

## SETTLEMENT AGREEMENT AND RELEASE

This Settlement Agreement and Release (“Agreement”) is entered into by and between Plaintiff Commonwealth of Kentucky (the “State”), acting through Daniel Cameron, Attorney General of the Commonwealth of Kentucky, and Teva Pharmaceuticals USA, Inc. (“Teva”), acting through their authorized representatives, hereinafter collectively referred to as “the Parties.”

### **Section I: Recitals**

A. The State has asserted various claims against Teva and certain of its affiliates and former employees – Actavis Holdco US Inc., Actavis Elizabeth LLC, Actavis Pharma, Inc., Ara Aprahamian, Maureen Cavanaugh, Marc Falkin, Kevin Green, Nisha Patel, Michael Perfetto, David Rekenhaller, and Richard Rogerson (“Defendants”) – arising out of their alleged conduct in relation to generic pharmaceutical drugs sold across the United States in complaints originally filed in the State of Connecticut, and captioned *State of Connecticut v. Actavis Holdco U.S., Inc.*, *State of Connecticut v. Teva Pharmaceuticals USA, Inc.*, and *State of Connecticut v. Sandoz, Inc.*, all currently pending in the United States District Court for the Eastern District of Pennsylvania in the *In re Generic Pharmaceuticals Pricing Antitrust Litigation*, No. 16-MD-2724 (collectively, the “Actions”).

B. Teva has denied the State’s allegations and, specifically, has denied that it violated any applicable law or regulation, breached any legal duty to the State or its citizens, or engaged in any unlawful anticompetitive conduct in connection with its manufacturing, marketing, pricing, promoting, distributing, and selling of generic drugs.

C. The Parties wish to fully and finally resolve the Actions and to enter into a settlement to fully resolve all claims that the State may have against Defendants related to any allegedly unlawful anticompetitive conduct by and between Defendants with respect to generic pharmaceutical drugs. In order to avoid the delay, inconvenience, and expense of continuing the

litigation of the Actions, and as a result of a mutual desire to settle their disputes, the Parties have reached a full and final settlement as set forth in this Agreement.

## **Section II: Terms and Conditions**

The Parties, therefore, for good and valuable consideration (including the mutual promises, covenants, and obligations set forth in this Agreement), intending to be legally bound, agree as follows:

1. **INCORPORATION OF THE PREAMBLE.** The foregoing Preamble is incorporated herein.

2. **RELEASE AND DISCHARGE BY THE STATE.**

In consideration of the commitments made by Teva contained in this Agreement, upon the payment of the Settlement Amount referenced in Section 3 below, the State fully, finally, and forever releases Teva and its past and present subsidiaries, as well as its divisions, affiliates, joint ventures, stockholders, officers, directors, management, supervisory boards, employees, insurers, general or limited partners, agents, trustees, associates, attorneys, and representatives (and the predecessors, heirs, executors, administrators, successors and assigns of each of the foregoing), including but not limited to Teva Pharmaceutical Industries Ltd., Teva Pharmaceuticals, Inc., Actavis Holdco US Inc., Actavis Elizabeth LLC, Actavis Pharma, Inc., Ara Aprahamian, Maureen Cavanaugh, Marc Falkin, Kevin Green, Nisha Patel, Michael Perfetto, David Rekenhaller, and Richard Rogerson (collectively “Releasees”) from any and all claims arising under federal or Kentucky antitrust or consumer protection laws or state common or equitable law that were asserted or could have been asserted, by or on behalf of the State relating to any anticompetitive conduct concerning any generic pharmaceutical drug in the Actions (“Released Claims”). This Agreement does not relate to or release criminal actions or any non-competition or non-consumer

protection claims regarding generic pharmaceutical drugs, including but not limited to those regarding Medicare or Medicaid fraud, irregularities or false claims, off-label marketing, false advertising or product or product liability claims.

3. **PAYMENT AND TRAINING BY TEVA.** In consideration for the agreements, promises and releases provided in this Agreement, Teva shall: 1) pay the State the total sum of One Million Four Hundred and Seven Thousand dollars (\$1,407,000) (the “Settlement Amount”); and 2) for four years following the Effective Date, Teva shall continue to provide periodic training to relevant U.S. employees concerning the conduct prohibited by federal and applicable state antitrust laws (the “Training Commitment”). Payment of the Settlement Amount shall be made by Teva to the State within thirty (30) days following the Effective Date. The payment shall be made by Teva in accordance with wiring or other instructions provided to Teva in writing by the State at least fourteen (14) days before such payment is due. This Agreement is the product of a compromise between Teva and the State, and the Settlement Amount and Training Commitment are based on the Parties’ arms-length negotiations and respective assessments of numerous factors and issues relating to the Actions. The Agreement, Settlement Amount and Training Commitment therefore cannot be cited by any non-party to the Agreement as evidence supporting any position.

4. **NO PAYMENTS TO NON-PARTIES.** To the extent a third party that is not a party to this Agreement (including, without limitation, the State’s private counsel, any counties, municipalities, or political subdivisions, the federal government or any federal agency, a *qui tam* relator, a private citizen, or a private insurer) claims entitlement to any portion of the Settlement Amount or to any other compensation in connection with the subject matter, investigation, or prosecution of the Actions, the State shall be solely responsible for the proper allocation of those

funds from the Settlement Amount and shall hold Teva harmless against all claims related to any such entitlement.

5. **PAYMENT ADJUSTMENT.** The Parties agree as follows:

A. If, prior to February 7, 2025, Teva settles the Actions with any other plaintiff in such Actions (“State Plaintiff”), where the result is that such State Plaintiff receives from Teva an amount greater than the Settlement Amount, accounting for differences in the State’s population as compared to the population of such other State Plaintiff, then Teva shall make a supplemental payment to the State that adjusts for that difference.

B. If, prior to February 7, 2027, there is a collective resolution—through settlement, bankruptcy or other mechanism—of substantially all claims against Teva in the Actions (a “Global Resolution”), where the result is that the other plaintiffs participating in the Global Resolution receive from Teva an amount greater than the Settlement Amount, accounting for differences in their respective populations, as compared to the population of the State, then Teva shall make a supplemental payment to the State that adjusts for that difference.

6. **NO THIRD-PARTY BENEFICIARIES.** This Agreement is intended to be solely for the benefit of the Parties and Releasees, and, except as stated herein, the Parties do not, by this Agreement, release any claim against any other person or entity that purchases drugs or pharmaceutical products from Defendants. Except as stated herein, no word, term, phrase or definition in this Agreement (including, without limitation, the Agreement itself or the Settlement Amount) is or may be used for the benefit of any person, private or governmental entity, or litigant who is not a signatory to, or released by, this Agreement.

7. **DISMISSAL OF ACTION.** Within three (3) business days following the payment of the Settlement Amount, the State will file with the Court a Notice of Voluntary Dismissal with

Prejudice pursuant to Rule 41(a)(1)(A)(i), in the form attached hereto as “Exhibit A,” seeking the dismissal with prejudice of the Actions against the Defendants. Except as otherwise provided herein, each Party to this Agreement will bear its own legal and other costs incurred in connection with the Actions, including investigation and prosecution thereof, as well as the preparation and performance of this Agreement.

8. **NO ADMISSION OF LIABILITY.** Nothing in this Agreement is to be construed as an admission or evidence of fault or liability on the part of any Party, all of which expressly deny fault and liability and deny that the opposing Party’s claims are valid. The State will not urge or seek to admit this Agreement as evidence of any fault or liability of the Releasees.

9. **INTERNAL REVENUE CODE SECTION 162(f).** The Parties agree that, unless otherwise required by law, the Settlement Amount Teva pays pursuant to Section 3 of this Agreement shall be directed to remediation and restitution of harms allegedly caused by Teva. The Parties also agree that the purpose of the Settlement Amount will be to remediate the harms allegedly caused by Teva or to provide restitution for such alleged harms that were previously incurred, none of which amount constitutes a fine or penalty. The State hereby certifies that: (1) the State suffered harm allegedly caused by Teva; and (2) the payments to be received by the State from Teva represent an amount that is less than or equal to the actual value of the damage allegedly caused by Teva. The State shall complete and file Form 1098-F with the Internal Revenue Service on or before February 28 (March 31, if filed electronically) of the year following the calendar year in which the State files the Notice of Voluntary Dismissal pursuant to Section 6. On the Form 1098-F, the State shall identify such payments from Teva pursuant to Section 3 of this Agreement as remediation and restitution amounts. The State shall also, on or before January 31 of the year

following the calendar year in the State files the Notice of Voluntary Dismissal pursuant to Section 6, furnish Copy B of such Form 1098-F (or an acceptable substitute statement) to Teva.

10. **WARRANTY OF CAPACITY TO EXECUTE AGREEMENT.** The individuals signing this Agreement on behalf of Teva represent and warrant that they are authorized by Teva to execute this Agreement. The undersigned State signatories represent that they are signing this Agreement in their official capacities and that they are authorized to execute this Agreement on behalf of the State through their respective agencies and departments. The individuals signing this Agreement on behalf of the State represent and warrant that they are authorized by the State to execute this Agreement. There is no other understanding or agreement, verbal or otherwise, in relation thereto, between the Parties except those herein expressly set forth. The undersigned signatories represent that no interest in any claim herein released has been assigned to any third party. No oral representations, warranties or inducements have been made to any party concerning this Agreement other than the representations, warranties and covenants contained and memorialized herein. In addition, the Parties represent and warrant that they are not relying on any representations or warranties not contained in this Agreement.

11. **ASSISTANCE OF COUNSEL.** The Parties represent that they have had the assistance of counsel in negotiating, reviewing, and executing this Agreement and that they appreciate and understand the legal significance of this Agreement and the legal significance of stipulating to a dismissal with prejudice of the pending Actions, all of which have been explained to them by their attorneys. The State understands the terms of this Agreement, understands its finality, and understands that it will never again, in any court anywhere, make any claim against Defendants for any declaratory or equitable relief, for any sums of money, or for any other form of compensation for the Released Claims, except as otherwise specifically provided in this

Agreement. The State represents that it is not under duress or pressure from any source and it has executed this Agreement knowledgeably and freely by and with the advice of its attorneys. Teva represents that it is not under duress or pressure from any source and it has executed this Agreement knowledgeably and freely by and with the advice of their attorneys. This Agreement shall not be construed more strictly against one Party than another merely by virtue of the fact that it, or any part of it, may have been prepared by counsel for one of the Parties, it being recognized that this Agreement is the result of arm's-length negotiations between the Parties and all Parties have contributed substantially and materially to the preparation of this Agreement.

12. **CAPTIONS.** The bold-faced paragraph captions in this Agreement are for convenience only and do not add to, detract from, or change the substantive language or terms of this Agreement.

13. **INVALIDITY.** The Parties agree that should any nonmaterial portion or portions of this Agreement be found void, unenforceable, or otherwise invalid by any court of competent jurisdiction after the exhaustion of all rights to appeal, this entire Agreement shall not be nullified, such invalid portion or portions shall be severed from this Agreement, and the remainder of the Agreement shall be enforced.

14. **EFFECTIVE DATE.** The "Effective Date" of this Agreement shall be the date of the last signature of the last signatory to this Agreement.

15. **WAIVER.** Waiver by any party of any breach of any provision of this Agreement shall not constitute a waiver of any other breach of that or any other provision of this Agreement.

16. **GOVERNING LAW AND CHOICE OF FORUM.** It is understood and agreed by the Parties that this document shall be governed and interpreted in accordance with the laws of the State of Kentucky. Any disputes concerning the meaning, interpretation or enforcement of this

Agreement shall be resolved by the United States District Court for the Eastern District of Pennsylvania, which shall be the exclusive trial court forum for all proceedings involving or arising out of this Agreement.

17. **ENTIRE AGREEMENT.** This document contains the entire agreement between the Parties with regard to the matters set forth herein, and shall be binding upon and inure to the benefit of all the successors, transferees, heirs, and assigns of the Parties. This Agreement is the exclusive, final, and complete agreement between the State and Teva concerning the Actions. In executing this Agreement, each Party represents and warrants that it is not relying on any representation that is not explicitly set forth in this Agreement. This Agreement may not be amended except by a writing signed by the State and Teva. It is expressly agreed, intended, and understood by the Parties that this Agreement is a complete accord and satisfaction of any and all claims the State has or may have had against the Releasees.

18. **EXECUTION IN COUNTERPARTS.** This Agreement may be executed in counterparts, each of which constitutes an original, and all of which constitute one and the same Agreement. The Parties agree that facsimile or PDF signatures shall be deemed as effective as original signatures.

19. **ACTS NECESSARY TO EFFECTUATE AGREEMENT.** Each party agrees to perform such further acts and to execute and to deliver such further documents as may reasonably be necessary to carry out this Agreement.



20. **NOTICE TO PARTIES.** Unless otherwise stated in writing subsequent to the Effective Date of this Agreement, all notifications and communications made pursuant to this Agreement shall be submitted to the entities listed below:

- a. For the State for all purposes:

Chris Lewis  
Commissioner, Consumer & Senior Protection  
Office of the Kentucky Attorney General  
1024 Capital Center Drive, Suite 200  
Frankfort, Kentucky 40601  
Telephone: 502.696.5300  
Email: [Christian.Lewis@Ky.Gov](mailto:Christian.Lewis@Ky.Gov)

- b. For Teva for all purposes:

Alison Tanchyk  
Morgan, Lewis & Bockius LLP  
600 Brickell Ave., Suite 1600  
Miami, FL 33131  
Phone: (305) 415-3444  
E-mail: [alison.tanchyk@morganlewis.com](mailto:alison.tanchyk@morganlewis.com)

Brian Savage  
General Counsel, US Generics  
Teva Pharmaceutical USA. Inc.  
Phone: (973) 658-1244  
E-mail: [brian.savage@tevapharm.com](mailto:brian.savage@tevapharm.com)


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**Signed and Agreed to on the date below:**

FOR PLAINTIFF:

COMMONWEALTH OF KENTUCKY

DANIEL CAMERON, ATTORNEY GENERAL  
COMMONWEALTH OF KENTUCKY

By:  \_\_\_\_\_ Date: 06/09/2023  
Chris Lewis  
Commissioner  
Consumer & Senior Protection  
Office of the Kentucky Attorney General  
1024 Capital Center Drive, Suite 200  
Frankfort, Kentucky 40601  
Telephone: 502.696.5300  
Email: Christian.Lewis@Ky.Gov

FOR DEFENDANT TEVA:

Morgan, Lewis & Bockius LLP  
on behalf of Teva Pharmaceuticals USA, Inc.

By:  \_\_\_\_\_ Date: 6/9/2023  
Alison Tanchyk  
*on behalf of Teva Pharmaceuticals  
USA, Inc*

**EXHIBIT A**

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF PENNSYLVANIA**

IN RE: GENERIC PHARMACEUTICALS PRICING ANTITRUST LITIGATION	MDL 2724 16-MD-2724 HON. CYNTHIA M. RUFÉ
THIS DOCUMENT RELATES TO:	
<i>State of Connecticut, et al. v. Actavis Holdco U.S., Inc., et al.,</i>	No. 17-cv-03768
<i>State of Connecticut, et al. v. Teva Pharmaceuticals USA, Inc., et al.,</i>	No. 19-cv-02407
<i>State of Connecticut, et al. v. Sandoz, Inc., et al.</i>	No. 20-cv-03539

**PLAINTIFF STATE OF KENTUCKY’S NOTICE OF  
VOLUNTARY DISMISSAL WITH PREJUDICE**

Pursuant to Rule 41(a)(1)(A)(i) of the Federal Rules of Civil Procedure, Plaintiff Commonwealth of Kentucky (the “State”) by and through its undersigned counsel, voluntarily dismisses with prejudice all claims asserted in the above-referenced Actions by the State against Defendants Teva Pharmaceuticals USA, Inc., Actavis Holdco US Inc., Actavis Elizabeth LLC, Actavis Pharma, Inc., Ara Aprahamian, Maureen Cavanaugh, Marc Falkin, Kevin Green, Nisha Patel, Michael Perfetto, David Rekenthaler, and Richard Rogerson (each a “Defendant,” collectively the “Defendants,” and together with the State, the “Parties”). The State has named each Defendant in one or more of the above-referenced Actions. With this dismissal, the State will not hereafter commence any action arising out of the facts and circumstances alleged in this multidistrict litigation against any of the aforementioned Defendants. None of the Defendants has answered the complaints in the three above-referenced Actions, and no Party has served a

motion for summary judgment. All Parties will bear their own costs, expenses, and attorneys' fees.

Dated: \_\_, 2023

Respectfully submitted,

FOR PLAINTIFF COMMONWEALTH OF  
KENTUCKY

DANIEL CAMERON, ATTORNEY  
GENERAL STATE OF KENTUCKY

By: \_\_\_\_\_

Chris Lewis  
Commissioner  
Consumer & Senior Protection  
Office of the Kentucky Attorney  
General  
1024 Capital Center Drive, Suite 200  
Frankfort, Kentucky 40601  
Telephone: 502.696.5300  
Email: Christian.Lewis@Ky.Gov

## CERTIFICATE OF SERVICE

I, [NAME], hereby certify that on [DATE], 2023, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will automatically send email notification of such filing to the attorneys of record registered with the CM/ECF System.

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