SETTLEMENT AGREEMENT

1. INTRODUCTION

1.1 The Parties. This Settlement Agreement is entered into by and between Anthony Ferreiro ("Ferreiro") and Saks & Company, LLC ("Saks"). Together, Ferreiro and Saks are collectively referred to as the "Parties." Ferreiro is an individual that resides in the State of California, and seeks to promote awareness of exposures to toxic chemicals and to improve human health by reducing or eliminating hazardous substances contained in consumer products. Ferreiro alleges that Saks is a person in the course of doing business for purposes of the Safe Drinking Water and Toxic Enforcement Act of 1986, Health & Safety Code § 25249.6, et seq. ("Proposition 65").

1.2 General Allegations. Ferreiro alleges that Saks has exposed individuals in California to the chemical di(2-ethylhexyl) phthalate ("DEHP") from its sales of Frances Valentine handbags/purses/totes without first providing users and consumers of the product with a clear and reasonable warning as required pursuant to Proposition 65. DEHP is listed pursuant to Proposition 65 as a chemical known to the State of California to cause cancer and reproductive toxicity.

1.3 Product Description. The products covered by this Settlement Agreement are all sizes, colors, forms of packaging of Frances Valentine handbags/purses/totes (the "Products") that Saks either has purchased, and/or imported, and/or distributed, and/or offered for sale and/or sold in California.

1.4 Notice of Violation. On August 14, 2019, Ferreiro sent to Saks and various public enforcement agencies documents entitled "Notice of Violation of California Health & Safety Code § 25249.6, et seq." (the "Notice"). The Notice provided Saks and such others, including public enforcers, with notice that alleged that Saks was in violation of California Health & Safety Code § 25249.6, for failing to warn California consumers and customers that use of the Products will expose them to DEHP. No public enforcer has diligently prosecuted the allegations set forth in the Notice.

1.5 No Admission. Saks denies the material factual and legal allegations contained in the Notice and maintains that, to the best of its knowledge, all products that are or have been sold and

distributed in California, including the Products, have been and are in compliance with all laws. Nothing in this Settlement Agreement shall be construed as an admission against interest by Saks of any fact, finding, issue of law, or violation of law; nor shall compliance with this Settlement Agreement constitute or be construed as an admission against interest by Saks of any fact, finding, conclusion, issue of law or violation of law, such being specifically denied by Saks. However, this § 1.5 shall not diminish or otherwise affect the obligations, responsibilities and duties under this Settlement Agreement. Notwithstanding the allegations in the Notice, Saks maintains that it has not knowingly distributed, imported, offered for sale and/or sold, or caused to be distributed, imported, offered for sale and/or sold, the Products for sale in California in violation of Proposition 65.

1.6 Effective Date. For purposes of this Settlement Agreement, the term "Effective Date" shall mean December 18, 2019.

2. INJUNCTIVE RELIEF: WARNINGS

2.1 Reformulation of Products. Except as otherwise provided in this §2.1, as of the Effective Date, and continuing thereafter, Products that Saks either directly purchases, imports, distributes, sells, or offers for sale in California shall either: (a) be Reformulated Products pursuant to § 2.2, below; or (b) be labeled with a clear and reasonable exposure warning pursuant to §§ 2.3 and 2.4, below. For purposes of this Settlement Agreement, a "Reformulated Product" is a Product that is in compliance with the standard set forth in § 2.2, below. The warning requirement set forth in §§ 2.3 and 2.4 shall not apply to any Reformulated Product. There shall be no obligation for Saks or any Releasee to provide a warning for Products that were either purchased, distributed, imported, offered for sale and/or sold prior to the Effective Date.

2.2 Reformulation Standard. "Reformulated Products" shall mean Products that contain concentrations less than or equal to 0.1% (1,000 parts per million (ppm)) of DEHP when analyzed pursuant to U.S. Environmental Protection Agency testing methodologies 3580A and 8270C or other methodology utilized by federal or state government agencies for the purpose of determining the

phthalate content in a solid substance. Saks shall be allowed to rely on one or more Product test results to demonstrate the Products are Reformulated Products.

2.3 Clear and Reasonable Warning. Except as set forth in §2.1, as of the Effective Date, and continuing thereafter, a clear and reasonable warning as set forth in this §§ 2.3 and 2.4 must be provided for all Products that Saks either purchases, imports, distributes, sells, or offers for sale in California that is not a Reformulated Product. The warning shall consist of either the **Warning** or **Alternative Warning** described in §§ 2.3(a) or (b), respectively:

(a) **Warning**. The "Warning" shall consist of the statement:

> ⚠ **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.

(b) **Alternative Warning**: Saks may, but is not required to, use the alternative short-form warning as set forth in this § 2.3(b) ("**Alternative Warning**") as follows:

> ⚠ **WARNING**: Cancer and Reproductive Harm - www.P65Warnings.ca.gov.

2.4 A **Warning** or **Alternative Warning** provided pursuant to § 2.3 must print the word "**WARNING:**" in all capital letters and in bold font, followed by a colon. The warning symbol to the left of the word "**WARNING:**" must be a black exclamation point in a yellow equilateral triangle with a black outline, except that if the sign or label for the Products does not use the color yellow, the symbol may be in black and white. The symbol must be in a size no smaller than the height of the word "**WARNING:**". The warning shall be affixed to or printed on the Product, or on the Products' packaging or labeling, or on a placard, shelf tag, sign or electronic device or automatic process, providing that the warning is displayed with such conspicuousness, as compared with other words, statements, or designs as to render it likely to be read and understood by an ordinary individual under customary conditions of purchase or use. A warning may be contained in the same section of the packaging, labeling, or instruction booklet that states other safety warnings, if any, concerning the use of the Product and shall be at least the same size as those other safety warnings.

If Saks sells Products via its own proprietary internet website to customers located in California, the warning requirements of this section shall be satisfied if the foregoing warning appears either: (a) on the same web page on which a Product is displayed and/or described; (b) on the same page as the price for the Product; or (c) on one or more web pages displayed to a California purchaser prior to completion of the checkout process. Alternatively, a symbol consisting of a black exclamation point in a yellow or white equilateral triangle may appear adjacent to or immediately following the display, description, price, or checkout listing of the Product, if the warning statement appears elsewhere on the same web page in a manner that clearly associates it with the product(s) to which the warning applies.

2.5 Compliance with Warning Regulations. The Parties agree that Saks and the Products shall be deemed to be in compliance with this Settlement Agreement by either adhering to §§ 2.3 and 2.4 of this Settlement Agreement or by complying with warning requirements adopted by the State of California's Office of Environmental Health Hazard Assessment ("OEHHA") which are effective after the Effective Date.

3. PENALTIES PURSUANT TO HEALTH & SAFETY CODE § 25249.7(b)

In settlement of all the claims referred to in this Settlement Agreement, Saks shall pay $500.00 as a Civil Penalty in accordance with this Section. The Civil Penalty payment shall be allocated in accordance with California Health & Safety Code §§ 25249.12(c)(1) and (d), with 75% of the Penalty remitted to OEHHA and the remaining 25% of the Penalty remitted to Ferreiro. The Civil Penalty payment(s) shall be delivered to the addresses identified in § 3.2, below. For all amounts due and owing that are not sent within the payment times set forth below, Saks shall pay a late civil penalty payment fee equal to $100/day to be allocated in accordance with California Health & Safety Code § 25249.12(c)(1) and (d), provided Ferreiro notifies Saks he has not received payment, and then only for such days following the date on which Ferreiro notified Saks he did not receive payment.

3.1 Civil Penalty. On or before January 24, 2020, Saks shall issue and send two separate checks for the Civil Penalty payment to (a) "OEHHA" in the amount of $375.00; and to (b) "Brodsky

& Smith, LLC in Trust for Ferreiro" in the amount of $125.00. The Civil Penalty payment(s) shall be delivered to the addresses identified in § 3.2, below.

3.2 Payment Procedures.

(a) Issuance of Payments. Payments shall be sent as follows:

(i) All payments owed to Ferreiro, pursuant to § 3.1 shall be delivered to the following payment address:

Evan J. Smith, Esquire
Brodsky & Smith, LLC
Two Bala Plaza, Suite 510
Bala Cynwyd, PA 19004.

(ii) All payments owed to OEHHA (EIN: 68-0284486), pursuant to § 3.1 shall be sent directly to OEHHA (Memo Line "Prop 65 Penalties") at the following addresses:

For United States Postal Service Delivery:

Mike Gyurics
Fiscal Operations Branch Chief
Office of Environmental Health Hazard Assessment
P.O. Box 4010
Sacramento, CA 95812-4010.

For Non-United States Postal Service Delivery:

Mike Gyurics
Fiscal Operations Branch Chief
Office of Environmental Health Hazard Assessment
1001 I Street
Sacramento, CA 95814.

(b) Copy of Payments to OEHHA. Saks agrees to provide Ferreiro's counsel with a copy of the checks payable to OEHHA, simultaneously with its penalty payments to Ferreiro, to be delivered to the address provided in § 3.2(a)(i), as proof of payment to OEHHA.

(c) Tax Documentation. Saks agrees to provide a completed IRS 1099 for its payment and Ferreiro agrees to provide IRS W-9 forms, within two (2) days of the Effective Date, for each of the following payees under this Settlement Agreement:

(i) "Anthony Ferreiro" whose address and tax identification number shall be provided;

(ii) "Brodsky & Smith, LLC" (EIN: 23-2971061) at the address provided in Section 3.2(a)(i); and

(iii) "Office of Environmental Health Hazard Assessment" (EIN 68-0284486) at the address 1001 I Street, Sacramento, CA 95814.

4. REIMBURSEMENT OF FEES AND COSTS

The Parties acknowledge that Ferreiro and his counsel offered to reach preliminary agreement on the material terms of this dispute before reaching terms on the amount of fees and costs to be reimbursed to them. The Parties thereafter reached an accord on the compensation due to Ferreiro and his counsel under general contract principles and the private attorney general doctrine and principles codified at California Code of Civil Procedure § 1021.5, for all work performed through the Effective Date. Under these legal principles, Saks shall reimburse Ferreiro's counsel for fees and costs incurred as a result of investigating and bringing this matter to Saks' attention, and negotiating a settlement in the public interest. On or before January 24, 2020 Saks shall issue and send a check payable to "Brodsky & Smith, LLC" in the amount of $7,000.00 for delivery to the address identified in § 3.2(a)(i), above.

5. RELEASE OF ALL CLAIMS

5.1 Release of Saks and Downstream Customers and Other Entities. This Settlement Agreement is a full, final and binding resolution between Ferreiro, acting on his own behalf, and Saks, of any violation of Proposition 65 that was or could have been asserted by Ferreiro or on behalf of his past and current agents, representatives, attorneys, successors, and/or assigns ("Releasors") for failure to provide warnings for alleged exposures to DEHP contained in the Products, and Releasors hereby release any such claims against Saks and its affiliates, meaning its parents, subsidiaries, affiliated entities, shareholders, franchisees, directors, officers, agents, employees, attorneys, successors and assignees (the "Affiliates"), and each upstream entity who manufactured for, or distributed to, or

directly or indirectly sold Products to Saks, and each downstream entity to whom Saks directly or indirectly distributed or sold the Products, including but not limited to, downstream distributors, wholesalers, customers, retailers (collectively, all of the foregoing are the "Releasees"), from all claims for violations of Proposition 65 through the Effective Date.

In further consideration of the promises and agreements herein contained, and for the payments to be made pursuant to §§ 3 and 4 above, Ferreiro, on behalf of himself, his past and current agents, representatives, attorneys, successors and/or assignees, hereby covenants not to sue and waives any right to institute, participate in, directly or indirectly, any form of legal action and releases all claims that he may have, including without limitation, all actions and causes of action in law and in equity, all obligations, expenses (including without limitation all attorneys' fees, expert fees, and investigation fees, and costs), damages, losses, liabilities and demands against any of the Releasees of any nature, character, or kind, whether known or unknown, suspected or unsuspected, limited to and arising out of the alleged or actual exposure to the chemical DEHP in the Products up through the Effective Date.

5.2 Saks' Release of Ferreiro. Saks, on behalf of itself, its past and current agents, representatives, attorneys, successors and/or assignees, hereby waives any and all claims against Ferreiro, his attorneys and other representatives, for any and all actions taken or statements made (or those that could have been taken or made) by Ferreiro and/or his attorneys and other representatives, whether in the course of investigating claims or otherwise seeking to enforce Proposition 65 against it in this matter or with respect to the Products up through the Effective Date.

5.3 California Civil Code § 1542. It is possible that other claims not known to the Parties arising out of the facts alleged in the Notices and relating to the Products will develop or be discovered. Ferreiro on behalf of himself only, on the one hand, and Saks, on the other hand, acknowledge that this Agreement is expressly intended to cover and include all such claims up through the Effective Date, including all rights of action therefor. The Parties acknowledge that the claims released in §§

5.1 and 5.2, above, may include unknown claims, and nevertheless waive California Civil Code § 1542 as to any such unknown claims. California Civil Code § 1542 reads 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.

Ferreiro and Saks each acknowledge and understand the significance and consequences of this specific waiver of California Civil Code § 1542.

5.4 Deemed Compliance with Proposition 65. The Parties agree that compliance by Saks with this Settlement Agreement constitutes compliance with Proposition 65 with respect to exposure to DEHP from use or sale of the Products on and after the Effective Date.

5.5. Public Benefit. It is the Parties' understanding that the commitments Saks has agreed to herein, and actions to be taken by Saks under this Settlement Agreement, would confer a significant benefit to the general public, as set forth in Code of Civil Procedure § 1021.5 and Cal. Admin. Code tit. 11, § 3201. As such, it is the intent of the Parties that to the extent any other private party initiates an action alleging a violation of Proposition 65 with respect to Saks failure to provide a warning concerning exposure to DEHP prior to use of the Products it will or has either purchased and/or imported, and/or distributed, and/or sold, and/or offered for sale in California, such private party action would not confer a significant benefit on the general public as to those Products addressed in this Settlement Agreement, provided that Saks is in material compliance with this Settlement Agreement.

6. SEVERABILITY

If, subsequent to the execution of this Settlement Agreement, any of the provisions of this Settlement Agreement are deemed by a court to be unenforceable, the validity of the enforceable provisions remaining shall not be adversely affected but only to the extent the deletion of the provision deemed unenforceable does not materially affect, or otherwise result in the effect of the Settlement Agreement being contrary to the intent of the Parties in entering into this Settlement Agreement.

7. GOVERNING LAW

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 or is otherwise rendered inapplicable or limited by reason of law generally, or as to the Products, Saks shall provide written notice to Ferreiro 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, a Product is so affected. This Settlement Agreement shall not apply to Products that are not sold to consumers in California or which do not otherwise cause exposure to DEHP in California.

8. NOTICES

Unless specified herein, all correspondence and notices required to be provided pursuant to this Settlement Agreement shall be in writing and personally delivered or sent by: (i) first-class U.S. Mail; or (ii) registered or certified mail, return receipt requested; or (iii) overnight or two-day courier on any Party by the other Party to the following addresses:

For Saks:

Judith M. Praitis
SIDLEY AUSTIN LLP
555 West Fifth St., Suite 4000
Los Angeles, CA 90013.

For Ferreiro:

Evan J. Smith
Brodsky & Smith, LLC
Two Bala Plaza, Suite 510
Bala Cynwyd, PA 19004.

Either party, from time to time, may specify in writing to the other party a change of address to which all notices and other communications shall be sent.

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9. COUNTERPARTS: SIGNATURES

This Settlement Agreement may be executed in counterparts and by facsimile or .pdf signature, each of which shall be deemed an original, and all of which, when taken together, shall constitute one and the same document.

10. COMPLIANCE WITH HEALTH & SAFETY CODE § 25249.7(f)

Ferreiro agrees to comply with the reporting requirements referenced in Health & Safety Code § 25249.7(f).

11. MODIFICATION

This Settlement Agreement may be modified only by a written agreement of the Parties. This Settlement Agreement may be enforced exclusively by the Parties hereto.

12. ENTIRE AGREEMENT

This Settlement Agreement contains the sole and entire agreement of the Parties and any and all prior negotiations and understandings related hereto shall be deemed to have been merged within it. No representations or terms of agreement other than those contained herein exist or have been made by any Party with respect to the other Party or the subject matter hereof.

13. AUTHORIZATION

The undersigned are authorized to execute this Settlement Agreement and have read, understood and agree to all of the terms and conditions contained of this Settlement Agreement.

AGREED TO:	**AGREED TO:**
Date: 12/17/19	Date: 12/18/19
By: Anthony Ferreiro	By:
Anthony Ferreiro	Saks & Company, LLC