UNITED STATES OF AMERICA
CONSUMER PRODUCT SAFETY COMMISSION

In the Matter of The Neiman Marcus Group, Inc.	)))))	CPSC Docket No. 08-C0005

SETTLEMENT AGREEMENT

1. In accordance with 16 C.F.R. § 1118.20, The Neiman Marcus Group, Inc. ("NMG") and the staff ("Staff") of the United States Consumer Product Safety Commission ("Commission") enter into this Settlement Agreement ("Agreement"). The Agreement and the incorporated attached Order ("Order") settle the Staff's allegations set forth below.

PARTIES

2. The Commission is an independent federal regulatory agency established pursuant to, and responsible for the enforcement of, the Consumer Product Safety Act, 15 U.S.C. §§ 2051 – 2084 ("CPSA").

3. NMG is a corporation organized and existing under the laws of Delaware, with its principal offices located in Dallas, Texas. At all times relevant hereto, NMG sold apparel.

STAFF ALLEGATIONS

4. From April 2006 to July 13, 2006, NMG sold 147 True Religion fleece hoodies with drawstrings through the hood and neck ("Drawstring Sweatshirts").

5. NMG sold the Drawstring Sweatshirts to consumers.

6. The Drawstring Sweatshirts are "consumer product[s]," and, at all times relevant hereto, NMG was a "retailer" of those consumer products, which were "distributed in

commerce," as those terms are defined in CPSA sections 3(a)(1), (6), (11), and (12), 15 U.S.C. § 2052(a)(1), (6), (11), and (12).

7. In February 1996, the Staff issued the Guidelines for Drawstrings on Children's Upper Outerwear ("Guidelines") to help prevent children from strangling or entangling on neck and waist drawstrings. The Guidelines state that drawstrings can cause, and have caused, injuries and deaths when they catch on items such as playground equipment, bus doors, or cribs. In the Guidelines, the Staff recommends that there be no hood and neck drawstrings in children's upper outerwear sized 2T to 12.

8. In June 1997, ASTM adopted a voluntary standard, ASTM F1816-97, that incorporated the Guidelines. The Guidelines state that firms should be aware of the hazards and should be sure garments they sell conform to the voluntary standard.

9. On May 19, 2006, the Commission posted on its website a letter from the Commission's Director of the Office of Compliance to manufacturers, importers, and retailers of children's upper outerwear. The letter urges them to make certain that all children's upper outerwear sold in the United States complies with ASTM F1816-97. The letter states that the Staff considers children's upper outerwear with drawstrings at the hood or neck area to be defective and to present a substantial risk of injury to young children under Federal Hazardous Substances Act ("FHSA") section 15(c), 15 U.S.C. § 1274(c). The letter also notes the CPSA's section 15(b) reporting requirements.

10. NMG reported to the Commission that there had been no incidents or injuries from the Drawstring Sweatshirts.

11. NMG's distribution in commerce of the Drawstring Sweatshirts did not meet the Guidelines or ASTM F1816-97, failed to comport with the Staff's May 2006 defect notice, and posed a strangulation hazard to children.

12. On September 14, 2006, the Commission, in cooperation with NMG and the manufacturer, announced a recall of the Drawstring Sweatshirts, informing consumers that they should immediately stop using the Drawstring Sweatshirts.

13. NMG had presumed and actual knowledge that the Drawstring Sweatshirts distributed in commerce posed a strangulation hazard and presented a substantial risk of injury to children under FHSA section 15(c)(1), 15 U.S.C. § 1274(c)(1). NMG had obtained information that reasonably supported the conclusion that the Drawstring Sweatshirts contained a defect that could create a substantial product hazard or that they created an unreasonable risk of serious injury or death. CPSA sections 15(b)(2) and (3), 15 U.S.C. § 2064(b)(2) and (3), required NMG to immediately inform the Commission of the defect and risk.

14. NMG knowingly failed to immediately inform the Commission about the Drawstring Sweatshirts as required by CPSA sections 15(b)(2) and (3), 15 U.S.C. § 2064(b)(2) and (3), and as the term "knowingly" is defined in CPSA section 20(d), 15 U.S.C. § 2069(d). This failure violated CPSA section 19(a)(4), 15 U.S.C. § 2068(a)(4). Pursuant to CPSA section 20, 15 U.S.C. § 2069, this failure subjected NMG to civil penalties.

NMG'S RESPONSE

15. NMG contests and denies the Staff's allegations.

16. NMG specifically denies that the Drawstring Sweatshirts or NMG violated the FHSA and that the Drawstring Sweatshirts contained a defect that could create a substantial product hazard or created an unreasonable risk of serious injury or death. NMG sold only 147

units over a three-month period and received no reports of incidents or injury. NMG denies that it violated the reporting requirements of 15 U.S.C. §§ 2064(b), 2068(a)(4). Likewise, NMG denies that any alleged violation of the CPSA or FHSA occurred "knowingly."

17. NMG has entered into the Agreement for settlement purposes only, to avoid incurring additional expenses and the distraction of litigation. The Agreement and Order do not constitute and are not evidence of any fault or wrongdoing on the part of NMG.

AGREEMENT OF THE PARTIES

18. Under the CPSA, the Commission has jurisdiction over this matter and over NMG.

19. The parties enter into the Agreement for settlement purposes only. The Agreement does not constitute an admission by NMG, or a determination by the Commission, that NMG has knowingly violated the CPSA.

20. In settlement of the Staff's allegations, NMG shall pay a civil penalty in the amount of fifty thousand dollars ($50,000.00) within twenty (20) calendar days of service of the Commission's final Order accepting the Agreement. The payment shall be by check payable to the order of the United States Treasury.

21. Upon provisional acceptance of the Agreement, the Agreement shall be placed on the public record and published in the *Federal Register* in accordance with the procedures set forth in 16 C.F.R. § 1118.20(e). In accordance with 16 C.F.R. § 1118.20(f), if the Commission does not receive any written request not to accept the Agreement within fifteen (15) calendar days, the Agreement shall be deemed finally accepted on the sixteenth (16th) calendar day after the date it is published in the *Federal Register*.

22. Upon the Commission's final acceptance of the Agreement and issuance of the final Order, NMG knowingly, voluntarily, and completely waives any rights it may have in this matter to the following: (1) an administrative or judicial hearing; (2) judicial review or other challenge or contest of the validity of the Order or of the Commission's actions; (3) a determination by the Commission of whether NMG failed to comply with the CPSA and its underlying regulations; (4) a statement of findings of fact and conclusions of law; and (5) any claims under the Equal Access to Justice Act.

23. The Commission may publicize the terms of the Agreement and the Order.

24. The Agreement and the Order shall apply to, and be binding upon, NMG and each of its successors and assigns.

25. The Commission issues the Order under the provisions of the CPSA, and violation of the Order may subject NMG to appropriate legal action.

26. The Agreement may be used in interpreting the Order. Understandings, agreements, representations, or interpretations apart from those contained in the Agreement and the Order may not be used to vary or contradict their terms. The Agreement shall not be waived, amended, modified, or otherwise altered without written agreement thereto executed by the party against whom such waiver, amendment, modification, or alteration is sought to be enforced.

27. If any provision of the Agreement and the Order is held to be illegal, invalid, or unenforceable under present or future laws effective during the terms of the Agreement and the Order, such provision shall be fully severable. The balance of the Agreement and the Order shall remain in full force and effect, unless the Commission and NMG agree that severing the provision materially affects the purpose of the Agreement and the Order.

28. Pursuant to section 6(d) of the Interim Delegation of Authority ordered by the Commission on February 1, 2008, the Commission delegated to the Assistant Executive Director for Compliance and Field Operations the authority to act, with the concurrence of the General Counsel, for the Commission under 16 C.F.R. § 1118.20 with respect to Staff allegations that any person or firm violated 15 U.S.C. § 2068, where the total amount of the settlement involves no more than $100,000.

THE NEIMAN MARCUS GROUP, INC.

Dated: April 2, 2008 By: Kim Yee

Kim Yee, Vice President and Assistant General Counsel
The Neiman Marcus Group, Inc.
One Marcus Square
1618 Main Street
Dallas, TX 75201

Dated: 4.3.08 By: Christie L. Grymes

Christie L. Grymes, Esq.
Kelley Drye & Warren LLP
3050 K Street, NW, Suite 400
Washington, DC 20007
Counsel for The Neiman Marcus Group, Inc.

U.S. CONSUMER PRODUCT SAFETY
COMMISSION STAFF

J. Gibson Mullan
Assistant Executive Director
Office of Compliance and Field Operations

Ronald G. Yelenik, Acting Director
Legal Division
Office of Compliance and Field Operations

Dated: 4-16-08 By:

Seth B. Popkin, Trial Attorney
Legal Division
Office of Compliance and Field Operations

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ORDER

Upon consideration of the Settlement Agreement entered into between The Neiman Marcus Group, Inc. ("NMG") and the U.S. Consumer Product Safety Commission ("Commission") staff, and the Commission having jurisdiction over the subject matter and over NMG, and pursuant to the authority delegated in section 6(d) of the Interim Delegation of Authority ordered by the Commission on February 1, 2008, and it appearing that the Settlement Agreement and the Order are in the public interest, it is

ORDERED, that the Settlement Agreement be, and hereby is, accepted; and it is

FURTHER ORDERED, that NMG shall pay a civil penalty in the amount of fifty thousand dollars ($50,000.00) within twenty (20) calendar days of service of the Commission's final Order accepting the Agreement. The payment shall be made by check payable to the order of the United States Treasury. Upon the failure of NMG to make the foregoing payment when due, interest on the unpaid amount shall accrue and be paid by NMG at the federal legal rate

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of interest set forth at 28 U.S.C. § 1961(a) and (b).

Provisionally accepted and provisional Order issued on the 22ND day of April, 2008.

BY ORDER OF THE COMMISSION:

Todd A. Stevenson, Secretary
U.S. Consumer Product Safety Commission