 9100 Wilshire Boulevard, Suite 240W, Beverly Hills, California 90212. By the Effective Date, Yeroushalmi & Yeroushalmi shall provide Suzylee with its Employer Identification Number.

**5.0 Authority to Enter Into Settlement Agreement**

5.1 CAG represents that its signatory to this Settlement Agreement has full authority to enter into and legally bind CAG to this Settlement Agreement.

5.2 Suzylee represents that its signatory to this Settlement Agreement has full authority to enter into and legally bind Suzylee to this Settlement Agreement.

**6.0 Report of the Settlement Agreement to the Office of the Attorney General Of California**

6.1 CAG shall report this Settlement Agreement to the Attorney General's Office within five (5) days of the Parties' execution of this Settlement Agreement.

**7.0 Execution in Counterparts and Facsimile**

7.1 This Settlement Agreement may be executed in counterparts, which taken together shall be deemed to constitute the same document. A facsimile or portable document format (PDF) signature shall be as valid as the original.

## **8.0 Modification of Settlement Agreement**

8.1 Any modification to this Settlement Agreement shall be in writing and signed by the Parties.

## **9.0 Application of Settlement Agreement**

9.1 This Settlement Agreement shall apply to, be binding upon, and inure to the benefit of, CAG and the Releasees and Downstream Releasees identified in Section 2 above.

## **10.0 Enforcement of Settlement Agreement**

10.1 Any party may file suit before the Superior Court of the County of Los Angeles, consistent with the terms and conditions set forth in paragraphs 10.2 and 10.3 of this Settlement Agreement, to enforce the terms and conditions contained in this Settlement Agreement. The prevailing party shall be entitled to its reasonable attorneys' fees and costs associated with such enforcement.

10.2 No action to enforce this Settlement Agreement may be commenced or maintained, and no notice of violation related to the Covered Products may be served or filed against Suzylee by CAG, unless the party seeking enforcement or alleging violation notifies the other party of the specific acts alleged to breach this Settlement Agreement at least 60 days before serving or filing any action or

Notice of Violation and the entity receiving the notice fails to comply with the requirements set forth in Section 10.3 below. Any notice to Suzylee must contain (a) the name of the product, (b) specific dates when the product was sold after the Effective Date in California without reformulation, (c) the store or other place at which the product was available for sale to consumers, and (d) any other evidence or other support for the allegations in the notice.

10.2.1. Notwithstanding the above, CAG may bring an action to enforce any breach of the monetary settlement terms in Section 4.0, above, upon five (5) days written notice by CAG to Suzylee of the alleged uncured breach in accordance with the notification requirements set forth in Section 11.0, below.

10.3 Within 30 days of receiving the notice described in Section 10.2, Suzylee shall either (1) send the store or other place at which the product was available for sale to the public a letter directing that the offending product be immediately removed from inventory and returned to Suzylee for full credit, including shipping costs, or (2) refute the information provided under Section 10.2. Should the parties be unable to resolve the dispute, any party may seek relief under Section 10.1.

## **11.0 Notification Requirements**

11.1 Any notice required or permitted hereunder shall be effective only if given in writing and delivered in person, certified or registered mail return receipt requested, or traceable overnight delivery service, to the following designees:

For CAG:

Reuben Yeroushalmi, Esq.  
YEROUSHALMI & YEROUSHALMI  
9100 Wilshire Boulevard, Suite 240W  
Beverly Hills, CA 90212

For Suzylee:

Suzylee Inc..  
1141 S. Boyle Avenue  
Los Angeles, CA 90023  
Attention: Chief Executive Officer

Any party may change its designee(s) for purposes of notification by providing written notice of such change pursuant to this section.


**13.0 SEVERABILITY**

13.1 If, subsequent to the execution of this Settlement Agreement, any of the provisions of this Settlement Agreement are held by a court to be unenforceable, the validity of the enforceable provisions remaining shall not be adversely affected.


**14.0 GOVERNING LAW**

14.1 The terms of this Settlement Agreement shall be governed by the laws of the State of California and apply within the State of California. In the event that Proposition 65 is repealed, preempted or is otherwise rendered inapplicable by reason of law generally, or as to the Listed Chemical and/or the Covered Products, then Suzylee shall provide written notice to CAG of any asserted change in the law, and shall have no further obligations pursuant to this Settlement Agreement with respect to, and to the extent that, the Covered Products are so affected.

CONSUMER ADVOCACY GROUP, INC.

Dated: 01/23/2024 By:   
Printed Name: Michael Marcus  
Title: Director

SUZYLEE INC.

Dated: Jan 23, 2024 By:   
Suzy S. Han, Chief Executive Officer