SETTLEMENT AGREEMENT

This Settlement Agreement is made and entered into on July 28, 2016, by and among the respective States, by and through their respective Attorneys General (the "States"), and Barr Laboratories, Inc., Teva Pharmaceutical Industries Ltd., Teva Pharmaceuticals USA, Inc., and Cephalon, Inc. (together the "Cephalon Parties"), by and through its undersigned counsel, (collectively, the "Parties").

WHEREAS, the States allege under various antitrust and consumer protection laws that actions by the Cephalon Parties delayed the entry of generic versions of the prescription drug Provigil and made misrepresentations to the Patent & Trademark Office that damaged the States and Eligible Consumers;

WHEREAS, the Cephalon Parties deny any allegation of unlawful conduct, and deny they caused any damage;

WHEREAS, the Parties agree that this Settlement Agreement shall not be deemed or construed to be an admission or evidence of any violation of any statute or law or of any liability or wrongdoing by the Cephalon Parties, or a waiver of any defenses thereto;

WHEREAS, arm's-length settlement negotiations have taken place between the States and the Cephalon Parties, and the result is this Settlement Agreement, which embodies all of the terms and conditions of the settlement between the States and the Cephalon Parties (the "Settlement Agreement");

WHEREAS, the States have concluded that it is in the best interests of the States and, through them, Eligible Consumers to enter into this Settlement Agreement; and

WHEREAS, the Cephalon Parties have concluded, despite their belief that no unlawful conduct has occurred, that it would be in their best interests to enter into this Settlement Agreement to avoid the uncertainties and risks inherent in complex litigation;

NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED:

I. DEFINITIONS

As used herein:

A. The "Cephalon Parties" means Cephalon, Inc., Barr Laboratories, Inc., Teva Pharmaceutical Industries Ltd., and Teva Pharmaceuticals USA, Inc.

B. "Claims Administrator" means A.B. Data, Ltd.

C. "Distribution Plan" means the plan or method of allocation among Eligible Consumers (1) who have not filed valid and timely requests for exclusion from this Settlement Agreement with the District Court when applicable; and (2) who otherwise participate in the allocation. The Distribution Plan will be submitted to the District Court separately from the Settlement Agreement and is not part of this Settlement Agreement.

D. The "District Court" means the United States District Court for the Eastern District of Pennsylvania.

E. "Effective Date" means the date when all of the following conditions have been satisfied, unless one or more of such conditions is modified or waived in a writing signed by the Parties: (1) execution of this Settlement Agreement; (2) entry by the District Court of the Preliminary Approval Order; (3) approval and effectuation of the Notice Plan; (4) final approval by the District Court of the Settlement Agreement; (5) entry of the Final Approval Order by the District Court; and (6) the time for appeal or to seek permission to appeal from the District Court's Final Approval Order has expired or, if appealed, the Final Approval Order has been affirmed in its entirety by the court of last resort to which such appeal has been taken and such affirmance has become no longer subject to further appeal or review.

F. "Eligible Consumers" mean natural persons who purchased Modafinil during the period June 24, 2006 through March 31, 2012.

G. "Escrow Agent" means Huntington National Bank.

H. "Final Approval Order" means the order to be entered by the District Court that grants final approval of this Settlement Agreement. The Parties intend that the Final Approval Order will include the following provisions: (1) an affirmance by the District Court that the Notice Plan has been completed; (2) a determination by the District Court that the Settlement Agreement is approved finally as fair, reasonable, and adequate; (3) a directive from the Court that the monies in the Consumer Compensation Account are to be disbursed pursuant to the Court-approved Distribution Plan; and (4) a directive from Liaison Counsel that monies in the State Proprietary Compensation Account and State Disgorgement, Costs, and Fees Account are to be paid to the Escrow Agent for disbursement to the States for use pursuant to Paragraph III.B.

I. "Liaison Counsel" mean the designated representatives for the Attorneys General of the States of Indiana, Minnesota, New York, Ohio, and Vermont.

J. "Modafinil" means Provigil® or its generic version (modafinil).

K. "Notice Plan" means the plan specifying the manner and content of notifying Eligible Consumers of this Settlement Agreement and informing Eligible Consumers of their rights to object to or exclude themselves from the Settlement Agreement. The Parties contemplate that the Notice Plan will take ninety (90) days or such other time period set by the District Court. The Notice Plan shall specify the manner in which Eligible Consumers are to be notified of this settlement and shall be coordinated with the notice plan under the settlement of *Vista Healthplan, Inc., et al. v. Cephalon, Inc., et al.*, No. 06-1833 (E.D. Pa.) ("End Payor Class Case").

L. "Plaintiff States" means the following States and Commonwealths of the United States, by and through their Attorney Generals, in their sovereign capacity, as plaintiffs, and as *parens patriae* on behalf of Eligible Consumers in such Plaintiff States: Alabama, Alaska, Arizona, Arkansas, Colorado, Connecticut, Delaware, District of Columbia,[1] Florida, Georgia, Hawaii, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Utah, Vermont, Virginia, Washington, West Virginia, Wisconsin, and Wyoming.

M. "Preliminary Approval Order" means an order to be entered by the District Court that preliminarily approves this Settlement Agreement. The Parties intend that the Preliminary Approval Order will include the following provisions: (1) preliminary approval of this Settlement Agreement as fair, reasonable, and adequate and in the best interests of Eligible Consumers; and (2) approval of the Notice Plan.

N. "Related Case" means any of the following cases, or any case consolidated with or merged into the following cases: *Federal Trade Commission v. Cephalon, Inc.*, No. 08-2141 (E.D. Pa.) ("FTC Case"); *King Drug Co., et al. v. Cephalon, Inc., et al.*, No 06-1797 (E.D. Pa.) ("Direct Purchaser Class Case"); *Vista Healthplan, Inc., et al. v. Cephalon, Inc., et al.*, No. 06-1833 (E.D. Pa.) ("End Payor Class Case"); *Apotex, Inc. v. Cephalon, Inc., et al.*, No. 06-2768 (E.D. Pa.); *Rite Aid Corp. v. Cephalon, Inc., et al.*, No. 09-3820 (E.D. Pa.); *Walgreen Co. v. Cephalon, Inc., et al.*, No. 09-3956 (E.D. Pa.); and *Giant Eagle, Inc. v. Cephalon, Inc., et al.*, No. 10-5164 (E.D. Pa.).

[1] The District of Columbia has a "quasi-sovereign interest in the . . . well-being . . . of its residents in general." *See Alfred L. Snapp & Son, Inc. v. Puerto Rico*, 458 U.S. 592, 607 (1982) (applying analysis to Puerto Rico).

O. "Released Claims" means any and all manner of claims, counterclaims, set-offs, demands, actions, rights, liabilities, costs, debts, expenses, attorneys' fees, and causes of action of any type, whether or not accrued in whole or in part, that were asserted or that could have been asserted, known or unknown, against the Cephalon Parties, and/or their officers, directors, employees and attorneys, arising from any of the facts, matters, transactions, events, occurrences, acts, disclosures, statements, omissions, or failures to act set forth or alleged in the Complaint filed by Plaintiff States as part of implementing this Settlement Agreement ("State Complaint"), including, without limitation, past, present and future competition claims arising under federal or state antitrust, unfair competition or consumer protections laws, or state common or equitable law that seeks damages, unjust enrichment, restitution, penalties, or other monetary, declaratory, or injunctive relief, whether brought as direct claims, representative claims, class claims, or *parens patriae* claims on behalf of the States or any other person or entity the States represent for:

1. the alleged delayed entry of generic versions of Provigil (modafinil);
2. conduct with respect to the procurement, maintenance, and enforcement of United States Reissue Patent Number 37,516, United States Patent Number 5,618,845, or United States Patent Number 7,297,346,[2] including but not limited to any commencement, maintenance, defense, settlement, or other participation in litigation concerning any such patents;
3. any conduct relating to Nuvigil that could fairly be characterized as being alleged in, is related to an allegation made in, or could have been alleged

[2] The release of claims concerning United States Patent Number 7,297,346 does not extend to enforcement actions taken by the Cephalon Parties after the execution of this Settlement Agreement.

in the State Complaint, expressly excluding any litigation or agreement with any pharmaceutical manufacturer pertaining to Nuvigil; and

4. the impact on competition in the sale, marketing, or distribution of Provigil or its generic equivalent, except as expressly excluded in this Agreement.

State Attorneys General have authority to release claims held by (a) any Eligible Consumer in a Plaintiff State, who did not timely and validly exclude themselves from this Settlement Agreement, to the extent permitted by state law; (b) each Plaintiff State's Attorney General in his or her sovereign capacity as chief law enforcement officer of his or her respective state; (c) each Plaintiff State for claims of the Plaintiff State, including but not limited to claims based on purchases made by the Plaintiff State; and (d) each Plaintiff State for claims the Plaintiff State may have in a representative capacity, including any *parens patriae*, class, or other representative claims.

Notwithstanding any term in this Agreement, Released Claims specifically do not include claims unrelated to competition, including:

1. any civil or administrative liability under state revenue codes;
2. any civil or administrative liability related to a State's Medicaid program under any statute, regulation, or rule for any conduct other than the conduct alleged in the State Complaint, including, but not limited to, state or federal false claims act, anti-kickback or off-label marketing violations associated with Provigil, modafinil, Nuvigil, or armodafinil;
3. any criminal liability;
4. any liability based upon obligations created by this Agreement;

5. any liability for expressed or implied warranty claims or other liability for defective or deficient products and services provided by the Cephalon Parties;

6. any liability for unfair or deceptive representations made in the marketing or advertising or for off-label marketing claims of Provigil, modafinil, Nuvigil, or armodafinil.

Nothing in this definition of Released Claims is intended to affect the ability of government entities that may be considered class members in the Direct Purchaser Class Case or the End Payor Class Case to submit claims and receive payment through the relevant class claims process.

P. "Released Parties" means the Cephalon Parties and any past and present parents, subsidiaries, divisions, affiliates, joint ventures, stockholders, officers, directors, management, supervisory boards, insurers, general or limited partners, employees, agents, trustees, associates, attorneys and any of their legal representatives, or any other representatives thereof (and the predecessors, heirs, executors, administrators, successors and assigns of each of the foregoing).

Q. "Settlement Accounts" mean the Consumer Compensation Account, the State Proprietary Compensation Account, and the State Disgorgement, Costs, and Fees Account as described in Paragraph II. The Settlement Accounts shall be administered by Huntington National Bank, as Escrow Agent, pursuant to Paragraph IV.

R. "Settlement Administration Costs" means costs to be paid for all actual, customary, and reasonable costs and fees incurred in the administration of this Settlement Agreement, which includes costs and fees incurred for the purpose of (1) compiling necessary Eligible Consumer information and providing notice, including notice by publication or paid

media as may be needed to effectuate adequate notice, (2) completing administrative tasks, and (3) processing and paying claims, including distributing credits and/or checks to Eligible Consumers. Such Settlement Administration Costs expressly include those fees or costs payable to the Escrow Agent and Claims Administrator appointed by Plaintiff States pursuant to Paragraph IV.

S. "Written Direction" means a written notification directed to the Escrow Agent and/or Claims Administrator directing disbursements from the Settlement Accounts and signed by representatives of Ohio and Texas on behalf of Plaintiff States.

II. DISBURSEMENT REQUESTS

A. Consumer Compensation Account

1. Within eight business days of the later of (i) entry of the Preliminary Approval Order by the Court and (ii) receipt in writing of all required payment information, the Cephalon Parties shall submit a Disbursement Request to the Federal Trade Commission under paragraph 8 of the Settlement Fund Disbursement Agreement, which is Exhibit A to the Stipulated Order For Permanent Injunction and Equitable Monetary Relief (Dkt. 405, *FTC v. Cephalon*, Case No. 08-2141, E.D. Pa., 6/17/15) (attached as Exhibit A). The Disbursement Request will request disbursement in the amount of U.S. Dollars $35,000,000 ("Consumer Settlement Payment"). The Disbursement Request will request that the disbursement of the Consumer Settlement Payment be made into a qualified settlement escrow account for disbursement to Eligible Consumers ("Consumer Compensation Account") as directed by Plaintiff States. The Consumer Settlement Payment deposited into the Consumer Compensation Account and any accrued interest after deposit shall become part of and shall be referred to as the "Consumer Fund."

2. The Consumer Compensation Account shall be established and administered pursuant to the Escrow Agreement attached hereto as Exhibit B (the "Escrow Agreement"). Except as otherwise expressly permitted by the Escrow Agreement, the Escrow Agent shall disburse funds from the Consumer Compensation Account only pursuant to and consistent with the express terms of this Settlement Agreement, the Preliminary Approval Order, the Final Approval Order, the Escrow Agreement, and as expressly authorized by any other applicable order of the Court. Interest earned by the Consumer Fund shall become part of the Consumer Fund, less any taxes imposed on such interest.

3. The Consumer Fund shall be available for distributions to Eligible Consumers upon the Effective Date, subject to deductions for payments of taxes payable on the Settlement Fund.

B. State Proprietary Compensation Account

1. Within eight business days of the later of (i) the Preliminary Approval Order being entered by the Court and (ii) receipt in writing of all required payment information, the Cephalon Parties shall submit a Disbursement Request to the Federal Trade Commission as required by paragraph 8 of the Settlement Fund Disbursement Agreement, which is Exhibit A to the Stipulated Order For Permanent Injunction and Equitable Monetary Relief (Dkt. 405, *FTC v. Cephalon*, Case No. 08-2141, E.D. Pa., 6/17/15) (attached as Exhibit A). The Disbursement Request will request disbursement in the amount of U.S. Dollars $55,000,000 ("State Proprietary Compensation Payment"). The Disbursement Request will request that the disbursement of the State Proprietary Compensation Payment be made into a qualified settlement escrow account for disbursement to Plaintiff States ("State Proprietary Compensation Account") as directed by Plaintiff States. The State Proprietary Compensation Payment deposited into the State

Proprietary Compensation Account and any accrued interest after deposit shall become part of and shall be referred to as the "State Proprietary Fund."

2. The State Proprietary Compensation Account shall be established and administered pursuant to the Escrow Agreement attached hereto as Exhibit B (the "Escrow Agreement"). Except as otherwise expressly permitted by the Escrow Agreement, the Escrow Agent shall disburse funds from the State Proprietary Compensation Account only pursuant to and consistent with the express terms of this Settlement Agreement, the Preliminary Approval Order, the Final Approval Order, the Escrow Agreement, and as expressly authorized by any other applicable order of the Court. Interest earned by the State Proprietary Fund shall become part of the State Proprietary Fund, less any taxes imposed on such interest.

3. The State Proprietary Compensation Fund shall be available for distributions to Plaintiff States upon the Effective Date, subject to deductions for payments of taxes payable on the Settlement Fund.

C. State Disgorgement, Costs, and Fees Account

1. Within eight business days of the later of (i) the Preliminary Approval Order being entered by the Court and (ii) receipt in writing of all required payment information, the Cephalon Parties shall submit a Disbursement Request to the Federal Trade Commission as required by paragraph 8 of the Settlement Fund Disbursement Agreement, which is Exhibit A to the Stipulated Order For Permanent Injunction and Equitable Monetary Relief (Dkt. 405, *FTC v. Cephalon*, Case No. 08-2141, E.D. Pa., 6/17/15) (attached as Exhibit A). The Disbursement Request will request disbursement in the amount of U.S. Dollars $35,000,000 ("State Disgorgement, Costs, and Fees Payment"). The Disbursement Request will request that the disbursement of the State Disgorgement, Costs, and Fees Payment be made into a qualified

settlement escrow account for disbursement to Plaintiff States ("State Disgorgement, Costs, and Fees Account") as directed by Plaintiff States. The State Disgorgement, Costs, and Fees Payment deposited into the State Disgorgement, Costs, and Fees Account and any accrued interest after deposit shall become part of and shall be referred to as the "State Disgorgement, Costs, and Fees Fund."

2. The State Disgorgement, Costs, and Fees Account shall be established and administered pursuant to the Escrow Agreement attached hereto as Exhibit B (the "Escrow Agreement"). Except as otherwise expressly permitted by the Escrow Agreement, the State Escrow Agent shall disburse funds from the State Disgorgement, Costs, and Fees Account only pursuant to and consistent with the express terms of this Settlement Agreement, the Preliminary Approval Order, the Final Approval Order, the Escrow Agreement, and as expressly authorized by any other applicable order of the Court. Interest earned by the State Disgorgement, Costs, and Fees Fund shall become part of the State Disgorgement, Costs, and Fees Fund, less any taxes imposed on such interest.

3. The State Disgorgement, Costs, and Fees Fund shall be available for distributions to Plaintiff States upon the Effective Date, subject to deductions for payments of taxes payable on the Settlement Fund and settlement administration costs.

D. The Consumer Settlement Payment, the State Proprietary Compensation Payment, and the State Disgorgement, Costs, and Fees Payment together constitute the Settlement Amount. The sole and total consideration that the Cephalon Parties, by making the above referenced Disbursement Requests, will pay under this Settlement Agreement shall be the Settlement Amount. All Settlement Administration Costs will come out of the States Disgorgement Costs & Fees Amount.

E. No portion of the Settlement Amount shall constitute, or shall be construed as constituting, a payment in lieu of treble damages, fines, penalties, punitive damages or forfeitures.

F. The Settlement does not include any provision for injunctive or declaratory conduct relief.

III. SETTLEMENT DISTRIBUTIONS

A. Distribution to Consumers

1. All funds in the Consumer Compensation Account shall be distributed according to the Distribution Plan (Exhibit C). The Distribution Plan shall be submitted to the District Court for approval concurrently with this Settlement Agreement.

2. The Parties agree and understand that the Distribution Plan is to be considered by the District Court separately from the District Court's consideration of the fairness, reasonableness, and adequacy of the resolution set forth in the Settlement Agreement, and any order or proceedings relating to the Distribution Plan shall not operate to terminate or cancel the Settlement Agreement or affect the finality of the Final Approval Order, or any other orders entered pursuant to the Settlement Agreement.

B. Distribution to States

1. The State Proprietary Compensation Payment and the State Disgorgement Costs & Fees Payment shall be apportioned among the States at their sole discretion. The State Proprietary Compensation Payment shall be distributed to the States on behalf of state purchasers for distribution in accordance with state law. The State Disgorgement Costs & Fees Payment shall be used for settlement administration costs and then collectively or individually by the States' Attorneys General for any one or more of the following purposes, as the Attorneys

General, in their sole discretion, see fit: (i) payment of attorneys' fees and expenses; (ii) antitrust or consumer protection law enforcement; (iii) to cover additional expenses relating to the ongoing Attorneys General's Investigation and any related litigation; (iv) for deposit into a state antitrust or consumer protection account (e.g., revolving account, trust account), for use in accordance with the state laws governing that account; (v) for deposit into a fund exclusively dedicated to assisting state attorneys general enforce the antitrust laws by defraying the costs of a) experts, economists, and consultants in multistate antitrust investigations and litigation, b) training or continuing education in antitrust for attorneys in state attorney general offices, or c) information management systems used in multistate antitrust investigations and litigation; or (vi) for such other purpose as the Attorneys General deem appropriate, consistent with the various states' laws.[3]

IV. SETTLEMENT ADMINISTRATION

A. The Escrow Agent for the Settlement Accounts shall be Huntington National Bank.

1. Other than maintaining an account to meet short-term obligations, the Escrow Agent shall invest the funds in the Settlement Accounts in obligations of, or obligations guaranteed by, the United States of America or any of its departments or agencies, to obtain the

[3] Colorado's allotted share is to be held, along with any interest thereon, in trust by the Attorney General to be used for reimbursement of the State's actual costs and attorneys' fees, the payment of restitution, if any, and for future consumer fraud or antitrust enforcement actions, consumer education, and public health initiatives. Connecticut's allotted share shall be deposited as follows: (a) One Hundred Fifty Thousand Dollars ($150,000) shall be deposited into the State's Department of Consumer Protection "Prescription Drug Monitoring Fund;" (b) Any amounts paid to the State of Connecticut for reimbursement to the state's Medicaid program shall be deposited with the State's Department of Social Services; and (c) The remaining amount shall be deposited into the State's General Fund. Wyoming's allocated share shall be used by the Attorney General of the State of Wyoming as trustee to hold and distribute such amount, pursuant to Wyoming Statute § 9-1-639(a)(i), exclusively for the purpose of addressing consumer protection matters in the State of Wyoming, including future consumer protection enforcement, consumer education, litigation, or grants or other aid to agencies and organizations approved by the Attorney General of the State of Wyoming at his sole discretion. Any interest accruing to these funds will remain with the fund. Vermont's share shall be used in accordance with the Constitution of the State of Vermont, Ch. II, § 27, and 32 V.S.A. § 462.

highest available return on investment, and shall reinvest the proceeds of these instruments as they mature in similar instruments at their then-current market rates. The Cephalon Parties shall bear no risk related to the investment of the escrow funds.

2. The Escrow Agent shall not disburse the funds of the Settlement Accounts except by an order of the District Court or pursuant to Written Direction.

3. All funds held by the Escrow Agent shall be deemed to be in the custody of the District Court, and shall remain subject to the jurisdiction of the District Court, until the funds shall be distributed pursuant to the Settlement Agreement, Distribution Plan, and/or further order(s) of the District Court.

B. Tax Treatment of Settlement Accounts:

1. Parties and Escrow Agent agree to treat the Settlement Accounts as being, at all times, a "qualified settlement fund" within the meaning of Treas. Reg. § 1.468B-1(a). In addition, the Escrow Agent and, as required, the Parties shall jointly and timely make such reasonable elections that are necessary or advisable to carry out the provisions of this Section, including the "relation-back election" (as defined in Treas. Reg. § 1.468B-1(j)(2)(M)), back to the earliest permitted date. Such elections shall be made in compliance with the procedures and requirements contained in such regulation. It shall be the responsibility of the Escrow Agent to timely and properly prepare and deliver the necessary documentation for signature by all necessary Parties, and thereafter to cause the appropriate filing to occur.

2. For the purpose of § 468B of the Internal Revenue Code of 1986, as amended, and the regulations promulgated thereunder, the "administrator" shall be the Escrow Agent. The Escrow Agent shall timely and properly file all informational and other tax returns necessary or advisable with respect to the Settlement Accounts (including without limitation the

returns described in Treas. Reg. § 1.468B-2(k) and (1)). Such returns (as well as any election as described in Paragraph IV.B.1above, shall be consistent with this Section IV, and in all events shall reflect that all taxes (including any estimated taxes, interest or penalties) on the income earned by the Settlement Accounts shall be paid out of the Settlement Accounts.

3. All taxes (including any estimated taxes, interest or penalties) arising with respect to the income earned by the Settlement Accounts, including any taxes that may be imposed upon the Cephalon Parties with respect to any income earned by the Settlement Accounts for any period during which the Settlement Accounts do not qualify as a "qualified settlement fund" for federal, state, or local income tax purposes ("Taxes") shall be paid out of the Settlement Accounts and in all events the Cephalon Parties and their insurers shall have no liability or responsibility for such Taxes or the filing of any tax returns or other documents with the Internal Revenue Service or any other state or local taxing authority in respect of such Taxes. Taxes shall be treated as, and considered to be, a Settlement Administration Cost and shall be timely paid by the Settlement Administrator out of the Settlement Accounts without prior order from the District Court, and the Settlement Administrator and the Escrow Agent shall be obligated (notwithstanding anything herein to the contrary) to withhold from distribution to Plaintiff States any funds necessary to pay such amounts including the establishment for adequate reserves for any Taxes (as well as any amounts that may be required to be withheld under Treas. Reg. § 1.468B-2(1)(2)). The Cephalon Parties and their insurers are not responsible and shall have no liability for such withholdings or for any reporting requirements that may relate thereto. The Parties agree to cooperate with the Settlement Administrator, Escrow Agent, each other, and their tax attorneys and accountants to the extent reasonably necessary to carry out

the provisions of this Paragraph IV. For purposes of this Paragraph, references to the Settlement Accounts shall include the Settlement Accounts and any earnings thereon.

V. REQUESTS FOR APPROVAL AND NOTICE

A. Plaintiff States intend to seek approval from the District Court for the actions that the Parties contemplate for the Consumer Compensation Account and the State Disgorgement, Costs, and Fees Account. Within seven (7) days of this Settlement Agreement being finally executed, Plaintiff States will file a Motion for Preliminary Approval Order. Plaintiff States shall provide a copy of such motion (including all exhibits and attachments to such motion) to the Cephalon Parties for comment in advance of filing.

B. Plaintiff States shall disseminate Notice of the Settlement Agreement to potentially affected Eligible Consumers in the manner and within the time directed by the District Court. The Parties contemplate a Notice Period of ninety (90) days, unless another time period is set by the District Court.

C. Within thirty (30) days following the conclusion of the Notice Period or as otherwise directed by the District Court, Plaintiff States shall file with the District Court a Motion for a Final Approval Order. At least seven (7) days prior to filing their Motion for a Final Approval Order, Plaintiff States shall provide a copy of such motion (including all exhibits and attachments to such motion) to the Cephalon Parties for comment.

VI. RELEASED CLAIMS

A. Upon entry of the Final Approval Order and only as permitted by law, each Plaintiff State shall unconditionally, fully and finally release and forever discharge the Released Parties from all Released Claims.

B. Each Plaintiff State hereby covenants and agrees that it shall not sue or otherwise seek to establish or impose liability, in any capacity and on behalf of itself or any other person or entity or class thereof, against any Released Party based, in whole or in part, on any of the Released Claims. The Final Approval Order shall be deemed *res judicata* of any Released Claim.

C. In addition, the Parties expressly waive, release and forever discharge any and all provisions, rights and benefits conferred by §1542 of the California Civil Code, which reads:

> **Section 1542. General Release; extent.** A general release does not extend to claims which the creditor does not know or suspect to exist in his or her favor at the time of executing the release, which if known by him or her must have materially affected his or her settlement with the debtor;

or by any law of any state or territory of the United States or other jurisdiction, or principle of common law, which is similar, comparable or equivalent to § 1542 of the California Civil Code. The Parties may hereafter discover facts other than or different from those which he, she or it knows or believes to be true with respect to the Released Claims, but each Party hereby expressly waives and fully, finally and forever settles, releases and discharges, upon this Settlement becoming final, any known or unknown, suspected or unsuspected, asserted or unasserted, contingent or non-contingent claim that would otherwise fall within the definition of Released Claims, whether or not concealed or hidden, without regard to the subsequent discovery or existence of such different or additional facts. This provision shall not in any way expand the scope of the Released Claims and shall not convert what is a limited release into a general release.

VII. COOPERATION AND IMPLEMENTATION

A. The Parties, and their respective counsel, agree to cooperate fully to implement the terms and conditions of this Settlement Agreement.

B. The Cephalon Parties waive notice under the tolling agreement with any Plaintiff State and of any claims asserted by any Plaintiff State in the State Complaint.

VIII. NO ADMISSION

A. Neither the Settlement, the Settlement Payment, nor the Settlement Agreement shall be used or construed by any person as an admission of liability by the Cephalon Parties to any party or person, or be deemed evidence of any violation of any statute or law or admission of any liability or wrongdoing by the Cephalon Parties or of the truth of any of the claims or allegations contained in the Related Cases.

IX. BENEFIT AND BINDING EFFECT

A. The terms of this Settlement Agreement shall be binding on, and shall inure to the benefit of the Parties and their successors. The Parties expressly disclaim any intention to create rights under this Settlement Agreement which may be enforced by any other person under any circumstances whatsoever.

X. MISCELLANEOUS

A. The Cephalon Parties may file the Settlement Agreement and/or the Final Approval Order in any action that may be brought against them to support a defense or counterclaim based on principles of res judicata, collateral estoppel, release, good faith settlement, judgment, bar or reduction or any other theory of claim preclusion or issue preclusion or similar defense or counterclaim.

B. Liaison Counsel for the States are expressly authorized by the States to execute this Settlement Agreement on their behalf and take all appropriate action required or permitted to be taken pursuant to the Settlement Agreement to effectuate its terms.

C. Each counsel or other person executing the Settlement Agreement on behalf of any party hereto warrants that such person has full authority to do so.

D. This Settlement Agreement contains the entire agreement and understanding of the Parties. There are no additional promises or terms of the Settlement Agreement other than those contained herein. This Settlement Agreement shall not be modified except in writing signed by counsel for Liaison States and the Cephalon Parties or by their authorized representatives.

E. All dates and time periods in this Settlement Agreement shall be calculated pursuant to the Federal Rules of Civil Procedure. All such dates and time periods may be modified if mutually agreed upon, in writing, signed by counsel for Liaison States and the Cephalon Parties or by their authorized representatives.

F. Each of the parties hereto participated materially in the drafting of this Settlement Agreement. None of the parties hereto shall be considered the drafter of this Settlement Agreement or any provision hereof for the purpose of any statute, case law or rule of interpretation or construction that would or might cause any provision to be construed against the drafter thereof.

G. The captions contained in this Settlement Agreement are inserted only as a matter of convenience and in no way define, limit, extend, or describe the scope of this Settlement Agreement or the intent of any provision hereof.

H. The Settlement Agreement may be executed in one or more counterparts. Scanned signatures, digital signatures or signatures received by facsimile or PDF shall be treated the same as originals for the Settlement Agreement and any written, agreed modification thereof. All executed counterparts and each of them shall be deemed to be one and the same instrument.

I. The terms of the Settlement Agreement shall control in the event there are any conflicting terms in any related document.

J. The Settlement Agreement and any related documents shall be subject to, governed by and construed, interpreted and enforced pursuant to the internal laws of the Commonwealth of Pennsylvania, without regard to choice of law principles.

K. The District Court shall retain jurisdiction with respect to the implementation and enforcement of the terms of the Settlement Agreement, and all Parties hereby submit to the exclusive jurisdiction of the District Court for purposes of implementing and enforcing the Settlement Agreement.

L. Any and all notices, requests, consents, directives, or communications by any party intended for any other party shall be in writing and shall, unless expressly provided otherwise herein, be provided by United States mail and electronic mail to:

For the States:

Director & Chief Counsel
Consumer Protection Division
Office of the Attorney General of Indiana
219 State House
200 West Washington Street
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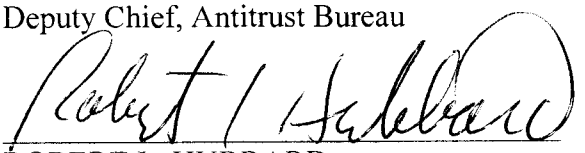

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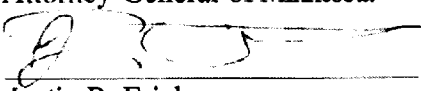

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EXHIBIT A

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

FEDERAL TRADE COMMISSION, 600 Pennsylvania Avenue, N.W. Washington, D.C. 20580 Plaintiff, v. CEPHALON, INC., 41 Moores Road Frazer, Pennsylvania 19355 Defendant.	:	CIVIL ACTION No. 2:08-cv-2141

STIPULATED ORDER FOR PERMANENT INJUNCTION AND EQUITABLE MONETARY RELIEF

Plaintiff, the Federal Trade Commission ("Commission"), filed its Complaint for Injunctive Relief, subsequently amended as Plaintiff Federal Trade Commission's First Amended Complaint for Injunctive Relief, ("Complaint"), in this matter pursuant to Section 13(b) of the Federal Trade Commission Act ("FTC Act"), 15 U.S.C. § 53(b). The Commission, Cephalon, Inc. ("Cephalon") and Teva Pharmaceutical Industries Ltd. ("Teva") have reached an agreement to resolve this case through settlement, and without trial or final adjudication of any issue of fact or law, and stipulate to entry of this Stipulated Order for Permanent Injunction and Equitable Monetary Relief ("Order") to resolve all matters in dispute in this action.

THEREFORE, IT IS ORDERED as follows:

DEFINITIONS

For purposes of this Order, the following definitions apply:

1. "Commission" means the United States Federal Trade Commission.

2. "Cephalon" means Cephalon, Inc.

3. "Cephalon Group" means Cephalon, any joint venture, subsidiary, division, group, or affiliate Controlled currently or in the future by Cephalon that engages in Commerce in the United States, their successors and assigns, and the respective directors, officers, employees, agents and representatives acting on behalf of each.

4. "Teva" means Teva Pharmaceutical Industries Ltd.

5. "Teva US Entities" means any joint venture, subsidiary, division, group, or affiliate Controlled currently or in the future by Teva that engages in Commerce in the United States.

6. "Teva Group" means Teva, Teva US Entities, their successors and assigns, and the respective directors, officers, employees, agents, and representatives acting on behalf of each.

7. "Cephalon Parties" mean Cephalon, Cephalon Group, Teva and Teva Group.

8. "ANDA" means an Abbreviated New Drug Application filed with the United States Food and Drug Administration pursuant to Section 505(j) of the Federal Food, Drug and Cosmetic Act, 21 U.S.C.§ 355(j).

9. "ANDA Filer" means a party to a Brand/Generic Settlement who controls an ANDA for the Subject Drug Product or has the exclusive right under such ANDA to distribute the Subject Drug Product.

10. "ANDA Product" means a Drug Product manufactured under an ANDA.

11. "Brand/Generic Settlement" means any agreement or understanding that settles a Patent Infringement Claim in or affecting Commerce in the United States.

12. "Brand/Generic Settlement Agreement" means a written agreement that settles a Patent Infringement Claim in or affecting Commerce in the United States.

13. "Branded Subject Drug Product" means a Subject Drug Product marketed, sold or distributed in the United States under the proprietary name identified in the NDA for the Subject Drug Product.

14. "Commerce" has the same definition as it has in 15 U.S.C. § 44.

15. "Control" or "Controlled" means the holding of more than fifty percent (50%) of the common voting stock or ordinary shares in, or the right to appoint more than fifty percent (50%) of the directors of, or any other arrangement resulting in the right to direct the management of, the said corporation, company, partnership, joint venture or entity.

16. "Drug Product" means a finished dosage form (e.g., tablet, capsule, or solution), as defined in 21 C.F.R. § 314.3(b), that contains a drug substance, generally, but not necessarily, in association with one or more other ingredients.

17. "NDA" means a New Drug Application filed with the United States Food and Drug Administration pursuant to Section 505(b) of the Federal Food, Drug and Cosmetic Act, 21 U.S.C. § 355(b), including all changes or supplements thereto which do not result in the submission of a new NDA.

18. "NDA Holder" means a party to a Brand/Generic Settlement that controls the NDA for the Subject Drug Product or has the exclusive right to distribute the Branded Subject Drug Product.

19. "U.S. Patent" means any patent issued by the United States Patent and Trademark Office, including all renewals, derivations, divisions, reissues, continuations, continuations-in part, modifications or extensions thereof.

20. "Patent Infringement Claim" means any allegation threatened in writing or included in a complaint filed with a court of law, that an ANDA Product may infringe any U.S. Patent held by, or exclusively licensed to, an NDA Holder.

21. "Payment by the NDA Holder to the ANDA Filer" means transfer of value by the NDA Holder to the ANDA Filer (including, but not limited to, money, goods or services), regardless of whether the ANDA Filer purportedly transfers value in return, where such transfer is either (i) expressly contingent on entering a Brand/Generic Settlement Agreement, or (ii) agreed to during the 60 day period starting 30 days before executing a Brand/Generic Settlement Agreement and ending 30 days after executing a Brand/Generic Settlement Agreement. The following, however, are not Payment by the NDA Holder to the ANDA Filer:

    a. compensation for saved future litigation expenses not to exceed a maximum limit, which is initially set at seven million dollars ($7,000,000), and shall be increased (or decreased) as of January 1 of each year by an amount equal to the percentage increase (or decrease) from the previous year in the annual average Producer Price Index for Legal Services (Series Id. PCU5411--5411--) published by the Bureau of Labor Statistics of the United States Department of Labor, or its successor;

    b. provisions in a Brand/Generic Settlement Agreement providing a date after which an ANDA Filer can begin selling, offering for sale or distributing the Subject Drug Product;

c. provisions in a Brand/Generic Settlement Agreement through which the NDA Holder provides the ANDA Filer an exclusive license to the Subject Drug Product;

d. provisions in a Brand/Generic Settlement Agreement that permit an ANDA Filer to begin selling, offering for sale, or distributing the Subject Drug Product once another drug company begins selling, offering for sale, or distributing the Subject Drug Product;

e. an agreement to settle or resolve a different litigation claim, so long as that separate agreement independently complies with the terms of this Order (including the timing provisions above); and

f. continuation or renewal of a pre-existing agreement so long as (i) the pre-existing agreement was entered at least 90 days before the relevant Brand/Generic Settlement Agreement, (ii) the terms of the renewal or continuation, including the duration and the financial terms, are substantially similar to those in the pre-existing agreement, and (iii) entering the continuation or renewal is not expressly contingent on agreeing to a Brand/Generic Settlement.

22. "Related Case" means (a) any of the following cases, or any case consolidated with or merged into the following cases: *King Drug Co., et al. v. Cephalon, Inc., et al.*, No 06-1797 (E.D. Pa.) ("Direct Purchaser Class Case"); *Vista Healthplan, Inc., et al. v. Cephalon, Inc., et al.*, No. 06-1833 (E.D. Pa.) ("End Payor Class Case"); *Apotex, Inc. v. Cephalon, Inc., et al.*, No. 06-2768 (E.D. Pa.); *Rite Aid Corp. v. Cephalon, Inc., et al.*, No. 09-3820 (E.D. Pa.); *Walgreen Co. v. Cephalon, Inc., et al.*, No. 09-3956 (E.D. Pa.); and *Giant Eagle, Inc. v. Cephalon, Inc., et al.*, No. 10-5164 (E.D. Pa.); or (b) any other

government investigation or litigation that is threatened in writing or filed that seeks to recover damages or equitable monetary relief based on alleged anticompetitive or other unlawful practices by the Cephalon Parties in connection with (i) the procurement, listing or enforcement of patents related to the drug Provigil®, (ii) FDA exclusivities related to the drug Provigil®, or (iii) settling litigation related to the drug Provigil®.

23. "Subject Drug Product" means the Drug Product for which one or more Patent Infringement Claims are settled under a given Brand/Generic Settlement. For purposes of this Order, the Drug Product of the NDA Holder and the ANDA Filer to the same Brand/Generic Settlement shall be considered to be the same Subject Drug Product.

24. "Verified Accounting" means a written statement by a representative of the Cephalon Parties, made pursuant to 28 U.S.C. § 1746, that verifies the relevant details of each relevant settlement and judgment.

FINDINGS

1. This Court has jurisdiction over the parties and the subject matter of this action. Teva has stipulated that, for purposes of this Order alone, the Court has personal jurisdiction over Teva.

2. Venue for this matter is proper in this Court under Sections 5(a) and 13(b) of the FTC Act, 15 U.S.C. §§ 45(a), 53(b).

3. The Complaint charges that Cephalon engaged in anticompetitive acts that constitute an unfair method of competition in violation of Sections 5(a) and 13(b) of the FTC Act, 15 U.S.C. §§ 45(a) and 53(b), by entering agreements that delayed the launch of generic equivalents of the name-brand drug Provigil®.

4. In *FTC v. Actavis*, 133 S. Ct. 2223 (2013), the United States Supreme Court held that certain agreements to settle patent litigation can violate the United States antitrust laws, including the FTC Act.

5. Cephalon has answered the Complaint denying the charges, and disputes that the Commission is entitled to obtain relief, including monetary relief under Section 13(b) of the FTC Act.

6. Cephalon admits the facts necessary to establish the personal and subject matter jurisdiction of this Court in this matter only.

7. The Court denied Cephalon's motion for summary judgment.

8. The Commission and Cephalon have agreed to stipulate to entry of this Order to resolve the litigation between them.

9. Cephalon waives any claim that it may have under the Equal Access to Justice Act, 28 U.S.C. § 2412, concerning the prosecution of this action through the date of this Order, and agrees to bear its own costs and attorney fees in this action.

10. Cephalon waives all rights to appeal or otherwise challenge or contest the validity of this Order.

11. This Order does not constitute any evidence against the Cephalon Parties, or an admission of liability or wrongdoing by the Cephalon Parties in this case, any Related Case, or any other case or proceeding. This Order shall not be used in any way, as evidence or otherwise, in any Related Case or other proceeding; *provided that*, nothing in this provision prevents the Commission from using this Order in this case, in any proceeding regarding enforcement or modification of this Order, or as otherwise required by law.

12. Entry of the Order satisfies the requests for relief made by the FTC in its complaint and is in the public interest.

STIPULATIONS

1. Teva stipulates that, in return for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Teva agrees to be fully bound by the terms of this Order.
2. Teva stipulates that it will not object to the Commission's right to seek relief under this Order against Teva to the same extent the Commission can seek relief against Cephalon (or Cephalon's successors and assigns). Teva does not otherwise waive its right to contest any enforcement action against it.
3. For purposes of this Order alone, Teva does not contest personal jurisdiction of this Court over Teva. Teva is an Israeli company with its principal place of business at 5 Basel Street, Petah Tikva, 49131, Israel.
4. Teva stipulates that it is the ultimate corporate parent of Cephalon.
5. Teva stipulates that venue for this matter is proper in this Court under Sections 5(a) and 13(b) of the FTC Act, 15 U.S.C. §§ 45(a), 53(b).
6. Teva stipulates that all stipulations herein are made on behalf of, and include, Teva and Teva Group.
7. The Cephalon Parties stipulate that they shall comply with the provisions of this Order pending its entry by the Court.

ORDER

I. Prohibited Agreements

IT IS ORDERED that

A. From the date this Order is signed by Cephalon and Teva, the Cephalon Parties are prohibited from, together or separately, entering into any Brand/Generic Settlement that includes: (1) Payment by the NDA Holder to the ANDA Filer; and (2) an agreement by the ANDA Filer not to research, develop, manufacture, market or sell the Subject Drug Product for any period of time,

provided, however, that any agreement entered into by an entity prior to that entity becoming part of the Cephalon Parties is not subject to the terms of this Order;

provided further, however, that the Cephalon Parties may enter into any written agreement that receives the prior approval of the Commission. Within thirty (30) days of receiving a request for prior approval under this paragraph, the Director of the Bureau of Competition (or his or her designee) shall consider the request in good faith and shall notify the requesting party in writing whether Commission staff believes the relevant agreement raises issues under Section 5 of the FTC Act and the reasons for such a belief, or this Order shall be deemed not to preclude the requesting party from entering into the subject written agreement.

B. Nothing in this Order shall prohibit the Cephalon Parties from purchasing, merging with, or otherwise acquiring or being acquired by any party with which a Cephalon Party has entered a Brand/Generic Settlement.

C. In the event of a material change in the law governing the antitrust implications of Brand/Generic Settlements, the Commission will consider, in good faith, modifications to this Order proposed by the Cephalon Parties.

II. Equitable Monetary Relief

IT IS FURTHER ORDERED that

A. The Cephalon Parties shall pay One Billion and Two Hundred Million Dollars (US$ 1,200,000,000) as equitable monetary relief, which shall be used for a settlement fund ("Settlement Fund") in accordance with the terms of this Order, including the Settlement Fund Disbursement Agreement, attached hereto as Exhibit A.

B. Subject to Paragraphs II.C and II.D, no later than the thirtieth day following the date of entry of this Order, the Cephalon Parties shall deposit the Settlement Fund into an escrow account to be designated by the Commission ("Settlement Account") and to be administered by the Commission or its agent. As set forth in the Settlement Fund Disbursement Agreement, the amount of the Settlement Fund that is deposited into the Settlement Account shall be held in trust to satisfy the amount of any settlement or judgment in a Related Case.

C. Any amount that the Cephalon Parties have paid in settlement or judgment in the Related Cases prior to the thirtieth day following the date of entry of this Order shall be credited against the Settlement Fund, and the total amount to be deposited by the Cephalon Parties into the Settlement Account shall be reduced accordingly.

D. If the Cephalon Parties have signed a binding settlement agreement or binding term sheet to resolve a Related Case prior to the thirtieth day following the date of the entry of this Order, the amount agreed to be paid in settlement of such Related Case shall be credited against the Settlement Fund, and the amount to be deposited by the Cephalon Parties into the Settlement Account shall be reduced accordingly. In the event that such a settlement is disapproved by the court or otherwise terminated, the Cephalon Parties shall deposit the amount of any uncommitted settlement funds into the Settlement Account within four (4) months of such

disapproval or termination, unless the Director of the Bureau of Competition or his or her designee determines that, for good cause shown, the monies may continue to be maintained by the Cephalon Parties for settlement of Related Cases for such period as the Director of the Bureau of Competition or his or her designee prescribes.

E. The Cephalon Parties shall submit to the Commission a Verified Accounting of all individual credits against the Settlement Fund under Paragraphs II.C and II.D no later than sixty (60) days after the date of the entry of this Order. The Cephalon Parties shall submit the Verified Accounting to the Secretary of the Commission and send an electronic version of the Verified Accounting to the Compliance Division of the Bureau of Competition at bccompliance@ftc.gov.

F. The payment provided for herein is provided for purposes of settlement only. No portion of the payment shall constitute, or shall be construed as constituting, a payment in lieu of treble damages, fines, penalties, punitive damages or forfeitures.

III. Reporting Requirements

IT IS FURTHER ORDERED that:

A. The Cephalon Parties shall submit to the Commission a verified written report setting forth in detail the manner and form in which the Cephalon Parties have complied and are complying with this Order:

1. Within sixty (60) days after entry of this Order, and

2. On the first anniversary of entry of this Order, and annually thereafter for nine (9) years.

B. The Cephalon Parties shall include with each verified written report required by this provision, a copy of any additional agreement with a party to a Brand/Generic Settlement to

which a Cephalon Party is also signatory if (i) the relevant Brand/Generic Settlement Agreement includes an agreement by the ANDA Filer not to research, develop, manufacture, market or sell the Subject Drug Product for any period of time, and (ii) the relevant additional agreement is entered within a year of executing the Brand/Generic Settlement Agreement, *provided that,* the Cephalon Parties do not need to submit any additional agreement that they submitted to the Commission with a prior verified written report required by this provision;

C. The Cephalon Parties shall submit each report required under this paragraph to the Secretary of the Commission and shall send an electronic copy of each report to the Compliance Division of the Bureau of Competition of the Commission at bccompliance@ftc.gov.

D. No information or documents obtained by the means provided in this Paragraph shall be divulged by the Commission to any person other than an authorized representative of the Commission, except in the course of a legal proceeding regarding enforcement or modification of this Order, or as otherwise required by law.

E. This Order does not alter the reporting requirements of the Cephalon Parties pursuant to Section 1112 of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003.

IV. Change of Corporate Control

IT IS FURTHER ORDERED that

A. The Cephalon Parties shall notify the Commission at least thirty (30) days prior to any proposed dissolution, acquisition, merger, or consolidation of Teva that might affect compliance obligations arising out of this Order.

B. The Cephalon Parties shall submit any notice required under this paragraph to the Secretary of the Commission and shall send an electronic copy of the notification to the

Compliance Division of the Bureau of Competition of the Commission at bccompliance@ftc.gov.

C. No information or documents submitted pursuant to this Paragraph shall be divulged by the Commission to any person other than an authorized representative of the Commission, except in the course of a legal proceeding regarding enforcement or modification of this Order, or as otherwise required by law.

V. Access to Information

A. For the purpose of determining or securing compliance with this Order, subject to any legally recognized privilege, and upon written request with reasonable notice to the Cephalon Parties, the Cephalon Parties shall permit any duly authorized representative of the Commission:

1. Access, during office hours and in the presence of counsel, to all facilities and access to inspect and copy, at the Cephalon Parties' expense, non-privileged books, ledgers, accounts, correspondence, memoranda and other records and documents in the possession or under the control of the Cephalon Parties reasonably related to this Order; and

2. Upon reasonable notice to the Cephalon Parties, to interview a reasonable number of officers, directors, or employees of the Cephalon Parties, who may have counsel present, regarding any such matters.

B. No information or documents obtained by the means provided in this Paragraph shall be divulged by the Commission to any person other than an authorized representative of the Commission, except in the course of a legal proceeding regarding enforcement or modification of this Order, or as otherwise required by law.

VI. Retention of Jurisdiction

IT IS FURTHER ORDERED that this Court retains jurisdiction of this matter for purposes of construction, modification, and enforcement of this Order.

VII. Expiration of Order

IT IS FURTHER ORDERED that this Order shall expire ten (10) years after the date it is entered.

VIII. Dismissal and Costs

This action shall be dismissed with prejudice. Each party shall bear its own costs.

SO ORDERED this 17 day of June, 2015.

Hon. Mitchell S. Goldberg
UNITED STATES DISTRICT JUDGE

SO STIPULATED AND AGREED:

FOR PLAINTIFF FEDERAL TRADE COMMISSION:

_____ Date: _____

Markus H. Meier
Assistant Director
Health Care Division
Bureau of Competition
Federal Trade Commission

FOR CEPHALON, INC.:

_____ Date: 5/22 2015

Name: Siggi Olafsson

Title: President & CEO, Global Generic Medicines

_____ Date: _____

Name:

Title:

_____ Date: _____

James C. Burling
Wilmer Cutler Pickering Hale and Dorr LLP
COUNSEL FOR CEPHALON, INC.

SO STIPULATED AND AGREED:

FOR PLAINTIFF FEDERAL TRADE COMMISSION:

Date: 5/22/15

Markus H. Meier
Assistant Director
Health Care Division
Bureau of Competition
Federal Trade Commission

FOR CEPHALON, INC.:

Date: _____

Name:

Title:

LEGAL AFFAIRS BR

Date: 5/21/2015

Name: Ildiko Mehes

Title: VP & GC, NA Generics

Date: 5/22/2015

James C. Burling
Wilmer Cutler Pickering Hale and Dorr LLP
COUNSEL FOR CEPHALON, INC.

FOR TEVA PHARMACEUTICAL INDUSTRIES LTD.:

Name: Eyal Desheh
Title: EVP and CFO

Date: 5/21/2015

Name: **Dov P. Bergwerk**
Title: SVP, General Counsel-Corporate & Company Secretary

Date: 5/21/15

LEGAL AFFAIRS BR

Jay P. Lefkowitz, P.C.
Kirkland & Ellis LLP
COUNSEL FOR TEVA PHARMACEUTICAL INDUSTRIES LTD.

Date: 5/21/15

Federal Trade Commission v. Cephalon, Inc., CA 2:08-cv-2141-MSG

Exhibit A to Stipulated Order for Permanent Injunction and Equitable Monetary Relief

SETTLEMENT FUND DISBURSEMENT AGREEMENT

SETTLEMENT FUND DISBURSEMENT AGREEMENT

Plaintiff, the Federal Trade Commission ("Commission"), Cephalon, Inc. ("Cephalon"), and Teva Pharmaceutical Industries, Ltd. ("Teva") hereby enter into this Settlement Fund Disbursement Agreement, which is Exhibit A to the Stipulated Order for Permanent Injunction and Equitable Monetary Relief. The Settlement Fund Disbursement Agreement and the Stipulated Order for Permanent Injunction and Equitable Monetary Relief are collectively referred to herein as the "Order."

1. Unless otherwise noted herein, the capitalized terms in this Settlement Fund Disbursement Agreement have the same meaning as in the Stipulated Order for Permanent Injunction and Equitable Monetary Relief.

SETTLEMENT ACCOUNT

2. The Settlement Fund required by the Order (except for monies credited against the Settlement Fund under Paragraph II of the Order) will be held in trust in an escrow account established and maintained by the Commission or its agent ("Settlement Account"). The Commission will provide the Cephalon Parties with instructions for wiring the Settlement Fund into the Settlement Account, as well as any other necessary paperwork or instructions. Disbursement of the proceeds of the Settlement Account shall be made by the Commission in accordance with the requirements of the Order.
3. Any interest earned on amounts deposited into the Settlement Account will remain in the Settlement Account, and will become part of the Settlement Fund.
4. The Commission may use the Settlement Fund to pay reasonable costs necessary to administer the Settlement Account. The Cephalon Parties will not be required to pay any additional monies, over and above the Settlement Fund required to be deposited pursuant

to the Order, to cover any expenses, fees, or other costs associated with the Settlement Account.

5. The Cephalon Parties may, no more frequently than once a month, submit a request to the Commission in writing for a statement of the remaining balance in the Settlement Account, and an itemized list of any disbursements made from the Settlement Account. Any such request shall be submitted to the Secretary of the Commission, and, on the same day, an electronic copy of the request shall be submitted to the Compliance Division of the Bureau of Competition of the Commission at bccompliance@ftc.gov and the Financial Management Office of the Commission at Finance@ftc.gov. The Chief Financial Officer of the Commission or his or her designee will provide the information requested within fifteen (15) business days.

DISBURSEMENT OF FUNDS FROM THE SETTLEMENT ACCOUNT

6. Except as provided for in this Settlement Fund Disbursement Agreement, the Settlement Fund shall be held in trust and used solely to satisfy the amount of any settlement (including associated fees, costs, and expenses) reached by the Cephalon Parties in a Related Case, or the amount of any judgment (including associated fees, costs, and expenses) against the Cephalon Parties in a Related Case, regardless of the date of that settlement or judgment.

7. The Cephalon Parties shall submit a list of Related Cases that have not been settled and for which a judgment has not been entered ("Remaining Cases List") on or up to 30 (thirty) days before the five-year anniversary of the entry of this Order, and each year thereafter, until, in the good faith belief of the Cephalon Parties, settlements have been reached, or final judgments entered, in the relevant Related Cases. The Cephalon Parties

shall submit the Remaining Cases List to the Secretary of the Commission, and, on the same day, transmit an electronic copy of the request to the Compliance Division of the Bureau of Competition of the Commission at bccompliance@ftc.gov. If the Cephalon Parties do not submit a Remaining Cases List as provided in this paragraph, or the term of the Order has expired, any monies remaining in the Settlement Account, less reasonable administrative expenses, shall be paid to the Treasurer of the United States.

8. To obtain disbursement from the Settlement Account as authorized by the Order, the Cephalon Parties shall submit a written request for disbursement with the Commission ("Disbursement Request"). The Disbursement Request shall include:

a. a reference to the Order;

b. contact information, including business address, phone number and email address, for the relevant contact person(s) for the Cephalon Parties ("Cephalon Parties' Contact");

c. the identity of the party or parties threatening or asserting a claim in the relevant Related Case ("Settling Parties");

d. contact information, including business address, phone number, e-mail address, and relationship to the Settling Parties, for the contact person(s) for the Settling Parties in the relevant Related Case ("Settling Parties' Contact");

e. a copy of the settlement or judgment in the Related Case for which disbursement is being sought;

f. the complaint filed in the Related Case or other documents sufficient to show the allegations and relief sought by the Settling Parties;

g. the amount of the settlement or judgment in the Related Case ("Disbursement Amount"); and

h. the information necessary to wire the Disbursement Amount from the Settlement Account to the Settling Parties.

9. The Cephalon Parties shall submit the Disbursement Request to the Secretary of the Commission, and on the same day, send an electronic copy of the request to the Compliance Division of the Bureau of Competition of the Commission at bccompliance@ftc.gov.

10. Within ten (10) business days of receiving the Disbursement Request, the Director of the Bureau of Competition or his or her designee ("BC Director") shall

a. if the Disbursement Request complies with the requirements of the Order, authorize transfer of the Disbursement Amount to the Settling Parties and notify the Cephalon Parties' Contact and the Settling Parties' Contact in writing that the transfer has been authorized; or

b. if the BC Director believes that additional information is required to determine the whether the Disbursement Request complies with the requirements of the Order, notify the Cephalon Parties' Contact and the Settling Parties' Contact in writing and identify the additional information required; or

c. if the BC Director believes that the Disbursement Request does not comply with the requirements of the Order, notify the Cephalon Parties' Contact and the Settling Parties' Contact and provide a written explanation why the Disbursement Request has been denied and how, in the BC Director's view, the Disbursement Request does not comply with the requirements of the Order.

11. Within ten (10) business days of receiving the information requested under Paragraph 10 above (if such information is requested), the BC Director shall

    a. if the Disbursement Request complies with the requirements of the Order, authorize transfer of the Disbursement Amount to the Settling Parties and notify the Cephalon Parties' Contact and the Settling Parties' Contact in writing that the transfer has been authorized; or

    b. if the BC Director believes that the Disbursement Request does not comply with the requirements of the Order, notify the Cephalon Parties' Contact and the Settling Parties' Contact and provide a written explanation why the Disbursement Request has been denied and how, in the BC Director's view, the Disbursement Request does not comply with the requirements of the Order.

12. If the Commission and the Cephalon Parties cannot agree on whether a Disbursement Request complies with the requirements of the Order, either party may petition the Court for a determination.

13. Any settlement of the Direct Purchaser Class Case or the End Payor Class Case that is approved by the Court complies with the Order, and a Disbursement Request submitted for any such settlement will be approved provided the requirements of Paragraph 8 are met.

14. Disbursement Requests shall be authorized in the order they are submitted to the Commission by the Cephalon Parties.

15. If this Settlement Fund Disbursement Agreement or any of its provisions are ruled invalid or unenforceable, in whole or in part, the Commission and the Cephalon Parties agree to work together on modifications to effectuate the intent of the settlement.

CONFIDENTIALITY

16. Any information submitted under this Settlement Fund Disbursement Agreement shall not be divulged by the Commission to any person other than an authorized representative of the Commission, except in the course of a legal proceeding regarding enforcement or modification of this Order, or as otherwise required by law.

CLOSING THE SETTLEMENT ACCOUNT

17. The Commission shall close the Settlement Account if the entire Settlement Fund (less any remaining reasonable administrative costs) has been fully disbursed or, in accordance with Paragraph 7, the Commission pays any monies remaining in the Settlement Account (less any remaining reasonable administrative costs) to the Treasurer of the United States. The BC Director shall provide written notice to the Cephalon Parties of the intent to close the Settlement Account no later than thirty (30) days in advance of closing the Settlement Account, and shall provide written notice to the Cephalon Parties when the Settlement Account is closed.

18. The Commission will not close the Settlement Account until all reasonable administrative costs have been paid.

EXHIBIT B

ESCROW AGREEMENT

THIS ESCROW AGREEMENT, dated as of May 16, 2016 ("Escrow Agreement"), is entered into by the State of Ohio, through its Attorney General, on behalf of the Plaintiff States, as defined in the Settlement Agreement, and The Huntington National Bank, an Ohio banking corporation, as Escrow Agent hereunder ("Escrow Agent").

RECITAL

A. Plaintiff States and "Cephalon, Inc., Barr Laboratories, Inc., Teva Pharmaceutical Industries Ltd., and Teva Pharmaceuticals USA, Inc.". (hereinafter Cephalon Parties) have entered into a Settlement Agreement (copy of which is attached hereto and the terms and definitions of which are incorporated herein), pursuant to which the Provigil litigation to be filed by the Plaintiff States against the Cephalon Parties will be resolved, upon court approval. The Settlement Agreement provides that the Cephalon Parties shall submit a Disbursement Request to the Federal Trade Commission under Section II of the Settlement Fund Disbursement Agreement, which is Exhibit A to the Stipulated Order For Permanent Injunction and Equitable Monetary Relief (Dkt. 405, *FTC v. Cephalon*, Case No. 08-2141, E.D. Pa., 6/17/15) (attached as Exhibit 1). The Disbursement Request will request disbursement in the total amount of $125,000,000.00 to be paid to the Escrow Agent for the benefit of the Plaintiff States. These monies will be distributed to various Settlement Accounts and otherwise in accordance with the terms of this Agreement.

B. Pursuant to the Settlement Agreement, the Escrow Agent is to establish three accounts, a separate Consumer Compensation Account, the States' Proprietary Compensation Account, and the States' Disgorgement, Cost and Fees Account (the "Settlement Accounts"), into which the monies paid as described in Paragraph A above are to be applied.

C. Counsel for the Plaintiff States have appointed the Escrow Liaison Counsel for Plaintiff States (as defined below) to represent them for all purposes in connection with the settlement.

D. Counsel for the Plaintiff States, by and through the Liaison Counsel for Plaintiff States, agree to appoint Huntington Bank as the Escrow Agent and Huntington Bank is willing to act as Escrow Agent hereunder in accordance with the terms and conditions of this Escrow Agreement. In order to administer the Escrow Funds (as defined below), the Parties hereto have entered into this Escrow Agreement.

STATEMENT OF AGREEMENT

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereto, for themselves, their successors and assigns, hereby agree to the foregoing and as follows:

1. Definitions.

a. All capitalized terms used herein shall have the same meaning as provided

for in the Settlement Agreement, unless the capitalized term is expressly defined herein.

b. "Written Direction" shall mean a written notification, signed by at least two Liaison Counsel for Plaintiff, in the form attached hereto as Exhibit A. Each Written Direction shall include a certification by Liaison Counsel for Plaintiff States that the instructions in the notification are being made pursuant to the Settlement Agreement and this Escrow Agreement and that such Liaison Counsel is authorized to act on behalf of such State or other authority in accordance with the terms of this Agreement.

c. "Escrow Funds" shall mean the $125,000,000.00 deposited as described in Paragraph A above with the Escrow Agent pursuant to this Escrow Agreement, together with any interest and other income thereon, into the Settlement Accounts. These Escrow Funds will be distributed into the Settlement Accounts in accordance with Section 3 below.

d. "Liaison Counsel for Plaintiff States" shall mean, for purposes of this Escrow Agreement, the designated representatives for the Attorneys General of the States of Ohio, Texas and Vermont described in an incumbency certificate and any other designated representatives about which the Escrow Agent is notified in writing.

2. Appointment of and Acceptance by Escrow Agent. The Liaison Counsel for Plaintiff States hereby appoint Huntington Bank to serve as the Escrow Agent hereunder. Escrow Agent hereby accepts such appointment and, upon receipt by wire transfer of the Escrow Funds in accordance with Section 3 below, agrees to hold, invest and disburse the Escrow Funds in accordance with this Escrow Agreement.

3. Creation of the Settlement Accounts. The Escrow Agent shall establish the following accounts ("Settlement Accounts"):

a. Consumer Compensation Account: The Escrow Agent will establish one Consumer Compensation Settlement Account, in the Amount of $35,000,000.00. The Consumer Compensation Account shall be used to fund the Consumer distribution, as described in Section II.A of the Settlement Agreement. The Escrow Agent shall only distribute funds in the Consumer Compensation Account pursuant to a Court-approved Distribution Plan which has become Final within the meaning of Section I paragraph H ("Final Approval Order") and Section II.A(2) of the Settlement Agreement. Any and all interest earned on the Consumer Compensation Account shall accrue to and become a part of the Consumer Compensation Account and shall be used to fund the Consumer.

i. Cephalon Parties will submit a Disbursement Request to the Federal Trade Commission as described in paragraph A in order to effectuate the transfer the sum they are obligated to pay under Section II of the Settlement Agreement to the Escrow Agent, by wire transfer of immediately available funds, to the following account:

The Huntington National Bank, N.A.
ABA # 044000024
National Settlements Wire Account

A/C # 01893320239
FFC Provigil Consumer Compensation Account
A/C # 1087218656

b. States' Proprietary Compensation Account: The States' Proprietary Compensation Account shall be used to fund the compensation to the States, in the Amount of $55,000,000.00, as described in Section II.B of the Settlement Agreement. Any and all interest earned on the States' Compensation Settlement Account shall accrue to and become a part of the States' Proprietary Compensation Settlement Account and shall be apportioned among the Plaintiff States.

i. Cephalon Parties will submit a Disbursement Request to the Federal Trade Commission as described in paragraph A in order to effectuate the transfer the sum they are obligated to pay under Section I paragraph H ("Final Approval Order") and Section II.B(2) of the Settlement Agreement to the Escrow Agent, by wire transfer of immediately available funds, to the following account:

The Huntington National Bank, N.A.
ABA # 044000024
National Settlements Wire Account
A/C # 01893320239
FFC Provigil States' Proprietary Compensation Account
A/C # 10872187109

ii. The States' Proprietary Compensation Account, as established pursuant to this Section, shall be tax-free.

c. States' Disgorgement, Cost & Fees Account: The State" Disgorgement, Cost & Fees Account shall be used to pay the States and fund Settlement Administration Costs, in the total Amount of $35,000,000.00., as described in Section II.C of the Settlement Agreement. Any and all interest earned on the States' Disgorgement, Fees & Costs Account shall accrue to and become part of the States' Disgorgement, Fees & Costs Account and shall be used to pay the States and the Settlement Administration Costs.

i. Cephalon Parties will submit a Disbursement Request to the Federal Trade Commission as described in paragraph A in order to effectuate the transfer the sum they are obligated to pay under Section I paragraph H ("Final Approval Order") and Section II.C(2) of the Settlement Agreement to the Escrow Agent, by wire transfer of immediately available funds, to the following account:

The Huntington National Bank, N.A.
ABA # 044000024
National Settlements Wire Account

A/C # 01893320239
FFC Provigil Disgorgement Account
A/C # 1087218754

ii. If, after final distribution of all funds in the Consumer Compensation Settlement Account and after payment of all incurred, committed or anticipated Settlement Administration Costs, as defined in the Settlement Agreement, there are any unused funds remaining, the Escrow Agent shall pay the remaining funds as directed by Liaison Counsel for Plaintiff States or by order of Court.

4. Disbursement of Escrow Funds. The Escrow Agent shall disburse Escrow Funds, at any time and from time to time, in accordance with the Written Directions from the Liaison Counsel for Plaintiff States or by order of the Court. The Escrow Agent shall not disburse Escrow Funds except pursuant to Written Directions from the Liaison Counsel for Plaintiff States or by order of Court.

5. Termination of Settlement Agreement. If the Settlement Agreement is not approved, all monies paid into the Settlement Accounts shall be refunded to the same Federal Trade Commission fund as described in Paragraph A above, reduced by the amount of actual out-of-pocket costs and expenses incurred in the administration of the Settlement to the date of disapproval. In such case, refund shall occur within ten (10) business days of the Court's decision becoming Final.

6. Investment of Funds. At the Written Direction of Liaison Counsel, the Escrow Agent shall invest the Escrow Funds in obligations of, or obligations guaranteed by, the United States of America or any of its departments or agencies, and shall reinvest the proceeds of these instruments as they mature in similar instruments at their then current market rates. The Escrow Funds shall be deemed and considered to be in *custodia legis* of the Court, and shall remain subject to the jurisdiction of the Court, until such time as such funds are dispersed pursuant to the Settlement Agreement or upon further order(s) of the Court.

The Escrow Agent shall not bear any risks related to the investment of the Settlement Fund in accordance with the provisions of this Escrow Agreement. The Escrow Agent will be indemnified by the Settlement Fund1, and held harmless against, and with respect to, any and all loss, liability, damage or expense (including, but without limitation, attorneys' fees, costs and disbursements) that the Escrow Agent may suffer or incur in connection with this Escrow Agreement and its performance hereunder or in connection herewith, except to the extent such loss, liability, damage or expense arises from its bad faith, misconduct or negligence as adjudicated by a court of competent jurisdiction.

7. Preparation and Payment of Taxes. The Settlement Accounts shall be treated as being, at all times from and after expiration or waiver of the period within which the Cephalon Parties may void the Settlement under Section IV of the Settlement Agreement, a "qualified

1 The State of Ohio, as well as all Plaintiff States and all Plaintiff States' Attorneys General, shall not be liable for anything with pertaining to this agreement and furthermore, shall not indemnify anyone with respect to this agreement.

settlement fund" within the meaning of Treas. Reg. § 1.468B-1(a). In addition, the claims administrator, A.B. Data, and, as required, settling parties shall jointly and timely make such elections as necessary or advisable to carry out the provisions of Section IV.B of the Settlement Agreement, including the "relation-back election" (as defined in Treas. Reg. § 1.468B-1(j)(2)(ii)), back to the earliest permitted date. Such elections shall be made in compliance with the procedures and requirements contained in such regulation. It shall be the responsibility of the claims administrator to timely and properly prepare and deliver the necessary documentation for signature by all necessary parties, and thereafter to cause the appropriate filing to occur. For the purpose of § 468B of the Internal Revenue Code of 1986, as amended, and the regulations promulgated thereunder, the "administrator" shall be the Escrow Agent. The claims administrator shall timely and properly file all informational and other tax returns necessary or advisable with respect to the Settlement Accounts (including without limitation the returns described in Treas. Reg. § 1.468B-2(k and l)). The claims administrator may engage an accounting firm or tax preparer to assist in the preparation of any tax reports or the calculation of any tax due and the expense of such assistance shall be paid from the Settlement Fund. Such returns shall reflect that all taxes (including any estimated taxes, interest or penalties) on the income earned by the Settlement Accounts shall be paid out of the Settlement Accounts as provided in Section II. B.(3) of the Settlement Agreement. All taxes (including any estimated taxes, interest or penalties) arising with respect to the income earned by the Settlement Accounts, including any taxes that may be imposed upon Cephalon Parties with respect to any income earned by the Settlement Accounts for any period during which the Settlement Accounts do not qualify as a "qualified settlement fund" for federal, state, or local income tax purposes ("Taxes") shall be paid out of the Settlement Accounts and in all events Cephalon Parties and their insurers shall have no liability or responsibility for such Taxes or the filing of any tax returns or other documents with the Internal Revenue Service or any other state or local taxing authority in respect of such Taxes. Taxes shall be treated as, and considered to be, a cost of administration of the Settlement Agreement and shall be timely paid by the Escrow Agent out of the Settlement Cost Account without prior order from the Court and the Escrow Agent shall be obligated (notwithstanding anything herein to the contrary) to withhold from distribution to Plaintiff States any funds necessary to pay such amounts including the establishment for adequate reserves for any Taxes (as well as any amounts that may be required to be withheld under Treas. Reg. § 1.468B-2(l), (2)).

8. Registration and Removal of Escrow Agent. Escrow Agent may resign from the performance of its duties hereunder at any time by giving sixty (60) days prior written notice to the Liaison Counsel for Plaintiff States or may be removed, with or without cause, by the Liaison Counsel for Plaintiff States, by furnishing Written Direction to Escrow Agent, at any time by the giving of thirty (30) days prior written notice to Escrow Agent. Such resignation or removal shall take effect upon the appointment of a successor Escrow Agent as provided herein. Upon any such notice of resignation or removal, the Liaison Counsel for Plaintiff States shall appoint a successor Escrow Agent hereunder. Upon the acceptance in writing of any appointment as Escrow Agent hereunder by a successor Escrow Agent, such successor Escrow Agent shall thereupon succeed to and become vested with all the rights, powers, privileges and duties of the retiring Escrow Agent, and the retiring Escrow Agent shall be discharged from its duties and obligations under this Escrow Agreement, but shall not be discharged from any liability for

actions taken as Escrow Agent hereunder prior to such succession. The retiring Escrow Agent shall transmit all records pertaining to the Settlement Accounts and shall pay all Escrow Funds to the successor Escrow Agent, after making copies of such records as the retiring Escrow Agent deems advisable and after deduction by and payment to the retiring Escrow Agent (after written notice to Liaison Counsel for Plaintiff States) of all fees and expenses incurred by or expected to be incurred by the retiring Escrow Agent in connection with the performance of its duties and the exercise of its rights hereunder.

9. Fees and Expenses of Escrow Agent:

a. Escrow Agent will be compensated in accordance with the terms of Exhibit B. The Escrow Agent is authorized to, and may, disburse to itself from the Escrow Funds, from time to time, the amount of any compensation payable hereunder. Such compensation and reimbursement may be directly disbursed by the Escrow Agent to itself from the Settlement Disgorgement, Fees & Cost Account on a monthly basis, thirty (30) days after giving written notice, consisting of an itemization of compensation earned, to the Liaison Counsel for Plaintiff States.

b. The Escrow Agent understands and agrees that all payments to the Escrow Agent will be made from the Settlement Disgorgement, Fees & Cost Account. The Escrow Agent understands and agrees that neither the Ohio Attorney General nor the State of Ohio are responsible or liable for payments under this Agreement and that the Escrow Agent will look solely to the Settlement Disgorgement, Fees & Cost Account for payment, pursuant to the payment procedures set forth in this Agreement.

10. Reports and Accounting. Escrow Agent will provide monthly reports to the Liaison Counsel for Plaintiff States and to A. B. Data, Ltd., in a form that is acceptable to the Plaintiff States, reflecting income and disbursement activity on the Settlement Accounts for the period and year to date. The Escrow Agent shall further issue a Final Report and Accounting which will summarize the income, expenses, and disbursements associated with the administration of the Settlement Accounts; expenses and disbursements associated with payments to the Plaintiff States; and such other reports as the Liaison Counsel for Plaintiff States may reasonably require from time to time. Reports and the status of all Settlement Accounts shall be accessible to the Liaison Counsel for Plaintiff States on-line. The Escrow Agent will provide the name of the officer who will have principal responsibility of the management of the Settlement Accounts and the Escrow Agent's relationship with the Liaison Counsel for Plaintiff States.

11. Consent to Jurisdiction and Venue. In the event that any party hereto commences a lawsuit or other proceeding relating to or arising from this Escrow Agreement, the Parties hereto agree that the proper court in Ohio shall have the sole and exclusive jurisdiction over any such proceedings. Such Court shall have proper venue for any such lawsuit or judicial proceeding and the Parties hereto waive any objection to such venue. The Parties hereto consent to and agree to submit to the jurisdiction of such Court and agree to accept service of process to vest personal jurisdiction over them in such Court.

12. Notices. All notices and other communications hereunder shall be in writing and shall be deemed to have been validly served, given or delivered five (5) days after deposit in the United States mails, by certified mail with return receipt requested and postage prepaid, when delivered personally, one (1) day after delivery to any overnight courier, or when transmitted by facsimile transmission facilities, and addressed to the party to be notified as follows:

If to Plaintiff States at:

Office of the Attorney General of Ohio
Chief, Antitrust Section
150 E. Gay St., 22nd Floor
Columbus, OH 43215-3428

Office of the Attorney General of Texas
Chief, Antitrust Section
300 W. 15th St., 7th Floor
Austin, TX 78701

Office of the Attorney General of Vermont
Chief, Antitrust Section
109 State Street
Montpelier, VT 05609

If to Escrow Agent at:

The Huntington National Bank
c/o Susan Brizendine, Trust Officer
7 Easton Oval – EA4E
Columbus, OH 43219

The Huntington National Bank
c/o Christopher Ritchie, Senior Vice President
1150 First Avenue, Suite 501
King of Prussia, PA 19406

If to the Settlement Administrator, A. B. Data, LTD.at:

Thomas R. Glenn
A. B. Data, LTD.
600 A B Data Drive
Milwaukee, WI 53217

or to such other address as each party may designate for itself by like notice.

13. Amendment or Waiver. This Escrow Agreement may be changed, waived,

discharged or terminated only by a writing signed by the Liaison Counsel for Plaintiff States and Escrow Agent. No delay or omission by any party in exercising any right with respect hereto shall operate as a waiver. A waiver on any one occasion shall not be construed as a bar to, or waiver of, any right or remedy on any future occasion.

14. Severability. To the extent any provision of this Escrow Agreement is prohibited by or invalid under applicable law, such provision shall be ineffective to the extent of such prohibition or invalidity, without invalidating the remainder of such provision or the remaining provisions of this Escrow Agreement.

15. Governing Law. This Escrow Agreement shall be construed and interpreted in accordance with the laws of the State of New York without giving effect to the conflict of laws principles thereof.

16. Entire Agreement. This Escrow Agreement and the Settlement Agreement constitutes the entire agreement between the Parties relating to the holding, investment and disbursement of the Escrow Funds and sets forth in their entirety the obligations and duties of Escrow Agent with respect to the Settlement Accounts.

17. Binding Effect. All of the terms of this Escrow Agreement, as amended from time to time, shall be binding upon, inure to the benefit of and be enforceable by the Parties and their respective heirs, successors and assigns.

18. Confidentiality. This Escrow Agreement and the Settlement Agreement, which are incorporated herein, should not be disclosed unless, or until, notification is made in writing to Counsel for the Liaison States.

19. Execution in Counterparts. This Escrow Agreement and any Written Direction may be executed in two or more counterparts, each of which shall be deemed to be an original and all of which when so executed shall constitute one and the same agreement or direction.

20. Dealings. Nothing herein shall preclude the Escrow Agent from acting in any other capacity for any party, person or entity referenced herein.

21. Patriot Act Warranties. Section 326 of the USA Patriot Act (Title III or Pub. L 107-56), as amended from time to time (the "Patriot Act"), requires financial institutions to obtain, verify and record information that identifies each person or legal entity that opens an account (the "Identification Information"). The parties to this Escrow Agreement agree that they will provide the Escrow Agent with such Identification Information as the Escrow Agent may request in order for the Escrow Agent to satisfy the requirements of the Patriot Act.

22. This Agreement will become effective upon signature by the Parties and will continue in effect until June 30, 2018. The Parties agree that this Agreement may be renewed as necessary for successive two (2) year terms beginning July 1, 2018.

IN WITNESS WHEREOF, the Parties hereto have caused this Escrow Agreement to be executed under seal as of the date first above written.

PLAINTIFF STATES

MICHAEL DeWINE, Attorney General for the State of Ohio

By: _____
Mitchell L. Gentile

Title: Special Attorney General Assistant

Huntington Bank, as Escrow Agent

By: Christopher W. Ratchie

Title: Senior Vice President

EXHIBIT A

JOINT WRITTEN DIRECTION
EXAMPLE

STATE OF NEW YORK, ET AL V.
CEPHALON PARTIES PHARMACEUTICAL INDUSTRIES LTD, ET AL,
IN RE PROVIGIL ANTITRUST LITIGATION
ESCROW # _____

In accord with the Escrow Agreement, dated May 16, 2016 and the Settlement Agreement referenced in the Escrow Agreement, the Liaison Counsel for Plaintiff States, all of whom are authorized to direct Huntington Bank as the Escrow Agent to take the following action with respect to the Escrow Funds and/or Settlement Accounts. The Escrow Agent shall

_____

_____

DATED: _____, 2016

PLAINTIFF STATES

MICHAEL DeWINE, Attorney General for the
State of Ohio

By: _____

Title: _____

OR

KEN PAXTON, Attorney General for the
State of Texas

By: _____

Title: _____

OR

WILLIAM SORRELL, Attorney General for the State of Vermont

By: _____

Title: _____

Exhibit B

Schedule of Fees and Expenses

Annual Administration Fee:	Waived
Activity Charges:	Fed Wire - Waived Check - Waived Monthly statement – Waived Document handling – Waived On-line access – Waived

Investment Fee:

For Interest-Bearing or Money Market Account: Waived

For all investment management, purchases, sells, custody and safekeeping of Treasury Securities: Waived

EXHIBIT C

Exhibit C
Provigil® Consumer Distribution

Consumers may be eligible to receive a distribution from the States' Consumer Fund, the Class Consumer Fund, or both, as explained below.

Alternative A:

The $35 million in the settlement for consumer distribution after interest and applicable taxes (the "States' Consumer Fund") will be allocated to Eligible Consumers.

An Eligible Consumer will be entitled to recovery for purchases of Provigil® and/or generic versions of Provigil® (modafinil) from [June 24, 2006] through [March 31, 2012] made in the District of Columbia or any state except for California or Louisiana. The Settlement Administrator will determine whether the consumer paid for those drugs in that time period in those locations.

The States' Consumer Fund will be distributed to Eligible Consumers on a *pro rata* basis, based on the size of their payments eligible for recovery and the money available in the States' Consumer Fund. A "Distribution Amount" will be calculated for each Eligible Consumer, which will be the payments by the Eligible Consumer that are eligible for recovery divided by the total amount of payments eligible for recovery for all Eligible Consumers, multiplied by the States' Consumer Fund. An Eligible Consumer will not receive a distribution greater than the payments eligible for recovery made by that Eligible Consumer.

Alternative B:

If a settlement in *In re Modafinil Antitrust Litigation, Vista Health Plan Inc. v. Cephalon Inc. et al.* 2:06-cv-01833 (E.D. Penn.) provides a monetary distribution to consumers represented by the class ("Class Consumer Fund") the Consumer Distribution Plan is expected to be as follows:

Approximately $25 million (assuming that is the net amount to be distributed to consumers in the class) from the Class Consumer Fund,

+

Approximately $35 million from the States' Consumer Fund

Approximately $60 million total available for consumer distribution

Consumers in California and Louisiana will receive money only from the Class Consumer Fund. Consumers in the other states and the District of Columbia represented by the class will receive money from both the Class Consumer Fund and the States' Consumer Fund. Consumers in the states not represented by the class will receive money only from the States' Consumer Fund. In all instances, consumers will receive only one check from a joint settlement administrator and will not receive a distribution greater than the payments eligible for recovery made by that Eligible Consumer.

Method to Be Used to Determine the Amount Consumers Will Receive

Class Consumer Fund Reimbursement Rate Calculation

The Settlement Administrator will calculate a rate for all consumers represented by the class. Assuming the Class Consumer Fund is approximately $25 million, that amount will be divided by the total of all eligible purchases by consumers represented by the class. Using the class's estimate that consumer damages may be as high as $700 million nationwide and if all purchases by consumers within the class are included, maximum damages for consumers in the class would be $466 million. $25 million divided by $466 million gives a Class Reimbursement Rate of 5.36%.

Total Consumer Fund Reimbursement Rate Calculation

The Settlement Administrator will calculate a "Total Reimbursement Rate" for all Consumer Claims in the District of Columbia and all states except California and Louisiana. The approximate recovery for consumers in the class that are not in California or Louisiana is $19 million. Using the class's estimate that consumer damages may be as high as $700 million nationwide, and if all purchases by consumers represented by the states are included, maximum damages for consumers represented by the states would be $609 million. Adding $19 million to the $35 million from the States' Consumer Fund and dividing by $609 million, which is the maximum damages for the consumers represented by the States, the Total Reimbursement Rate is 8.87%.

Illustrations

The following illustrations apply the Total Reimbursement Rate and Class Reimbursement Rate:

#1. If a consumer filled a prescription for Provigil® in New York and paid $1,000, that consumer's check would be calculated as follows: $1,000 x 8.87% (the Total Reimbursement Rate) = $88.70. The check would consist of $53.60 from the Class Consumer Fund and $35.10 from the States' Consumer Fund because a New York consumer is eligible to receive money from both the States' Consumer Fund and the Class Consumer Fund.

#2. If a consumer filled a prescription for Provigil® in Ohio and paid $1,000, that consumer's check would be calculated as follows: $1,000 x 8.87% = $88.70. The entire amount would come from the States' Consumer Fund because an Ohio consumer is eligible to receive money only from the States' Consumer Fund.

#3. If a consumer filled a prescription for Provigil® in California or Louisiana and paid $1,000, that consumer's check would be calculated as follows: $1,000 x 5.36% = $53.60. The entire amount would come from the Class Consumer Fund. California and Louisiana consumers are eligible to receive money only from the Class Consumer Fund because those states are not participating in the States' settlement.

The joint Settlement Administrator will physically merge the two funds (the States' Consumer Fund and the Class Consumer Fund) into the Consumer Distribution Account after determining the amount of each consumer check. Any money from the States' Consumer Fund portion of the distribution payments remaining in the Consumer Distribution Account as a result of un-cashed checks will be returned to the States' Consumer Fund.