

**COMMONWEALTH OF KENTUCKY
FRANKLIN CIRCUIT COURT
CIVIL ACTION NO. 03-CI-1134
DIVISION II**

COMMONWEALTH OF KENTUCKY
ex rel. GREGORY D. STUMBO, ATTORNEY GENERAL

PLAINTIFF

V.

ABBOTT LABORATORIES, INC.

DEFENDANT

* * * *

**DEFENDANT ABBOTT LABORATORIES INC.'S RESPONSE TO
PLAINTIFF'S FIRST SET OF REQUESTS FOR PRODUCTION OF DOCUMENTS**

Pursuant to the Kentucky Rules of Civil Procedure, Defendant Abbott Laboratories Inc. (“Abbott”) asserts the following objections and responses to the First Set of Requests For Production of Documents (“Requests”) from Plaintiff Commonwealth of Kentucky *ex rel.* Gregory D. Stumbo, Attorney General (the “Commonwealth”).

PRELIMINARY STATEMENT

A. In responding to these Requests, Abbott will search for and produce information and documents from the group at Abbott responsible for selling and marketing Abbott’s drugs listed in Exhibit 1 to the Amended Complaint (the “Subject Drugs”) to non-hospital customers in the Commonwealth of Kentucky, from the group at Abbott responsible for communicating with the Commonwealth of Kentucky, including the Kentucky Medicaid Program, regarding the Subject Drugs, and from sales representatives responsible for selling and marketing the Subject Drugs in the Commonwealth of Kentucky to non-hospital customers.

B. Abbott’s investigation for information responsive to these Requests continues, and its responses to these Requests are based on information available at this time. Abbott

reserves the right to supplement and/or amend these responses (and its production of documents) at any time prior to trial.

C. Where Abbott states herein that it will produce or has produced documents in accordance with the Kentucky Rules of Civil Procedure, it will produce such documents to the extent that they exist and can be reasonably obtained. By stating that Abbott will produce any documents or things responsive to a particular request, Abbott does not represent that any such documents or things exist or are within its possession, custody or control. Abbott's responses are limited to documents within its possession, custody and control.

D. Abbott's specific objections to each request are in addition to the objections set forth in this and subsequent sections, which form a part of the response to each and every request and are set forth here to avoid the duplication and repetition of restating them for each response.

E. The information and documents supplied herein are for use in this litigation and for no other purpose.

F. To the extent that Abbott states that it will make certain documents available to the Commonwealth, such documents will be made available to the Commonwealth after the entry of an appropriate Protective Order by the Court.

G. Abbott's responses to these Requests are made without in any way waiving: (a) the right to object, on the grounds of competency, relevancy, materiality, privilege, or other grounds of admissibility as evidence for any purpose in any subsequent proceeding in this action or any other action; and (b) the right to object on any ground to other discovery requests involving or relating to the subject matter of these Requests. Furthermore, Abbott is providing responses in an effort to expedite discovery in this action and not as an indication or admission

by Abbott of the relevancy, materiality or admissibility thereof, and Abbott hereby preserves all objections to the Commonwealth's use of such responses.

GENERAL OBJECTIONS

H. Abbott generally objects to these Requests to the extent they seek information that is protected from disclosure by the attorney-client privilege, the Kentucky medical records privilege, the attorney work-product doctrine, the consulting expert privilege, third-party confidentiality agreements or protective orders, or any other applicable privilege, rule or doctrine.

I. Abbott generally objects to these Requests to the extent they seek confidential and/or propriety information.

J. Abbott generally objects to these Requests to the extent they exceed the scope of discovery permitted under the Kentucky Rules of Civil Procedure and the Court's Local Rules and Orders.

K. Abbott generally objects to these Requests to the extent: (a) the discovery sought by any request is unreasonably cumulative or duplicative, or is obtainable from some other source (including, but not limited to, a public source) that is more convenient, less burdensome, or less expensive; and (b) compliance with any request would be unduly burdensome, unduly expensive, harassing, annoying or oppressive.

L. Abbott generally objects to these Requests to the extent they seek information regarding Abbott's drugs that are not listed in Exhibit 1 to the Amended Complaint on the grounds that such documents are neither relevant to the subject matter of the pending action nor reasonably calculated to lead to the discovery of admissible evidence. Unless otherwise indicated, Abbott will only produce documents related to the Subject Drugs.

M. Abbott generally objects to these Requests as overly broad and unduly burdensome to the extent they require Abbott to search the notes of numerous Abbott field sales force employees. Abbott will search the files of the sales representatives responsible for selling and marketing the Subject Drugs to non-hospital customers in the Commonwealth of Kentucky.

N. Abbott generally objects to any implications and to any explicit or implicit characterization of the facts, events, circumstances, or issues in these Requests. Any response by Abbott is not intended to indicate that Abbott agrees with any such implications or characterizations, or that such implications or characterizations are relevant to this litigation.

O. Abbott generally objects to these Requests to the extent they seek information concerning activities outside of the United States. Unless otherwise noted, all responses are limited to activities within the United States.

P. Abbott generally objects to these Requests to the extent they purport to require Abbott to search and/or produce all contracts relating to the Subject Drugs on the grounds that such information is neither relevant to the subject matter of the pending action nor reasonably calculated to lead to the discovery of admissible evidence. Abbott will only produce contracts relating to non-hospital customers in the Commonwealth of Kentucky.

Q. Abbott generally objects to these Requests to the extent they seek information regarding the Medicaid rebate program on the grounds that such information is neither relevant to the subject matter of the pending action nor reasonably calculated to lead to the discovery of admissible evidence because there are no Medicaid rebate claims in the complaint. Abbott will not produce documents relating to the Medicaid rebate program.

R. Abbott generally objects to these Requests to the extent they seek information regarding “average sales price” or “ASP” on the grounds that such information is neither relevant

to the subject matter of the pending action nor reasonably calculated to lead to the discovery of admissible evidence because the pricing benchmark of “average sales price” was not created by Congress until after the Amended Complaint was filed, when the Medicare Prescription Drug, Improvement, and Modernization Act became law in December 2003. *See* Pub. L. No. 108-173, 117 Stat. 2066 (2003), § 303. Abbott will not produce ASP information reported to CMS.

OBJECTIONS TO DEFINITIONS

S. Abbott objects to the definition of “Actual Acquisition Price” as overly broad, vague and ambiguous.

T. Abbott objects to the definition of “Average Manufacturer Price” or “AMP” as vague and ambiguous because 42 U.S.C. § 1396r-8 has been amended over time.

U. Abbott objects to the definition of “Average Sales Price” or “ASP” as vague, ambiguous and confusing because the Commonwealth’s definition of ASP is different than the calculation of ASP mandated by the Centers for Medicare and Medicaid Services. *See* 42 C.F.R. 414.804.

V. Abbott objects to the definitions of “Average Wholesale Price” or “AWP,” “Wholesale Acquisition Cost” or “WAC,” and “Direct Price” or “DP” as vague and ambiguous. Abbott will respond to these Interrogatories based upon its understanding of the terms “AWP,” “WAC,” and “DP” as used by the pharmaceutical industry over the last several decades.

W. Abbott objects to the definition of “Best Price” as vague and ambiguous because 42 U.S.C. § 1396r-8 has been amended over time.

X. Abbott objects to the definition of “Defined Period of Time” as overly broad, unduly burdensome, and not relevant nor reasonably calculated to lead to the discovery of admissible evidence to the extent it purports to require the production of documents or seeks

information created prior to the statutes of limitations applicable to the Commonwealth's claims or after the filing of the Commonwealth's original complaint on September 15, 2003.

Y. Abbott objects to the definitions of "Document," "Communication," "You," "Your," and "Your Company" to the extent they seek to impose discovery obligations that are broader than or inconsistent with the requirements of the Kentucky Rules of Civil Procedure and the Court's Local Rules and Orders. Abbott further objects to these definitions as vague and ambiguous and to the extent they seek information protected by the attorney-client privilege, the attorney work-product doctrine, the consulting expert privilege, or any other applicable privilege, rule or doctrine.

Z. Abbott objects to the definition of "Cabinet for Health and Family Services" because it is overly broad in scope. Abbott further objects to the definition of "Cabinet for Health and Family Services" because it is vague and ambiguous, particularly with respect to the terms "sub-contractors," "designees," "agents," and "fiscal agents."

AA. Abbott objects to the definition of "Chargeback" as vague, ambiguous and confusing.

BB. Abbott objects to the definition of "Competing Pharmaceutical" because it is overly broad in scope. Abbott further objects to the definition of "Competing Pharmaceutical" because it is vague and ambiguous, particularly with respect to the phrase "compete in any way."

CC. Abbott objects to the definitions of "Regarding," "Relate to," and "Relating to" to the extent they seek to impose discovery obligations that are broader than or inconsistent with the requirements of the Kentucky Rules of Civil Procedure and the Court's Local Rules and Orders. Abbott further objects to these definitions as overly broad in scope and vague and ambiguous. Abbott further objects to these definitions to the extent they seek information

protected by the attorney-client privilege, the work-product exemption, the consulting expert privilege, or any other applicable privilege, rule or doctrine.

DD. Abbott objects to the definition of “CMS” because it is overly broad in scope. Abbott further objects to the definition of “CMS” because it is vague and ambiguous, particularly with respect to the phrase “fiscal intermediaries or carriers.”

EE. Abbott objects to the definition of “Federal Upper Limit” or “FUL” because that term is not defined in 42 CFR 447.332 and § 1927(e) of the Social Security Act, as amended by OBRA 1993.

FF. Abbott objects to the definition of “Healthcare Provider” because it: (i) is overly broad in scope to the extent it seeks documents and information relating to providers outside of the Commonwealth of Kentucky; (ii) seeks information that is not relevant nor reasonably calculated to lead to the discovery of admissible evidence; and (iii) is unduly burdensome and harassing. Unless otherwise indicated, Abbott will only produce information relating to non-hospital customers in the Commonwealth of Kentucky.

GG. Abbott objects to the definition of “Incentive” as overly broad, vague and ambiguous, particularly with respect to the term “anything of value.”

HH. Abbott objects to the definition of “Kentucky Customer” because it: (i) is overly broad in scope to the extent it seeks documents and information relating to hospital providers and national wholesalers without regard to whether they do business in the Commonwealth of Kentucky; (ii) seeks information that is not relevant nor reasonably calculated to lead to the discovery of admissible evidence; and (iii) is unduly burdensome and harassing. Unless otherwise indicated, Abbott will only produce information relating to non-hospital customers in

the Commonwealth of Kentucky. Unless otherwise indicated, Abbott will only produce information relating to non-hospital customers in Kentucky.

II. Abbott objects to the definition of “Pharmaceutical Class of Trade” as overly broad, vague, ambiguous and confusing.

JJ. Abbott objects to the definition of “Price Representations” as overly broad, vague and ambiguous, particularly with respect to the terms “representation,” “price” “Wholesale Net Price,” “List Price,” “Contract Price,” and “Suggested Net Trade.”

KK. Abbott objects to the definition of “Publisher” as overly broad in scope, vague and ambiguous to the extent it seeks information regarding “any person or Entity engaged in publishing drug prices.”

LL. Abbott objects to the definition of “Spread” as overly broad, vague, ambiguous, and confusing.

MM. Abbott objects to the definition of “Suggested Wholesale Price” or “SWP” as vague and ambiguous. Abbott further objects to this definition to the extent it incorrectly suggests that Abbott reports, advertises, publishes, or causes to be published SWP.

OBJECTIONS TO INSTRUCTIONS

NN. Abbott objects to Instruction Nos. 1, 2, 7, and 8 as overly broad, vague, ambiguous and unduly burdensome. Abbott further objects to Instruction Nos. 1, 2, 7 and 8 because they exceed the requirements of the Kentucky Rules of Civil Procedure and the Court’s Local Rules and Orders.

DOCUMENTS REQUESTED

1. All documents identified and/or referenced in your responses to Plaintiff’s First Set of Interrogatories.

RESPONSE: In addition to its General Objections, Abbott objects to this request because it: (i) is overly broad and unduly burdensome to the extent it seeks “all documents identified and/or referenced in your responses”; (ii) seeks documents that are equally available to the Commonwealth; (iii) seeks documents that are outside of Abbott’s custody, care or control; (iv) is not limited to the Commonwealth of Kentucky; (v) is not limited to the Subject Drugs; and (vi) seeks information that is not relevant nor reasonably calculated to lead to the discovery of admissible evidence.

Subject to and without waiving its objections Abbott will produce, to the extent they exist and are reasonably obtainable, those documents that Abbott stated it would produce in its response to Plaintiff’s First Set of Interrogatories.

2. All documents regarding your ordinary course of business definition or explanation or definition of terms used to report, describe, advertise, or market pharmaceutical prices, and the differences between prices, including, but not limited to, AWP, ASP, SWP, WAC, DP, “List Price,” “Net Wholesale Price,” AMP, Best Price, “Contract Price,” “Earned Margin,” “X Code Price,” “Ex-Factory Price,” “Retail Price,” Incentive, or Spread. For all document requests, to the extent your definition of one of these terms differs from the above Definition for the above terms, please provide documents using both definitions and identify (where possible) which definition applies to a particular production.

RESPONSE: In addition to its General Objections, Abbott objects to this request because it: (i) is overly broad and unduly burdensome, particularly to the extent it seeks documents over an eleven-year period; (ii) is vague and ambiguous, particularly with respect to the terms “ordinary course of business definition,” “prices,” “Contract Price,” “Earned Margin,” “X Code Price,” “Ex-Factory Price,” and “Retail Price”; (iii) is confusing to the extent it asks Abbott to respond to the request using multiple definitions; (iv) incorrectly suggests that Abbott defines AWP, ASP, SWP, WAC, AMP, and Best Brice; (v) seeks a definition for a term that the Commonwealth has defined in the definitions; (vi) is not limited to the Subject Drugs or the Commonwealth of Kentucky; (v) seeks information that is not relevant nor reasonably calculated

to lead to the discovery of admissible evidence, particularly to the extent it seeks information related to AMP and Best Price; and (vi) is duplicative of Requests 3 through 9.

Subject to and without waiving any of its objections, Abbott incorporates its responses to Requests 3 through 9.

3. All documents relating to AWP, including, but not limited to:
 - a) documents regarding what the AWP is for the Subject Drugs;
 - b) documents regarding how AWP is calculated, regardless of who calculated AWP;
 - c) documents regarding any formula, methodology, guideline, policy, procedure, or strategy you use to establish, calculate, adjust, or market the AWP for any Pharmaceutical you manufacture, market, or sell, including, but not limited to, the Subject Drugs;
 - d) any training material regarding AWP;
 - e) any promotional material regarding AWP;
 - f) any correspondence, memoranda, contracts, studies, analyses, or reports regarding AWP; and
 - g) any and all documents regarding the relationship between a Pharmaceutical's AWP and the Pharmaceutical's AMP, WAC, DP, SWP, ASP, FUL, MAC, or its Actual Acquisition Price.

RESPONSE: In addition to its General Objections, Abbott objects to this request because it: (i) is overly broad and unduly burdensome, particularly to the extent it purports to require Abbott to search all correspondence, memoranda, contracts, studies, analyses, reports and other documents over an eleven-year period for any reference to AWP; (ii) is vague and ambiguous, particularly with respect to the terms “studies,” “analyses,” “reports,” “formula,” “methodology” and “policy”; (iii) is not limited to the Subject Drugs or the Commonwealth of Kentucky; (iv) incorrectly suggests that Abbott establishes, calculates, adjusts, or markets the AWP for all of its drugs; (v) seeks information outside of Abbott’s custody, care or control; (vi)

seeks information protected by the attorney-client privilege and/or the work product doctrine; (vii) seeks confidential and/or proprietary information; and (viii) seeks information that is not relevant nor reasonably calculated to lead to the discovery of admissible evidence.

Subject to and without waiving any of its objections, Abbott will produce, to the extent they exist and are reasonably obtainable: (i) correspondence with third-party pharmaceutical pricing compendia relating to pricing of the Subject Drugs; (ii) policies and procedures for sales, marketing and pricing of the Subject Drugs that reference AWP; and (iii) promotional materials provided to any sales representatives for the Commonwealth of Kentucky or any non-hospital customers in the Commonwealth of Kentucky that relate to pricing, marketing or sales of the Subject Drugs and that reference AWP.

4. All documents relating to WAC, including, but not limited to:
 - a) documents regarding what the WAC is for the Subject Drugs;
 - b) documents regarding how WAC is calculated, regardless of who calculated WAC;
 - c) documents regarding any formula, methodology, guideline, policy, procedure, or strategy you use to establish, calculate, adjust, or market the WAC for any Subject Drugs you manufacture, market, or sell;
 - d) any training material regarding WAC;
 - e) any promotional material regarding WAC;
 - f) any correspondence, memoranda, contracts, studies, analyses, or reports regarding WAC; and
 - g) any and all documents regarding the relationship between a Pharmaceutical's WAC and the Pharmaceutical's AMP, DP, ASP, SWP, AWP, FUL, MAC, or its Actual Acquisition Price.

RESPONSE: In addition to its General Objections, Abbott objects to this request because it: (i) is overly broad and unduly burdensome, particularly to the extent it purports to require Abbott to search all correspondence, memoranda, contracts, studies, analyses, reports and

other documents over an eleven-year period for any reference to WAC; (ii) is vague and ambiguous, particularly with respect to the terms “studies,” “analyses,” “reports,” “formula,” “methodology” and “policy”; (iii) is not limited to the Subject Drugs or the Commonwealth of Kentucky; (iv) seeks information outside of Abbott’s custody, care or control; (v) seeks information protected by the attorney-client privilege and/or the work product doctrine; (vi) seeks confidential and/or proprietary information; and (vii) seeks information that is not relevant nor reasonably calculated to lead to the discovery of admissible evidence.

Subject to and without waiving any of its objections, Abbott will produce, to the extent they exist and are reasonably obtainable: (i) correspondence with third-party pharmaceutical pricing compendia relating to pricing of the Subject Drugs; (ii) price announcements to wholesalers relating to the Subject Drugs; (iii) policies and procedures for sales, marketing and pricing of the Subject Drugs that reference WAC; and (iv) promotional materials provided to any sales representatives for the Commonwealth of Kentucky or any non-hospital customers in the Commonwealth of Kentucky that relate to pricing, marketing or sales of the Subject Drugs and that reference WAC.

5. All documents regarding AMP, including, but not limited to:
 - a) documents regarding what the AMP is for the Subject Drugs;
 - b) documents regarding how AMP is calculated, regardless of who calculated AMP;
 - c) documents regarding any formula, methodology, guideline, policy, procedure, or strategy you use to establish, calculate, adjust, or market the AMP for any Pharmaceutical you manufacture, market, or sell, including, but not limited to, the Subject Drugs;
 - d) any training material regarding AMP;
 - e) any promotional material regarding AMP;

- f) any correspondence, memoranda, contracts, studies, analyses, or reports regarding AMP; and
- g) any and all documents regarding the relationship between a Pharmaceutical's AMP and the Pharmaceutical's ASP, WAC, DP, SWP, AWP, FUL, MAC, or its Actual Acquisition Price.

RESPONSE: In addition to its General Objections, Abbott objects to this request because it: (i) is overly broad and unduly burdensome, particularly to the extent it purports to require Abbott to search all correspondence, memoranda, contracts, studies, analyses, reports and other documents over an eleven-year period for any reference to AMP; (ii) is vague and ambiguous, particularly with respect to the terms “studies,” “analyses,” “reports,” “formula,” “methodology” and “policy”; (iii) is not limited to the Subject Drugs or the Commonwealth of Kentucky; (iv) seeks information outside of Abbott’s custody, care or control; (v) seeks information protected by the attorney-client privilege and/or the work product doctrine; (vi) seeks confidential and/or proprietary information; (vii) seeks information that is not relevant nor reasonably calculated to lead to the discovery of admissible evidence, particularly since there are no Medicaid rebate claims in the complaint; and (viii) seeks information protected under the Medicaid Rebate Statute and Abbott’s Medicaid Rebate agreement with CMS.

- 6. All documents regarding ASP, including, but not limited to:
 - a) documents regarding what the ASP is for the Subject Drugs;
 - b) documents regarding how ASP is calculated, regardless of who calculated ASP;
 - c) documents regarding any formula, methodology, guideline, policy, procedure, or strategy you use to establish, calculate, adjust, or market the ASP for any Pharmaceutical you manufacture, market, or sell, including, but not limited to, the Subject Drugs;
 - d) any training material regarding ASP;
 - e) any promotional material regarding ASP;

- f) any correspondence, memoranda, contracts, studies, analyses, or reports regarding ASP; and
- g) any and all documents regarding the relationship between a Pharmaceutical's ASP and the Pharmaceutical's AMP, WAC, DP, SWP, AWP, FUL, MAC, or its Actual Acquisition Price.

RESPONSE: In addition to its General Objections, Abbott objects to this request because it: (i) is overly broad and unduly burdensome, particularly to the extent it purports to require Abbott to search all correspondence, memoranda, contracts, studies, analyses, reports and other documents over an eleven-year period for any reference to ASP; (ii) is vague and ambiguous, particularly with respect to the terms “studies,” “analyses,” “reports,” “formula,” “methodology” and “policy”; (iii) is not limited to the Subject Drugs or the Commonwealth of Kentucky; (iv) seeks information outside of Abbott’s custody, care or control; (v) seeks information protected by the attorney-client privilege and/or the work product doctrine; and (vi) seeks confidential and/or proprietary information.

Abbott further objects to this request because it seeks information that is not relevant nor reasonably calculated to lead to the discovery of admissible evidence, particularly to the extent it seeks “average sales price” or “ASP” information reported to CMS because the pricing benchmark of “average sales price” was not created by Congress until after the Amended Complaint was filed and because the reporting obligations were only recently finalized by the relevant federal agency. *See* Pub. L. No. 108-173, 117 Stat. 2066 (2003), § 303. Moreover, Magistrate Judge Bowler in the District of Massachusetts ruled in a similar case that plaintiffs were not entitled to the ASP information submitted by defendants to CMS. *See In re Pharmaceutical Industry Average Wholesale Price Litigation*, MDL No. 1456, Civil Action No. 01-CV-12257-PBS (electronic order dated 9/27/04). Abbott will not produce ASP information reported to CMS.

Subject to and without waiving its objections, Abbott will produce, to the extent it exists and is reasonably obtainable, electronic sales data for sales of the Subject Drugs to non-hospital customers in the Commonwealth of Kentucky

7. All documents regarding DP, including, but not limited to:
 - a) documents regarding what the DP is for the Subject Drugs;
 - b) documents regarding how DP is calculated, regardless of who calculated DP;
 - c) documents regarding any formula, methodology, guideline, policy, procedure, or strategy you use to establish, calculate, adjust, or market the DP for any Pharmaceutical you manufacture, market, or sell, including, but not limited to, the Subject Drugs;
 - d) any training material regarding DP;
 - e) any promotional material regarding DP;
 - f) any correspondence, memoranda, contracts, studies, analyses, or reports regarding DP; and
 - g) any and all documents regarding the relationship between a Pharmaceutical's DP and the Pharmaceutical's AMP, ASP, WAC, SWP, AWP, FUL, MAC, or its Actual Acquisition Price.

RESPONSE: In addition to its General Objections, Abbott objects to this request because it: (i) is overly broad and unduly burdensome, particularly to the extent it purports to require Abbott to search all correspondence, memoranda, contracts, studies, analyses, reports or other documents over an eleven-year period for any reference to DP; (ii) is vague and ambiguous, particularly with respect to the terms “studies,” “analyses,” “reports,” “formula,” “methodology” and “policy”; (iii) is not limited to the Subject Drugs or the Commonwealth of Kentucky; (iv) seeks information protected by the attorney-client privilege and/or the work product doctrine; (v) seeks information outside of Abbott’s custody, care or control; (vi) seeks

confidential and/or proprietary information; and (vii) seeks information that is not relevant nor reasonably calculated to lead to the discovery of admissible evidence.

Subject to and without waiving any of its objections, Abbott will produce, to the extent they exist and are reasonably obtainable: (i) correspondence with third-party pharmaceutical pricing compendia relating to pricing of the Subject Drugs; (ii) policies and procedures for sales, marketing and pricing of the Subject Drugs that reference DP; and (iii) promotional materials provided to any sales representatives for the Commonwealth of Kentucky or any non-hospital customers in the Commonwealth of Kentucky that relate to pricing, marketing or sales of the Subject Drugs and that reference DP.

8. All documents regarding SWP, including, but not limited to:
 - a) documents regarding what the SWP is for the Subject Drugs;
 - b) documents regarding how SWP is calculated, regardless of who calculated SWP;
 - c) documents regarding any formula, methodology, guideline, policy, procedure, or strategy you use to establish, calculate, adjust or market the SWP for any Pharmaceutical you manufacture, market, or sell, including, but not limited to, the Subject Drugs;
 - d) any training material regarding SWP;
 - e) any promotional material regarding SWP;
 - f) any correspondence, memoranda, contracts, studies, analyses, or reports regarding SWP; and
 - g) any and all documents regarding the relationship between a Pharmaceutical's SWP and the Pharmaceutical's AMP, ASP, WAC, AWP, FUL, MAC, or its Actual Acquisition Price.

RESPONSE: In addition to its General Objections, Abbott objects to this request because it: (i) is overly broad and unduly burdensome, particularly to the extent it purports to require Abbott to search all correspondence, memoranda, contracts, studies, analyses, reports or

other documents over an eleven-year period for any reference to SWP; (ii) is vague and ambiguous, particularly with respect to the terms “studies,” “analyses,” “reports,” “formula,” “methodology” and “policy”; (iii) is not limited to the Subject Drugs or the Commonwealth of Kentucky; (iv) incorrectly suggests that Abbott establishes, calculates, adjusts, or markets the SWP for all of its drugs; (v) seeks information outside of Abbott’s custody, care or control; (vi) seeks information protected by the attorney-client privilege and/or the work product doctrine; (vii) seeks confidential and/or proprietary information; and (viii) seeks information that is not relevant nor reasonably calculated to lead to the discovery of admissible evidence.

Subject to and without waiving any of its objections, Abbott states that it is not aware of any documents relating to SWP in its custody, care or control. Abbott will conduct a reasonable search for documents relating to the Subject Drugs that reference SWP and will supplement its response to the extent appropriate.

9. All documents regarding Spread, including, but not limited to:
 - a) documents regarding what the Spread is for the Subject Drugs;
 - b) documents regarding how Spread is calculated, regardless of who calculated Spread;
 - c) documents regarding any formula, methodology, guideline, policy, procedure, or strategy you use to establish, calculate, adjust, or market the Spread for any Pharmaceutical you manufacture, market, or sell, including, but not limited to, the Subject Drugs;
 - d) any training material regarding Spread;
 - e) any promotional material regarding Spread;
 - f) any correspondence, memoranda, contracts, studies, analyses, or reports regarding Spread; and
 - g) any and all documents regarding the relationship between a Pharmaceutical’s Spread and the Pharmaceutical’s AMP, ASP, WAC, DP, SWP, AWP, FUL, MAC, or its Actual Acquisition Price.

RESPONSE: In addition to its General Objections, Abbott objects to this request because it: (i) is overly broad and unduly burdensome, particularly to the extent it purports to require Abbott to search all correspondence, memoranda, contracts, studies, analyses, reports or other documents over an eleven-year period for any reference to Spread; (ii) is vague and ambiguous, particularly with respect to the terms “studies,” “analyses,” “reports,” “formula,” “methodology” and “policy”; (iii) is not limited to the Subject Drugs or the Commonwealth of Kentucky; (iv) seeks information outside of Abbott’s custody, care or control; (v) incorrectly suggests that Abbott establishes, adjusts, or markets the Spread; (vi) seeks information protected by the attorney-client privilege and/or the work product doctrine; (vii) seeks confidential and/or proprietary information; and (viii) seeks information that is not relevant nor reasonably calculated to lead to the discovery of admissible evidence.

Subject to and without waiving any of its objections, Abbott will produce, to the extent they exist and are reasonably obtainable: (i) correspondence with non-hospital customers in the Commonwealth of Kentucky that relate to the Subject Drugs and refer to spread; (ii) policies and procedures for sales, marketing and pricing of the Subject Drugs that reference the spread; and (iii) promotional materials provided to any sales representatives for the Commonwealth of Kentucky or any non-hospital customers in the Commonwealth of Kentucky that relate to pricing, marketing or sales of the Subject Drugs and that reference the spread.

10. All documents that identify the “Ex-Factory Price,” “Earned Margin” (the difference between AWP and your actual product cost), Actual Acquisition Price, “Net Wholesale Price” or any other information related to the actual net prices paid by wholesalers, distributors, Group Purchasing Organizations, independent distribution networks, pharmacy benefit managers, or Healthcare Providers for any of the Subject Drugs. Such documents shall include, but not be limited to, price lists, catalogs and/or sell sheets.

RESPONSE: In addition to its General Objections, Abbott objects to this request because it: (i) is overly broad and unduly burdensome, particularly to the extent it seeks “any

other information” related to the actual net prices paid by numerous customers over an eleven-year period; (ii) is vague and ambiguous, particularly with respect to the terms “Ex-Factory Price,” “Earned Margin,” “actual product cost,” “Net Wholesale Price” and “actual net prices”; (iii) is not limited to the Commonwealth of Kentucky; (iv) seeks confidential and/or proprietary information; (v) seeks information outside of Abbott’s custody, care or control; (vi) seeks information protected by the attorney-client privilege and/or the work product doctrine; and (vii) seeks information that is not relevant nor reasonably calculated to lead to the discovery of admissible evidence.

Subject to and without waiving any of its objections, Abbott will produce: (i) electronic sales data for sales of the Subject Drugs to non-hospital customers in the Commonwealth of Kentucky; (ii) price announcements to wholesalers relating to the Subject Drugs; and (iii) price catalogs for the Subject Drugs.

11. All documents that identify whether the AWP, ASP, WAC, AMP, DP, SWP, and/or Earned Margin of any Subject Drugs, include all rebates, discounts, allowances, credits, and any other Incentive provided to third parties (i.e., wholesalers) or Healthcare Providers.

RESPONSE: In addition to its General Objections, Abbott objects to this request because it: (i) is overly broad and unduly burdensome, particularly to the extent it seeks information over an eleven-year period; (ii) is vague and ambiguous, particularly with respect to the terms “Earned Margin,” “discounts,” and “allowances”; (iii) seeks information outside of Abbott’s custody, care or control; (iv) seeks confidential and/or proprietary information; (v) seeks information protected by the attorney-client privilege and/or the work product doctrine; (vi) seeks information that is not relevant nor reasonably calculated to lead to the discovery of admissible evidence, particularly to the extent it seeks documents relating to the Medicaid rebate program since there are no Medicaid rebate claims in the complaint; (vii) seeks calculations or

formulas for terms whose calculations are federally mandated to the extent it seeks information relating to ASP, WAC, and AMP; (vii) is not limited to the Commonwealth of Kentucky; and (viii) is duplicative of Requests 3 through 8.

Abbott further objects to this request because it seeks information that is not relevant nor reasonably calculated to lead to the discovery of admissible evidence, particularly to the extent it seeks information regarding “average sales price” or “ASP” as reported to CMS because the pricing benchmark of “average sales price” was not created by Congress until after the Amended Complaint was filed and because the reporting obligations were only recently finalized by the relevant federal agency. *See* Pub. L. No. 108-173, 117 Stat. 2066 (2003), § 303. Moreover, Magistrate Judge Bowler in the District of Massachusetts ruled in a similar case that plaintiffs were not entitled to the ASP information submitted by defendants to CMS. *See In re Pharmaceutical Industry Average Wholesale Price Litigation*, MDL No. 1456, Civil Action No. 01-CV-12257-PBS (electronic order dated 9/27/04). Abbott will not produce ASP information reported to CMS.

Subject to and without waiving any of its objections, Abbott incorporates its responses to Requests 3 through 8. In addition, Abbott will produce, to the extent it exists and is reasonably obtainable, electronic sales data for sales of the Subject Drugs to non-hospital customers in the Commonwealth of Kentucky.

12. All documents relating to any Publisher, including, but not limited to any communications, correspondence, reports, analysis of pricing methodology, contracts, or agreements by and between you and any Publisher, whether or not such documents relate to the Subject Drugs.

RESPONSE: In addition to its General Objections, Abbott objects to this request because it: (i) is overly broad and unduly burdensome, particularly to the extent it seeks all correspondence and communications with “any Publisher” over an eleven-year period, without

limitation; (ii) is vague and ambiguous, particularly with respect to the phrase “analysis of pricing methodology” and the term “reports”; (iii) is not limited to the Subject Drugs; (iv) seeks confidential and/or proprietary information; (v) seeks information outside of Abbott’s custody, care or control; (vi) seeks information protected by the attorney-client privilege and/or the work product doctrine; and (vii) seeks information that is not relevant nor reasonably calculated to lead to the discovery of admissible evidence.

Subject to and without waiving any of its objections, Abbott will produce, to the extent it exists and is reasonably obtainable, correspondence with third-party pharmaceutical pricing compendia regarding pricing of the Subject Drugs.

13. All documents relating to any communications by and between you and the Kentucky Cabinet for Health and Family Services and/or the Medical Assistance Programs including, but not limited to, correspondence, contracts or agreements, and Medicaid rebate program invoices.

RESPONSE: In addition to its General Objections, Abbott objects to this request because it: (i) is overly broad and unduly burdensome, particularly to the extent it seeks all documents relating to any communications with the Kentucky Cabinet for Health and Family Services and/or the Medical Assistance Programs over an eleven-year period, without limitation and to the extent it seeks Medicaid rebate program invoices over an eleven-year period; (ii) is not limited to the Subject Drugs; (iii) seeks confidential and/or proprietary information; (iv) seeks information protected by the attorney-client privilege and/or the work product doctrine; (v) seeks information that is not relevant nor reasonably calculated to lead to the discovery of admissible evidence, particularly to the extent it seeks documents relating to the Medicaid rebate program since there are no Medicaid rebate claims in the complaint; (vi) seeks information outside of Abbott’s custody, care or control; and (vii) seeks information that is equally available to the Commonwealth.

Subject to and without waiving any of its objections, Abbott will produce, to the extent they exist and are reasonably obtainable, correspondence, contracts or agreements with the Kentucky Cabinet for Health and Family Services and/or Medical Assistance Program relating to the Subject Drugs. Abbott will not produce documents relating to the Medicaid rebate program.

14. All documents between you and any other Kentucky State agency, office, official, or employee including, but not limited to communications to the Legislative Research Commission or General Assembly regarding Kentucky statutes, regulations, and legislation regarding the Medical Assistance Program.

RESPONSE: In addition to its General Objections, Abbott objects to this request because it: (i) is overly broad and unduly burdensome, particularly to the extent it seeks information over an eleven-year period; (ii) is not limited to the Subject Drugs; (iii) seeks information outside of Abbott's custody, care or control; (iv) seeks information that is equally available to the Commonwealth; and (v) seeks information that is not relevant nor reasonably calculated to lead to the discovery of admissible evidence.

15. All documentation of communications between you and any state (other than Kentucky) agency, office, official, or Entity concerning the Medicaid reimbursement system, procedures, rules, and requirements.

RESPONSE: In addition to its General Objections, Abbott objects to this request because it: (i) is overly broad and unduly burdensome, particularly to the extent it seek communications between Abbott and any state agency, office, official or Entity over an eleven-year period; (ii) is not limited to the Subject Drugs or the Commonwealth of Kentucky; (iii) seeks confidential and/or proprietary information; (iv) seeks information outside of Abbott's custody, care or control; and (v) seeks information that is not relevant nor reasonably calculated to lead to the discovery of admissible evidence.

16. All documents relating to any communications by and between you and CMS, relating to reimbursement under the Medicare Part B and the Medicaid program for any of your Pharmaceuticals. Such documents shall include, but not be limited to, correspondence, contracts, or agreements.

RESPONSE: In addition to its General Objections, Abbott objects to this request because it: (i) is overly broad and unduly burdensome, particularly to the extent it seeks “any communication” for “any” of Abbott’s pharmaceuticals over an eleven-year period; (ii) is not limited to the Subject Drugs or the Commonwealth of Kentucky; (iii) seeks information outside of Abbott’s custody, care or control; (iv) seeks information protected by the attorney-client privilege and/or the work product doctrine; and (v) seeks confidential and/or proprietary information; and (vi) seeks information that is not relevant nor reasonably calculated to lead to the discovery of admissible evidence, particularly to the extent it seeks documents relating to the Medicaid rebate program since there are no Medicaid rebate claims in the complaint and to the extent it seeks information relating to other states’ Medicaid programs.

Subject to and without waiving any of its objections, Abbott will produce, to the extent it exists and is reasonably obtainable, correspondence with CMS regarding reimbursement of the Subject Drugs by Medicare Part B, the Kentucky Medicaid program, and the Medicaid program generally.

17. All documents relating to how any formula, calculation, methodology, guideline, survey, policy, or procedure used or applied by the CMS to establish or adjust a Federal Upper Limit affects reimbursement for any of the Subject Drugs.

RESPONSE: In addition to its General Objections, Abbott objects to this request because it: (i) is overly broad and unduly burdensome, particularly to the extent it seeks information over an eleven-year period; (ii) is vague and ambiguous, particularly with respect to the terms “policy,” “formula,” “methodology” and “survey”; (iii) seeks information outside of Abbott’s custody, care or control; (iv) seeks information protected by the attorney-client

privilege and/or the work product doctrine; and (v) seeks information that is not relevant nor reasonably calculated to lead to the discovery of admissible evidence.

Subject to and without waiving any of its objections, Abbott will produce, to the extent they exist and are reasonably obtainable, non-privileged responsive documents relating to the Subject Drugs.

18. All documents relating to how any formula, calculation, methodology, guideline, survey, policy, or procedure used, or applied by the CMS to establish, or adjust the reimbursement amount for any Healthcare Common Procedure Coding System (“HCPCS”) code that encompasses any of the Subject Drugs, affects reimbursement for any of the Subject Drugs.

RESPONSE: In addition to its General Objections, Abbott objects to this request because it: (i) is overly broad and unduly burdensome, particularly to the extent it seeks information over an eleven-year period; (ii) is vague and ambiguous, particularly with respect to the terms “policy,” “formula,” “methodology” and “survey”; (iii) seeks information outside of Abbott’s custody, care or control; (iv) seeks information protected by the attorney-client privilege and/or the work product doctrine; and (v) seeks information that is not relevant nor reasonably calculated to lead to the discovery of admissible evidence.

Subject to and without waiving any of its objections, Abbott will produce, to the extent they exist and are reasonably obtainable, non-privileged responsive documents relating to the Subject Drugs.

19. For sales of Subject Drugs in the United States, all documents relating to the market share for any Subject Drugs within the Defined Period of Time, and, if available, both overall, and by Pharmaceutical Class of Trade.

RESPONSE: In addition to its General Objections, Abbott objects to this request because it: (i) is overly broad and unduly burdensome, particularly to the extent it seeks information over an eleven-year period; (ii) is vague and ambiguous, particularly with respect to

the term “market share”; (iii) seeks information protected by the attorney-client privilege and/or the work product doctrine; (iv) is not limited to the Commonwealth of Kentucky; (v) seeks information that is not relevant nor reasonably calculated to lead to the discovery of admissible evidence; and (vi) seeks information in the public domain.

Subject to and without waiving any of its objections, Abbott will produce, to the extent they exist and are reasonably obtainable, documents relating to product-specific market share of the Subject Drugs in the Commonwealth of Kentucky.

20. All documents relating to the market share in the United States for any Competing Pharmaceutical within the Defined Period of Time, and, if available, both overall, and by Pharmaceutical Class of Trade.

RESPONSE: In addition to its General Objections, Abbott objects to this request because it: (i) is overly broad and unduly burdensome, particularly to the extent it seeks information over an eleven-year period; (ii) is vague and ambiguous, particularly with respect to the term “market share”; (iii) seeks information protected by the attorney-client privilege and/or the work product doctrine; (iv) is not limited to the Subject Drugs or the Commonwealth of Kentucky; (v) seeks information outside of Abbott’s custody, care or control; (vi) seeks information that is not relevant nor reasonably calculated to lead to the discovery of admissible evidence; and (vii) seeks information in the public domain.

Subject to and without waiving any of its objections, Abbott will produce, to the extent they exist and are reasonably obtainable, documents relating to the product-specific market share for Competing Pharmaceuticals of the Subject Drugs in the Commonwealth of Kentucky.

21. For sales of Subject Drugs in the United States, all reports or memoranda relating to the sales (by dollar and by unit), cost of sales, revenues, and profits for any Subject Drugs, by each quarter of your fiscal year within the Defined Period of Time, and, if available, both overall, and by Pharmaceutical Class of Trade.

RESPONSE: In addition to its General Objections, Abbott objects to this request because it: (i) is overly broad and unduly burdensome, particularly to the extent it seeks “all reports or memoranda” relating to the “sales,” “cost of sales,” “revenues” and “profits” over an eleven-year period; (ii) is vague and ambiguous, particularly with respect to the terms “cost of sales,” “revenues,” “profits” and “reports”; (iii) is not limited to the Commonwealth of Kentucky; (iv) seeks confidential and/or proprietary information; and (v) seeks information that is not relevant nor reasonably calculated to lead to the discovery of admissible evidence, particularly in seeking cost of sales.

Subject to and without waiving any of its objections, Abbott will produce, to the extent it exists and is reasonably obtainable, electronic sales data for sales of the Subject Drugs to non-hospital customers in the Commonwealth of Kentucky and annual sales reports relating to sales of the Subject Drugs in the Commonwealth of Kentucky.

22. All documents prepared by you, a defendant, a competitor, or a third party, which analyze, evaluate, or summarize information referring, or relating to the market allocation, sales territories, distribution, marketing, pricing, or selling of the Subject Drugs including, without limitation, documents referring, or relating to sales, volumes, product lines, profitability, competition, market share, competitive position, or sales territories.

RESPONSE: In addition to its General Objections, Abbott objects to this request because it: (i) is overly broad and unduly burdensome, particularly to the extent it seeks documents prepared by Abbott or any third party over an eleven-year period; (ii) is vague and ambiguous, particularly with respect to the terms “pricing,” “sales territories,” “market allocation,” “market share,” “competitive position,” “analyze,” “product lines,” “distribution” and “competition”; (iii) is not limited to the Commonwealth of Kentucky; (iv) seeks information outside of Abbott’s custody, care or control, particularly to the extent it seeks documents prepared by a competitor or third party; (v) seeks confidential and/or proprietary information;

and (vi) seeks information that is not relevant nor reasonably calculated to lead to the discovery of admissible evidence.

Subject to and without waiving any of its objections, Abbott will produce, to the extent they exist and are reasonably obtainable, documents relating to the product-specific market share of the Subject Drugs in the Commonwealth of Kentucky and annual sales reports relating to sales of the Subject Drugs in the Commonwealth of Kentucky.

23. For sales of Subject Drugs in Kentucky (or, if not available by state, by geographic region that includes Kentucky), all documents relating to the market share for any Competing Pharmaceutical within the Defined Period of Time, and, if available, both overall and by Pharmaceutical Class of Trade.

RESPONSE: In addition to its General Objections, Abbott objects to this request because it: (i) is overly broad and unduly burdensome; (ii) is vague and ambiguous, particularly with respect to the terms “geographic region” and “market share”; (iii) seeks information outside of Abbott’s custody, care or control; (iv) seeks information that is not relevant nor reasonably calculated to lead to the discovery of admissible evidence; (v) is not limited to the Subject Drugs; and (vi) seeks information in the public domain.

Subject to and without waiving any of its objections, Abbott will produce, to the extent they exist and are reasonably obtainable, documents relating to the product-specific market share of the Subject Drugs in the Commonwealth of Kentucky.

24. For sales of Subject Drugs in Kentucky (or, if not available by state, by geographic region that includes Kentucky), all reports or memoranda relating to the sales (by dollar and by unit), prices, price premiums, profit margins, cost of sales, revenues, and profits for any Subject Drugs, by each quarter of your fiscal year within the Defined Period of Time, and, if available, both overall, and by Pharmaceutical Class of Trade.

RESPONSE: In addition to its General Objections, Abbott objects to this request because it: (i) is overly broad and unduly burdensome, particularly to the extent it seeks “all

reports or memoranda” relating to the “sales,” “cost of sales,” “revenues” and “profits” on a quarterly basis over an eleven-year period; (ii) is vague and ambiguous, particularly with respect to the terms “prices,” “price premiums,” “profit margins,” “costs of sales,” “revenues,” “profits” and “reports”; (iii) seeks confidential and/or proprietary information; (iv) seeks information that is not relevant nor reasonably calculated to lead to the discovery of admissible evidence, particularly in seeking cost of sales; (v) seeks information that is protected by the attorney-client privilege and/or the work product doctrine; and (vi) is duplicative of Request 21.

Subject to and without waiving any of its objections, Abbott will produce, to the extent it exists and is reasonably obtainable, electronic sales data for sales of the Subject Drugs to non-hospital customers in the Commonwealth of Kentucky and annual sales reports relating to sales of the Subject Drugs in the Commonwealth of Kentucky.

25. For each Pharmaceutical Class of Trade, all documents regarding the fifteen (15) largest United States purchasers (by units) of Subject Drugs(s) within each Pharmaceutical Class of Trade, including, but not limited to, contracts, correspondence, Price Representations, sales/marketing information, and invoices.

RESPONSE: In addition to its General Objections, Abbott objects to this request because it: (i) is overly broad and unduly burdensome, particularly to the extent it seeks “all documents” regarding the “fifteen largest United States purchasers” for each class of trade over an eleven-year period and to the extent it seeks invoices over an eleven-year period; (ii) is not limited to the Commonwealth of Kentucky; (iii) seeks confidential and/or proprietary information; (iv) seeks information that is not relevant nor reasonably calculated to lead to the discovery of admissible evidence, particularly to the extent it seeks documents relating to hospital providers; and (v) purports to require Abbott to conduct mathematical calculations not kept in the ordinary course of business.

Subject to and without waiving any of its objections, Abbott will produce, to the extent they exist and are reasonably obtainable: (i) contracts with non-hospital customers in the Commonwealth of Kentucky for the Subject Drugs; (ii) correspondence with non-hospital customers in the Commonwealth of the Kentucky regarding pricing of the Subject Drugs; and (iii) electronic sales data for sales of the Subject Drugs to non-hospital customers in the Commonwealth of Kentucky.

26. For each Pharmaceutical Class of Trade, all documents regarding the fifteen (15) largest Kentucky purchasers (by units) of Subject Drugs(s) within each Pharmaceutical Class of Trade, including, but not limited to contracts, correspondence, Price Representations, sales/marketing information, and invoices.

RESPONSE: In addition to its General Objections, Abbott objects to this request because it: (i) is overly broad and unduly burdensome, particularly to the extent it seeks “all documents” regarding the “fifteen largest Kentucky purchasers” for each class of trade over an eleven-year period and to the extent it seeks invoices over an eleven-year period; (ii) seeks confidential and/or proprietary information; (iii) seeks information that is not relevant nor reasonably calculated to lead to the discovery of admissible evidence, particularly to the extent it seeks documents relating to hospital providers; and (iv) purports to require Abbott to conduct mathematical calculations not kept in the ordinary course of business.

Subject to and without waiving any of its objections, Abbott will produce, to the extent they exist and are reasonably obtainable: (i) contracts with non-hospital customers in the Commonwealth of Kentucky for the Subject Drugs; (ii) correspondence with non-hospital customers in the Commonwealth of Kentucky regarding pricing of the Subject Drugs; and (iii) electronic sales data for sales of the Subject Drugs to non-hospital customers in the Commonwealth of Kentucky.

27. All documentation containing, or relating to, your company policies, procedures, manuals, or guidelines pertaining to pricing, marketing, selling, distributing, or advertising of your drugs.

RESPONSE: In addition to its General Objections, Abbott objects to this request because it: (i) is overly broad and unduly burdensome, particularly to the extent it seeks “company policies, procedures, manuals, or guidelines” related to a broad list of topics over an eleven-year period; (ii) is vague and ambiguous, particularly with respect to the terms “pricing,” “policies” and “distributing”; (iii) is not limited to the Subject Drugs or the Commonwealth of Kentucky; (iv) seeks confidential and/or proprietary information; (v) seeks information protected by the attorney-client privilege and/or the work product doctrine; and (vi) seeks information that is not relevant nor reasonably calculated to lead to the discovery of admissible evidence, particularly to the extent it seeks documents relating to distributing and advertising.

Subject to and without waiving any of its objections, Abbott will produce, to the extent they exist and are reasonably obtainable, policies, procedures, manuals and guidelines that relate to the pricing, marketing, and sales of the Subject Drugs, except to the extent they relate to AMP and Best Price.

28. All catalogues and sales materials for the Subject Drugs and all reports, memoranda, circulars, letters, bulletins, instructions, or other documents sent to or provided to salesmen, service representatives, customers, distributors, or other persons relating to the Subject Drugs, including, but not limited to, all documents relating to any incentive related to the distribution or sale of any of the Subject Drugs.

RESPONSE: In addition to its General Objections, Abbott objects to this request because it: (i) is overly broad and unduly burdensome, particularly to the extent it seeks “all” documents “sent to or provided to” any “persons” over an eleven-year period; (ii) is vague and ambiguous, particularly with respect to the term “distribution”; (iii) is not limited to the Commonwealth of Kentucky; (iv) seeks confidential and/or proprietary information; (v) seeks

information that is not relevant nor reasonably calculated to lead to the discovery of admissible evidence, particularly to the extent it seeks catalogues and sales materials relating to the pharmacological benefits of the Subject Drugs; and (vi) seeks information outside of Abbott's custody, care or control.

Subject to and without waiving any of its objections, Abbott will produce, to the extent they exist and are reasonably obtainable, non-privileged (i) promotional materials provided to any sales representatives for the Commonwealth of Kentucky or any non-hospital customers in the Commonwealth of Kentucky relating to pricing, marketing or sales of the Subject Drugs; and (ii) price catalogs for the Subject Drugs.

29. All documents relating to any analyses, survey, study, or report related to actual, contemplated, or proposed methods or rates of reimbursement for Pharmaceuticals for the Medicare Part B or Medicaid program, or the Medical Assistance Program. Such documents shall include but not be limited to, those generated by you or on your behalf and those generated by third party sources.

RESPONSE: In addition to its General Objections, Abbott objects to this request because it: (i) is overly broad and unduly burdensome, particularly to the extent it seeks information over an eleven-year period; (ii) is vague and ambiguous, particularly with respect to the terms "analyses," "survey," "study" and "report"; (iii) is not limited to the Subject Drugs; (iv) seeks information outside of Abbott's custody, care or control; (v) seeks information protected by the attorney-client privilege and/or the work product doctrine; (vi) seeks information that is not relevant nor reasonably calculated to lead to the discovery of admissible evidence, particularly to the extent it seeks information relating to other states' Medicaid programs; (vii) seeks confidential and/or proprietary information; (viii) is not limited to the Kentucky Medicaid program; and (ix) purports to seek publicly available reports by government agencies that are equally or more available to the Commonwealth.

Subject to and without waiving any of its objections, Abbott will produce, to the extent they exist and are reasonably obtainable, non-privileged responsive documents relating to methods or rates of reimbursement by Medicare Part B, Kentucky Medicaid or the Kentucky Medical Assistance Program for the Subject Drugs.

30. All documents relating to any analyses, survey, study or report related to how any of your Price Representations or any other price related decisions you made for any of the Subject Drugs, or any Competing Pharmaceutical, affected the amount of reimbursement any of your customers received from the Medicare Part B (or beneficiary thereof) or Medicaid program, or the Medical Assistance Program.

RESPONSE: In addition to its General Objections, Abbott objects to this request because it: (i) is overly broad and unduly burdensome, particularly to the extent it seeks information over an eleven-year period; (ii) is vague and ambiguous, particularly with respect to the phrase “price related decisions” and the terms “analyses,” “survey,” “study” and “report”; (iii) is confusing to the extent it suggests that Abbott makes price related decisions for Competing Pharmaceuticals; (iv) is not limited to the Subject Drugs; (v) seeks confidential and/or proprietary information; (vi) seeks information protected by the attorney-client privilege and/or the work product doctrine; (vii) seeks information that is not relevant nor reasonably calculated to lead to the discovery of admissible evidence, particularly to the extent it seeks information relating to other states’ Medicaid programs; and (viii) improperly suggests that Abbott’s price representations affect Medicare or Kentucky Medicaid reimbursement.

31. All documents relating to the percentage of your sales of any of the Subject Drugs within a Pharmaceutical Class of Trade that were sold to GPOs under contract and/or that were sold to a wholesaler or distributor under contract.

RESPONSE: In addition to its General Objections, Abbott objects to this request because it: (i) is overly broad and unduly burdensome, particularly to the extent it seeks information over an eleven-year period; (ii) is not limited to the Commonwealth of Kentucky;

(iii) seeks confidential and/or proprietary information; (iv) seeks information that is not relevant nor reasonably calculated to lead to the discovery of admissible evidence; and (v) purports to require Abbott to conduct mathematical calculations not kept in the ordinary course of business.

Subject to and without waiving any of its objections, Abbott will produce, to the extent they exist and are reasonably obtainable, contracts for sales of the Subject Drugs to non-hospital customers in the Commonwealth of Kentucky and electronic sales data for sales of the Subject Drugs to non-hospital customers in the Commonwealth of Kentucky.

32. Electronic data sufficient to identify:

- a) each sale and/or other transaction involving the Subject Drugs including the date thereof;
- b) for each sale and/or other transaction involving the Subject Drugs, the name and address of the person to whom you bill for the sale of the Subject Drugs (the “bill-to-customer”) and, in addition, the full name and address of the parent company, if the database or documents identify a subsidiary, corporate affiliate, division, satellite office, or warehouse;
- c) for each sale and/or other transaction involving the Subject Drugs, the name and address of the person to whom you ship the Subject Drugs (the “ship to customer”) and, in addition, the full name and address of the parent company, if the database or documents identify a subsidiary, corporate affiliate, division, satellite office, or warehouse;
- d) discounts, rebates, Chargebacks, returns and/or other price and quantity adjustments relating to each sale, transaction, and/or set of sales or transactions involving or relating to the Subject Drugs;
- e) any other price or unit adjustments - whether monthly, quarterly, or on any other basis - involving, or relating to sales or transactions involving the Subject Drugs; and
- f) the net amount in dollars, and in dollars per unit, for each sale and/or other transaction involving, or relating to the Subject Drugs.

RESPONSE: In addition to its General Objections, Abbott objects to this request because it: (i) is overly broad and unduly burdensome, particularly to the extent it seeks electronic data for each commercial transaction over an eleven-year period, to the extent it

purports to seek all adjustments to the sales of the Subject Drugs, and to the extent it seeks information regarding the parent and subsidiary relationships of Abbott's customers; (ii) is vague and ambiguous, particularly with respect to the phrases "other price and quantity adjustments" and "any other price of unit adjustments," and the term "net amount"; (iii) is not limited to the Commonwealth of Kentucky; (iv) seeks confidential and/or proprietary information; (v) purports to require Abbott to produce information, not already in electronic format, in electronic format; (vi) seeks information that is not relevant nor reasonably calculated to lead to the discovery of admissible evidence; (vii) is not limited to sales by Abbott; and (viii) seeks information that is not in Abbott's custody, care or control in seeking information regarding sales by third parties.

Subject to and without waiving any of its objections, Abbott will produce, to the extent they exist and are reasonably obtainable, electronic sales data of the Subject Drugs relating to non-hospital customers in the Commonwealth of Kentucky and a field layout of the fields contained in the electronic sales data.

33. Documents sufficient to explain the record layout, including, but not limited to, any or all of the data fields, of electronic data produced in response to any of these requests, and/or the operation of any equipment or software utilized by you to maintain the responsive electronic data.

RESPONSE: In addition to its General Objections, Abbott objects to this request because it is vague and ambiguous with respect to the phrase "sufficient to explain" and the term "record layout."

Subject to and without waiving any of its objections, Abbott will produce, to the extent they exist and are reasonably obtainable, field layouts of the fields contained in the electronic sales data that is produced.

34. Excluding hospital sales, documents that identify the distribution or sales you or any wholesaler, distributor, Group Purchasing Organization, independent distribution network,

pharmacy benefit manager or other Entity made to a customer or Healthcare Provider at or above AWP, WAC, DP or SWP, for any of the Subject Drugs.

RESPONSE: In addition to its General Objections, Abbott objects to this request because it: (i) is overly broad and unduly burdensome, particularly to the extent it would require Abbott to review all sales over an eleven-year period; (ii) is not limited to the Commonwealth of Kentucky; (iii) seeks confidential and/or proprietary information; (iv) seeks information outside of Abbott's custody, care or control in seeking information regarding sales by third parties; and (v) seeks information that is not relevant nor reasonably calculated to lead to the discovery of admissible evidence.

Subject to and without waiving any of its objections, Abbott will produce, to the extent they exist and are reasonably obtainable, contracts for sales of the Subject Drugs with non-hospital customers in the Commonwealth of Kentucky and electronic sales data relating to sales of the Subject Drugs to non-hospital customers in the Commonwealth of Kentucky.

35. All documents that discuss, study, or compare the quality of the Subject Drugs manufactured by you, or on your behalf, with any therapeutically equivalent drugs manufactured, produced, or distributed by any other company.

RESPONSE: In addition to its General Objections, Abbott objects to this request because it: (i) is overly broad and unduly burdensome, particularly to the extent it seeks information over an eleven-year period; (ii) is vague and ambiguous, particularly with respect to the terms "study" and "quality"; (iii) seeks confidential and/or proprietary information; and (iv) seeks information that is not relevant nor reasonably calculated to lead to the discovery of admissible evidence.

36. The minutes of and materials distributed at, all meetings of your board(s) of directors (or any subset thereof) relating to any government investigation, inquiry, or any litigation related to any allegation that you misrepresented, misstated, or otherwise manipulated any price representation or improperly provided a kickback, inducement, payment, or other

benefit to a Healthcare Provider for the purpose of influencing a Healthcare Provider to purchase, prescribe, administer, or dispense any Pharmaceutical.

RESPONSE: In addition to its General Objections, Abbott objects to this request because it: (i) is overly broad and unduly burdensome, particularly to the extent it purports to require Abbott to search all minutes and materials from all meetings of Abbott’s board of directors over an eleven-year period; (ii) is vague and ambiguous, particularly with respect to the term “other benefit”; (iii) is not limited to the Subject Drugs; (iv) is not limited to the Commonwealth of Kentucky; (v) seeks information protected by the attorney-client privilege and/or the work product doctrine; (vi) seeks confidential and/or proprietary information; and (vii) seeks information that is not relevant nor reasonably calculated to lead to the discovery of admissible evidence.

37. To the extent that you divested any Subject Drugs, all documents relating to any due diligence related to such divestiture.

RESPONSE: In addition to its General Objections, Abbott objects to this request because it: (i) is overly broad and unduly burdensome, particularly to the extent it seeks “all documents relating to any due diligence related to such divestiture”; (ii) is vague and ambiguous as to the terms “divest” and “divestiture”; (iii) seeks confidential and/or proprietary information; (iv) seeks information protected by the attorney-client privilege and/or the work product doctrine; and (v) seeks information that is not relevant nor reasonably calculated to lead to the discovery of admissible evidence.

38. All documents relating to your policies, procedures, and or practices concerning the retention and destruction of documents.

RESPONSE: In addition to its General Objections, Abbott objects to this request because it: (i) is overly broad and unduly burdensome, particularly to the extent it seeks all

“policies procedures, and or practices concerning the retention and destruction of documents” over an eleven-year period, without limitation; (ii) is vague and ambiguous, particularly with respect to the phrase “policies, procedures, and or practices”; (iii) is not limited to the Subject Drugs or the Commonwealth of Kentucky; (iv) seeks information protected by the attorney-client privilege and/or the work product doctrine; (v) seeks confidential and/or proprietary information; (vi) seeks information that is not relevant nor reasonably calculated to lead to the discovery of admissible evidence; and (vii) seeks information protected by the attorney-client privilege and the work product doctrine.

Subject to and without waiving any of its objections, Abbott will produce, to the extent they exist and are reasonably obtainable, document retention policies from those departments that otherwise have documents responsive to the Requests or Interrogatories.

39. All affidavits, declarations, depositions, or other written statements under oath provided by you relating to any allegation that you overstated, misstated, or otherwise manipulated the AMP, AWP, DP or WAC, or Best Price for any of your Subject Drugs.

RESPONSE: In addition to its General Objections, Abbott objects to this request because it: (i) is vague and ambiguous, particularly with respect to the phrase “otherwise manipulated”; (ii) is not limited to the Commonwealth of Kentucky; (iii) seeks confidential and/or proprietary information; (iv) seeks information that is protected by confidentiality agreements and/or protective orders; and (v) seeks information that is not relevant nor reasonably calculated to lead to the discovery of admissible evidence, particularly to the extent it seeks information regarding AMP and Best Price since there are no Medicaid rebate claims in the complaint.

Subject to and without waiving any of its objections and subject to the applicable protective order and/or confidentiality agreement entered in such case or investigation, Abbott

will produce, to the extent they exist and are reasonably obtainable, non-privileged responsive documents concerning or relating to the alleged misrepresentation of AWP, WAC or DP or the marketing of the spread for the Subject Drugs.

40. All documents sufficient to identify your distribution policies and procedures in the United States pharmaceuticals market for any of your Subject Drugs.

RESPONSE: In addition to its General Objections, Abbott objects to this request because it: (i) is overly broad and unduly burdensome, particularly to the extent it seeks information over an eleven-year period; (ii) is vague and ambiguous, particular with respect to the phrase “sufficient to identify” and “distribution policies and procedures”; (iii) is not limited to the Commonwealth of Kentucky; (iv) seeks confidential and/or proprietary information; and (v) seeks information that is not relevant nor reasonably calculated to lead to the discovery of admissible evidence.

41. Regarding AWP, ASP, and any other Price Representation, all documents related to any communications by and between you and any lobbyists, public relations firms, industry consultants, or industry trade groups (including, but not limited to, the Pharmaceutical Research and Manufacturers of America, the National Pharmaceutical Council, or the Generic Pharmaceutical Association).

RESPONSE: In addition to its General Objections, Abbott objects to this request because it: (i) is overly broad and unduly burdensome, particularly to the extent it seeks information over an eleven-year period; (ii) is vague and ambiguous, particularly with respect to the terms “industry consultants” and “industry trade groups”; (iii) is not limited to the Subject Drugs or the Commonwealth of Kentucky; (iv) seeks information outside of Abbott’s custody, care or control; (v) seeks information protected by the attorney-client privilege, the work product doctrine and/or the consulting privilege; and (vi) seeks information that is not relevant nor reasonably calculated to lead to the discovery of admissible evidence.

42. All documents relating to any communication, including any meetings, whether formal or informal, between you and any other pharmaceutical manufacturer regarding:

- a) any actual, proposed, or prospective price announcements, price changes, or price lists for any Pharmaceuticals;
- b) any actual, proposed, or prospective pricing methods, practices, policies, or strategies for any Pharmaceuticals;
- c) any actual, proposed, or prospective marketing methods, practices, policies, or strategies for any Pharmaceuticals;
- d) territories, markets, marketing agreements, or specific customers for sales of any Pharmaceuticals;
- e) Medicare Part B, Medicaid and their respective policies of reimbursement for any Pharmaceuticals; and
- f) a Price Representation for any Pharmaceutical.

RESPONSE: In addition to its General Objections, Abbott objects to this request because it: (i) is overly broad and unduly burdensome, particularly to the extent it purports to require Abbott to search for information over an eleven-year period; (ii) is vague and ambiguous, particularly with respect to the terms “price announcements,” “price changes,” “price lists,” and the phrases “pricing methods, practices, policies or strategies” and “marketing methods, practices, policies, or strategies”; (iii) is not limited to the Subject Drugs or the Commonwealth of Kentucky; (iv) seeks confidential and/or proprietary information; (v) seeks information outside of Abbott’s custody, care or control; (vi) seeks information protected by the attorney-client privilege and/or the work product doctrine; (vii) seeks information protected by the common interest privilege; and (viii) seeks information that is not relevant nor reasonably calculated to lead to the discovery of admissible evidence, particularly because there is no conspiracy or antitrust allegations in the complaint and particularly to the extent it seeks information regarding other states’ Medicaid programs.

43. All documents related to any contract or agreement (formal or informal) between you and any other pharmaceutical manufacturer relating to any Price Representation, pricing discount, rebate request for proposal, bid, free goods, samples, grants, fees, penalties, or other Incentive, for any of the Subject Drugs.

RESPONSE: In addition to its General Objections, Abbott objects to this request because it: (i) is overly broad and unduly burdensome, particularly to the extent it requires a search for information over an eleven-year period; (ii) is vague and ambiguous, particularly with respect to the terms “pricing discount” and “rebate request for proposal”; (iii) is not limited to the Commonwealth of Kentucky; (iv) seeks confidential and/or proprietary information; (v) seeks information protected by the attorney-client privilege and/or the work product doctrine; (vi) seeks information outside of Abbott’s custody, care or control; and (vii) seeks information that is not relevant nor reasonably calculated to lead to the discovery of admissible evidence.

44. All documents relating to discounts, rebates, credits, or any other reduction from list prices or announced prices offered by you or any other company relating to the sale of the Subject Drugs.

RESPONSE: In addition to its General Objections, Abbott objects to this request because it: (i) is overly broad and unduly burdensome, particularly to the extent it seeks “all” documents relating to “discounts, rebates, credits or any other reduction” over an eleven-year period; (ii) is vague and ambiguous, particularly with respect to the terms “discounts,” “list prices” and “announced prices”; (iii) is not limited to the Commonwealth of Kentucky; (iv) seeks information outside of Abbott’s custody care or control in seeking sales by third parties; (v) is not limited to Abbott; (vi) seeks confidential and/or proprietary information; (vii) seeks information protected by the attorney-client privilege and/or the work product doctrine; and (viii) seeks information that is not relevant nor reasonably calculated to lead to the discovery of admissible evidence.

Subject to and without waiving any of its objections, Abbott will produce, to the extent they exist and are reasonably obtainable, non-privileged responsive documents relating to contracts with non-hospital customers in the Commonwealth of Kentucky for the Subject Drugs and electronic sales data relating to sales of the Subject Drugs to non-hospital customers in the Commonwealth of Kentucky.

45. All documents produced by you in any state or federal government investigation or inquiry related to the use of AWP or any other Price Representation relating to Medicare Part B or Medicaid reimbursement for Pharmaceuticals.

RESPONSE: In addition to its General Objections, Abbott objects to this request because it: (i) is overly broad and unduly burdensome, particularly to the extent it seeks information over an eleven-year period; (ii) is vague and ambiguous, particularly with respect to the phrases “government investigation or inquiry” and “related to the use of AWP or any other Price Representation”; (iii) is not limited to the Subject Drugs or the Commonwealth of Kentucky; (iv) seeks confidential and/or proprietary information; (iv) seeks information that is protected by confidentiality agreements and/or protective orders; and (v) seeks information that is not relevant nor reasonably calculated to lead to the discovery of admissible evidence.

Subject to and without waiving any of its objections and subject to the applicable protective order and/or confidentiality agreement entered in such case or investigation, Abbott will produce, to the extent available and reasonably obtainable, non-privileged responsive documents concerning or relating to the alleged misrepresentation of AWP , WAC, DP or the marketing of the spread for the Subject Drugs.

46. All documents produced by you in response to any Civil Investigative Demand, subpoena, discovery requests, or document requests regarding any pharmaceutical pricing issues, including, but not limited to, cases involving Ven-A-Care of the Florida Keys, Inc.

RESPONSE: In addition to its General Objections, Abbott objects to this request because it: (i) is overly broad and unduly burdensome, particularly to the extent it seeks documents regarding any pharmaceutical pricing issues produced over an eleven-year period; (ii) is vague and ambiguous, particularly with respect to the phrase “pharmaceutical pricing issues” and the term “Civil Investigative Demand”; (iii) is not limited to the Subject Drugs or the Commonwealth of Kentucky; (iv) seeks confidential and/or proprietary information; (v) seeks information that is not relevant nor reasonably calculated to lead to the discovery of admissible evidence, particularly to the extent it seeks information related to the Medicaid rebate program since there are no Medicaid rebate claims in the complaint; (vi) is duplicative of Request 45; and (vii) seeks information that is protected by confidentiality agreements and/or protective orders.

Subject to and without waiving any of its objections and subject to the applicable protective order and/or confidentiality agreement entered in such case or investigation, Abbott will produce, to the extent available and reasonably obtainable, non-privileged responsive documents concerning or relating to the alleged misrepresentation of AWP, WAC, DP or the marketing of the spread for the Subject Drugs.

47. All documents provided by you, directly or indirectly, to wholesalers, distributors, Group Purchasing Organizations, independent distribution networks, pharmacy benefit managers, customers, or any Healthcare Provider, relating to the Spread for any of the Subject Drugs, including those of a competitor, including, but not be limited to, computer programs, databases, PowerPoint presentations, DVDs, CD-ROM, printouts, proposals; or sell-sheets.

RESPONSE: In addition to its General Objections, Abbott objects to this request because it: (i) is overly broad and unduly burdensome, particularly to the extent it purports to require Abbott to search all documents provided to its customers or other entities over an eleven-year period for any reference to the Spread and to the extent it seeks “databases”; (ii) is vague and ambiguous, particularly with respect to the term “sell-sheets”; (iii) is not limited to the

Commonwealth of Kentucky; (iv) seeks confidential and/or proprietary information; and (v) seeks information that is not relevant nor reasonably calculated to lead to the discovery of admissible evidence.

Subject to and without waiving any of its objections, Abbott will produce, to the extent they exist and are reasonably obtainable, promotional materials or correspondence with non-hospital customers in the Commonwealth of Kentucky that relate to the Subject Drugs and that reference the spread.

48. All documentation of internal communications between or among you, and/or external communications between you and other Entities, including, but not limited to, emails, notes, minutes of meetings, memorandum, regarding the Kentucky Medicaid program's calculation or determination of Medicaid reimbursement rates for your Pharmaceuticals.

RESPONSE: In addition to its General Objections, Abbott objects to this request because it: (i) is overly broad and unduly burdensome, particularly to the extent it seeks communications with "other entities," without limitation; (ii) is not limited to the Subject Drugs; (iii) seeks confidential and/or proprietary information; (iv) seeks information protected by the attorney-client privilege and/or the work product doctrine; (v) seeks information outside of Abbott's custody, care or control; and (vi) seeks information that is not relevant nor reasonably calculated to lead to the discovery of admissible evidence.

49. All documentation sent by you to any State of Kentucky agency, or any other state or federal Entity concerning Medicaid rebate payment or reporting obligations, including, but not limited to rebate agreements, checks, or lowest price disclosures.

RESPONSE: In addition to its General Objections, Abbott objects to this request because it: (i) is overly broad and unduly burdensome, particularly to the extent it refers to "any other state or federal entity"; (ii) is not limited to the Subject Drugs or the Commonwealth of Kentucky; (iii) seeks confidential and/or proprietary information; (iv) seeks information protected under the Medicaid Rebate statute and Abbott's Medicaid Rebate agreement with

CMS; (v) seeks information that is not relevant nor reasonably calculated to lead to the discovery of admissible evidence, particularly since there are no Medicaid rebate claims in the complaint; and (vi) seeks information that is equally available to the Commonwealth to the extent it seeks information sent to “any State of Kentucky agency.”

50. All documentation of contracts, agreements, accords, relationships, or ventures between you and all Kentucky Customers.

RESPONSE: In addition to its General Objections, Abbott objects to this request because it: (i) is overly broad and unduly burdensome, particularly to the extent it seeks all “documentation of contracts, agreements, accords, relationship, or ventures” with all “Kentucky Customers” over an eleven-year period, without limitation; (ii) is not limited to the Subject Drugs; (iii) is vague and ambiguous, particularly with respect to the terms “accords,” “relationships,” and “ventures”; (iv) seeks information outside of Abbott’s custody, care or control; (v) seeks confidential and/or proprietary information; (vi) seeks information protected by the attorney-client privilege and/or work product doctrine; and (vii) seeks information that is not relevant nor reasonably calculated to lead to the discovery of admissible evidence.

Subject to and without waiving any of its objections, Abbott will produce, to the extent they exist and are reasonably obtainable, contracts for sale of the Subject Drugs to non-hospital customers in the Commonwealth of Kentucky.

51. All documentation of contracts, agreements, accords, relationships, or ventures between you and all Entities who performed any service for you which pertained to your duties, responsibilities, or requirements to any federal or state agency or Entity, including, but not limited to, the Kentucky Medicaid program, concerning, in any way, Medicaid reimbursements and Medicaid rebates.

RESPONSE: In addition to its General Objections, Abbott objects to this request because it: (i) is overly broad and unduly burdensome, particularly to the extent it seeks “[a]ll

documentation of contracts, agreements, accords, relationships, or ventures” with all “Entities” over an eleven-year period, without limitation, and to the extent it seeks information relating to any “duties, responsibilities, or requirements to any federal or state agency or Entity” over an eleven-year period, without limitation; (ii) is vague and ambiguous, particularly with respect to the terms “accords,” “relationships,” and “ventures,” and the phrase “which pertained to your duties, responsibilities, or requirements to any federal or state agency or Entity”; (iii) is not limited to the Subject Drugs or the Commonwealth of Kentucky; (iv) seeks confidential and/or proprietary information; (v) seeks information protected by the attorney-client privilege and/or the work product doctrine; and (vi) seeks information that is not relevant nor reasonably calculated to lead to the discovery of admissible evidence, particularly to the extent it seeks documents relating to the Medicaid Rebate program since there are no Medicaid rebate claims in the complaint, and to the extent it seeks information relating to any “duties, responsibilities, or requirements to any federal or state agency or Entity,” without limitation.

52. All documents concerning your communications or contact with members of the United States Congress, and/or their staffs, relating to drug marketing, pricing, price reporting, and reimbursement; specifically including, but not limited to, all notices, invitations, bulletins, letters, emails, materials, notebooks, agendas, notes, or outlines from meetings, conferences, or gatherings with such members of Congress and/or their staffs, or prepared in anticipation of such meetings, conferences, or gatherings.

RESPONSE: In addition to its General Objections, Abbott objects to this request because it: (i) is overly broad and unduly burdensome, particularly to the extent it seeks “all notices, invitations, bulletins, letters, emails, materials, notebooks, agendas, notes, or outlines from meetings, conferences, or gatherings with such members of Congress and/or their staffs” over an eleven-year period; (ii) is vague and ambiguous, particularly with respect to the terms “pricing,” “price reporting,” and “gatherings”; (iii) seeks information outside of Abbott’s custody, care or control; (iv) is not limited to the Subject Drugs or the Commonwealth of

Kentucky; (v) is not limited to Medicare Part B or the Kentucky Medicaid Program; (vi) seeks information protected by the attorney-client privilege and/or the work product doctrine; and (vii) seeks information that is not relevant nor reasonably calculated to lead to the discovery of admissible evidence.

53. All data received from any outside audit service, regarding Abbott Laboratories, Inc.'s market share for its Subject Drugs, and regarding the marketing of its Subject Drugs, this request includes, but is not limited to materials presented to Abbott Laboratories, Inc. on an annual basis.

RESPONSE: In addition to its General Objections, Abbott objects to this request because it: (i) is overly broad and unduly burdensome, particularly to the extent it seeks information over an eleven-year period; (ii) is vague and ambiguous, particularly with respect to the terms "outside audit service" and "market share"; (iii) is not limited to the Commonwealth of Kentucky; (iv) seeks information in the public domain; (v) seeks information that is not relevant nor reasonably calculated to lead to the discovery of admissible evidence; (vi) seeks information that is protected by confidentiality agreements; and (vii) is duplicative of Requests 19, 20, 22, and 23.

Subject to and without waiving any of its objections, Abbott hereby incorporates by reference its responses to Requests 19, 20, 22 and 23.

54. To the extent not produced in response to any other request, all indemnification agreements between Abbott Laboratories, Inc. and its parent companies, and Abbott Laboratories, Inc.'s employees or former employees.

RESPONSE: In addition to its General Objections, Abbott objects to this request because it: (i) is overly broad; (ii) is not limited to the Subject Drugs or the Commonwealth of Kentucky; (iii) seeks confidential and/or proprietary information; and (iv) seeks information that is not relevant nor reasonably calculated to lead to the discovery of admissible evidence.

55. On a quarterly basis at the minimum, produce all spreadsheets or other summarizing documentation, in an electronic, computerized, paper, or other format, reflecting or relating to “net”, “dead net”, “wholesale net”, “net-net” or any other pricing term or designation describing a price, which is reduced by discount, rebate, bonus, or Chargebacks. (This request for Production is limited in scope to the Defined Time Period for the Subject Drugs.)

RESPONSE: In addition to its General Objections, Abbott objects to this request because it: (i) is overly broad and unduly burdensome, particularly to the extent it seeks all “spreadsheets” or other “summarizing documentation” on a “quarterly basis at the minimum” relating to or reflecting any “pricing term” over an eleven-year period; (ii) is vague and ambiguous, particularly with respect to the terms “net,” “dead net,” “wholesale net,” “net-net,” and “price” and the phrase “any other pricing term or designation describing a price”; (iii) seeks confidential and/or proprietary information; (iv) purports to require Abbott to create new documents instead of simply provide existing documents; (v) is not limited to the Commonwealth of Kentucky; and (vi) is not relevant nor reasonably calculated to lead to the discover of admissible evidence.

Subject to and without waiving any of its objections, Abbott will produce electronic sales data for non-hospital customers in the Commonwealth of Kentucky for the Subject Drugs.

56. For each year during the relevant time period, all documents, such as organizational charts, sufficient to show the organization of each division, department, unit, or subdivision of your company that had any role in the production, manufacture, market allocation, distribution, marketing, pricing, or sale of the Subject Drugs.

RESPONSE: In addition to its General Objections, Abbott objects to this request because it: (i) is overly broad and unduly burdensome, particularly to the extent it seeks information over an eleven-year period; (ii) is vague and ambiguous, particularly with respect to the terms “pricing,” “market allocation,” “distribution” and “sufficient to show”; (iii) is not limited to the Commonwealth of Kentucky; and (iv) seeks information that is not relevant nor

reasonably calculated to lead to the discovery of admissible evidence, particularly to the extent it seeks documents relating to production, distribution, and manufacturing.

Subject to and without waiving any of its objections, Abbott will produce, to the extent they exist and are reasonably obtainable, organizational charts for those departments that otherwise have documents responsive to the Requests and Interrogatories.

57. Any promotional documents and public statements, announcements, disclosures, or press releases issued by you, any defendant, or any of your competitors referring or relating to the price, distribution, marketing, or sale of the Subject Drugs, including any media files maintained by you.

RESPONSE: In addition to its General Objections, Abbott objects to this request because it: (i) is overly broad and unduly burdensome, particularly to the extent it seeks all marketing, sales, and other promotional documents over an eleven-year period; (ii) is vague and ambiguous, particularly with respect to the terms “price,” “distribution” and “media files”; (iii) is not limited to the Commonwealth of Kentucky; (iv) seeks information outside of Abbott’s custody, care or control in seeking documents issued by any defendant or competitor; (v) seeks information in the public domain; and (vi) seeks information that is not relevant nor reasonably calculated to lead to the discovery of admissible evidence.

Subject to and without waiving any of its objections, Abbott will produce, to the extent they exist and are reasonably obtainable, promotional materials relating to sales, marketing or pricing for the Subject Drugs provided to non-hospital customers in the Commonwealth of Kentucky.

58. All business plans, budgets, forecasts, sales, or profit projections referring or relating, in whole or in part, to the Subject Drugs.

RESPONSE: In addition to its General Objections, Abbott objects to this request because it: (i) is overly broad and unduly burdensome, particularly to the extent it seeks all

“business plans, budgets, forecasts, sales, or profit projections” over an eleven-year period; (ii) is vague and ambiguous, particularly with respect to the terms “business plans” and “profit projections”; (iii) is not limited to the Commonwealth of Kentucky; (iv) seeks confidential and/or proprietary information; and (v) seeks information that is not relevant nor reasonably calculated to lead to the discovery of admissible evidence.

Subject to and without waiving any of its objections, Abbott will produce, to the extent they exist and are reasonably obtainable, annual business plans, sales reports, and forecasts relating to sales of the Subject Drugs in the Commonwealth of Kentucky.

59. All documents which reflect the prices charged to, and other terms and/or conditions of sale for the Subject Drugs, including, without limitation, pricing or contracting manuals, price lists, guidelines, matrices, policies, and/or formulas, for each customer and/or class of trade or subgroup thereof or other documents that are sufficient to identify:

- a) the wholesale acquisition cost and/or other published prices for the Subject Drugs;
- b) payment terms;
- c) discounts, rebates, Chargebacks, or other adjustments offered to any purchaser and/or Pharmaceutical Class of Trade;
- d) prices and terms of sale for wholesale purchasers;
- e) prices, discounts, rebates, or other adjustments for chain pharmacy purchasers;
- f) prices, discounts, rebates, or other adjustments for hospital purchasers;
- g) prices, discounts, rebates, or other adjustments for managed care purchasers;
- h) prices, discounts, rebates, or other adjustments for mail order purchasers;
- i) prices, discounts, rebates, or other adjustments for any and all other purchaser class of trade or subgroup.

RESPONSE: In addition to its General Objections, Abbott objects to this request because it: (i) is overly broad and unduly burdensome, particularly to the extent it seeks

documents that “reflect the prices charged to, and other terms and/or conditions of sale for the Subject Drugs” over an eleven-year period; (ii) is vague and ambiguous, particularly with respect to the terms “price,” “price lists,” “pricing or contracting manuals,” “sufficient to identify,” “published prices,” “formulas” and “other adjustments”; (iii) is not limited to the Commonwealth of Kentucky; (iv) seeks confidential and/or proprietary information; (v) seeks information protected by the attorney-client privilege and/or the work product doctrine; (vi) seeks information that is not relevant nor reasonably calculated to lead to the discovery of admissible evidence, particularly to the extent it seeks information relating to hospitals; and (vii) seeks information outside of Abbott’s custody, care or control to the extent it is not limited to sales by Abbott.

Subject to and without waiving any of its objections, Abbott will produce: (i) electronic sales data for non-hospital customers in the Commonwealth of Kentucky for the Subject Drugs; (ii) contracts with non-hospital customers in the Commonwealth of Kentucky for the Subject Drugs; (iii) price lists for non-hospital customers in the Commonwealth of Kentucky for the Subject Drugs; (iv) price announcements to wholesalers relating to the Subject Drugs; (v) price catalogs for the Subject Drugs; and (vi) any corporate policies, guidelines or manuals that relate to pricing of the Subject Drugs, except to the extent they relate to AMP and Best Price.

60. All documents constituting or relating to written contracts which, in whole or in part, govern the sale of the Subject Drugs by you, whether or not those contracts are with customers who purchase the Subject Drugs directly from you, including drafts, correspondence, and supporting detail and data (in electronic form where available).

RESPONSE: In addition to its General Objections, Abbott objects to this request because it: (i) is overly broad and unduly burdensome, particularly to the extent it seeks all contracts for the Subject Drugs over an eleven-year period; (ii) is vague and ambiguous, particularly with respect to the phrase “supporting detail and data”; (iii) is not limited to the

Commonwealth of Kentucky; (iv) seeks confidential and/or proprietary information; (v) seeks information protected by the attorney-client privilege and/or the work product doctrine; (vi) seeks information outside of Abbott's custody, care or control in seeking contracts that are not directly with Abbott; and (vii) seeks information that is not relevant nor reasonably calculated to lead to the discovery of admissible evidence.

Subject to and without waiving any of its objections, Abbott will produce, to the extent they exist and are reasonably obtainable, contracts with non-hospital customers in the Commonwealth of Kentucky for the Subject Drugs and correspondence between Abbott and such customers relating to those contracts

61. Documents sufficient to reflect the organization and any changes occurring in each and every division, subdivision, unit, subsidiary, and affiliate of your company having any involvement with any of the Subject Drugs during any period in which the Subject Drugs were being considered, developed, marketed, or sold.

RESPONSE: In addition to its General Objections, Abbott objects to this request because it: (i) is overly broad and unduly burdensome, particularly to the extent it seeks documents relating to "each and every division"; (ii) is vague and ambiguous, particularly with respect to the terms "subdivision" and "unit" and the phrases "being considered" and "sufficient to reflect"; (iii) is not limited to the Commonwealth of Kentucky; (iv) is duplicative of Request 56; and (v) seeks information that is not relevant nor reasonably calculated to lead to the discovery of admissible evidence, particularly to the extent it seeks documents relating to organizations that have nothing to do with the issues in this case.

Subject to and without waiving any of its objections, Abbott will produce, to the extent they exist and are reasonably obtainable, organizational charts for those departments that otherwise have responsive documents to these Requests and Interrogatories.

62. All documents relating to pre- and post-market entry strategy regarding the Subject Drugs, including analysis, forecasting, and projections, pricing, and any other matters in connection therewith.

RESPONSE: In addition to its General Objections, Abbott objects to this request because it: (i) is overly broad and unduly burdensome, particularly to the extent it seeks information that exceeds the relevant time period since many Subject Drugs entered the market before 1993; (ii) is vague and ambiguous, particularly with respect to the terms “pre- and post-market entry strategy,” “analysis,” and “pricing” and the phrase “any other matters in connection therewith”; (iii) is not limited to the Commonwealth of Kentucky; (iv) seeks confidential and/or proprietary information; (v) seeks information protected by the attorney-client privilege and/or the work product doctrine; and (vi) seeks information that is not relevant nor reasonably calculated to lead to the discovery of admissible evidence.

Subject to and without waiving any of its objections, Abbott will produce, to the extent they exist and are reasonably obtainable, business plans, product launch materials and price announcements relating to market entry in the Commonwealth of Kentucky of the Subject Drugs during the relevant time period.

63. All Blue Book and Red Book Annual Product Update Reports in your possession, custody, or control, relating to the Subject Drugs.

RESPONSE: In addition to its General Objections, Abbott objects to this request because it: (i) is overly broad and unduly burdensome, particularly to the extent it seeks information over an eleven-year period; (ii) is vague and ambiguous as to the terms “Blue Book and Red Book Annual Product Update Reports”; (iii) seeks information that is in the public domain; (iv) seeks information that is not relevant nor reasonably calculated to lead to the discovery of admissible evidence; and (v) seeks information that is protected by license agreements.

64. All National Drug Data File Product Update Reports prepared by First Data Bank in your possession, custody, or control relating to the Subject Drugs.

RESPONSE: In addition to its General Objections, Abbott objects to this request because it: (i) is overly broad and unduly burdensome, particularly to the extent it seeks information over an eleven-year period; (ii) is vague and ambiguous, particularly with respect to the term “National Drug Data File Product Update Reports”; (iii) seeks information that is in the public domain; (iv) seeks information that is not relevant nor reasonably calculated to lead to the discovery of admissible evidence; (v) seeks information that is protected by license agreements; and (vi) is duplicative of Request 63.

65. All price verification reports sent by any price reporting services relating to the Subject Drugs other than those produced in response to requests No, 63 and 64.

RESPONSE: In addition to its General Objections, Abbott objects to this request because it: (i) is overly broad and unduly burdensome, particularly to the extent it seeks all price verification reports over an eleven-year period; (ii) is vague and ambiguous, particularly with respect to the terms “price verification reports” and “price reporting services”; and (iii) seeks information that is not relevant nor reasonably calculated to lead to the discovery of admissible evidence.

Subject to and without waiving any of its objections, Abbott will produce, to the extent it exists and is reasonably obtainable, correspondence from third-party pharmaceutical pricing compendia relating to pricing of the Subject Drugs.

66. All documents containing data and any other material from which you calculated AMP and Best Price for the Subject Drugs for the Medicaid Rebate Program, together with any record containing or outlining assumptions made by you in your calculation of AMP and Best Price.

RESPONSE: In addition to its General Objections, Abbott objects to this request because it: (i) is overly broad and unduly burdensome, particularly to the extent it seeks “data and any other material” from which Abbott calculates AMP and Best Price, and Abbott’s “assumptions” over an eleven-year period; (ii) is vague and ambiguous, particularly with respect to the term “assumptions”; (iii) seeks confidential and/or proprietary information; (iv) seeks information protected under the Medicaid Rebate Statute and Abbott’s Medicaid Rebate agreement with CMS; and (v) seeks information that is not relevant nor reasonably calculated to lead to the discovery of admissible evidence, particularly since there are no Medicaid rebate claims in the complaint.

67. All organizational charts or other documents describing or depicting Abbott Laboratories, Inc., its subsidiaries, parents, affiliates, divisions, departments, offices, units, or other subdivisions and the relationship among them.

RESPONSE: In addition to its General Objections, Abbott objects to this request because it: (i) is overly broad and unduly burdensome, particularly to the extent it seeks information regarding departments at Abbott, its subsidiaries, parents, and affiliates that have no involvement with the Subject Drugs; (ii) is vague and ambiguous, particularly with respect to the phrase “organizational charts or other documents describing or depicting”; (iii) is not limited to the United States; (iv) seeks confidential and/or proprietary information; (v) seeks information that is not relevant nor reasonably calculated to lead to the discovery of admissible evidence; and (vi) is duplicative of Request 61.

68. All documents reflecting, referring to, describing or consisting of communications between you and any “Healthcare Management Organization” (known as an “HMO”) or any “Pharmaceutical Benefits Manager” (known as a “PBM”) which pertains to the pharmaceutical reimbursement of the Subject Drugs, including, but not limited to, documents which pertain to the Subject Drugs being on an HMO or PBM pharmaceutical reimbursement formulary.

RESPONSE: In addition to its General Objections, Abbott objects to this request because it: (i) is overly broad and unduly burdensome, particularly to the extent it seeks all documents reflect, referring to, describing or consisting of communications between Abbott and any HMO or PBM pertaining to pharmaceutical reimbursement; (ii) is not limited to the Commonwealth of Kentucky; (iii) seeks confidential and/or proprietary information; (iv) seeks information outside of Abbott's custody, care or control; (v) seeks information that is protected by the attorney-client privilege and/or the work product doctrine; and (vi) seeks information that is not relevant nor reasonably calculated to lead to the discovery of admissible evidence.

Subject to and without waiving any of its objections, Abbott will produce, to the extent it exists and is reasonably obtainable, correspondence with non-hospital customers in the Commonwealth of Kentucky relating to pricing of the Subject Drugs.

69. Limited to the Subject Drugs, all documents reflecting, referring to, describing or consisting of contracts, presentations, proposals, bids, and related correspondence between you and (a) Group Purchasing Organizations, (b) cooperatives of independent pharmacies, (c) chain drug stores which manage their own warehouses, (d) home health care companies (including, but not limited to Apria, Managed Healthcare Associates, Pharmacy Factors, Homedco, Abbey Healthcare, and related companies), (e) "source," "generic source," "select," or "autosubstitution," wholesaler programs, (f) mail-order pharmacies, (g) elderly nursing care companies such as Gerimed, IVmed, Rxmed and other related companies, or (h) wholesalers or distributors.

RESPONSE: In addition to its General Objections, Abbott objects to this request because it: (i) is overly broad and unduly burdensome, particularly to the extent it purports to require Abbott to search and produce communications and all other documents between Abbott and numerous types of customers regarding the Subject Drugs over an eleven-year period; (ii) is vague and ambiguous, particularly with respect to the terms "cooperatives of independent pharmacies," "chain drug stores which manage their own warehouse," "source," "generic source," "select," and "other related companies"; (iii) is not limited to the Commonwealth of

Kentucky; (iv) seeks information outside of Abbott's custody, care or control; (v) seeks confidential and/or proprietary information; (vi) seeks information that is protected by the attorney-client privilege and/or the work product doctrine; and (vii) seeks information that is not relevant nor reasonably calculated to lead to the discovery of admissible evidence, particularly to the extent it seeks information relating to Group Purchasing Organizations that consist of hospital members.

Subject to and without waiving any of its objections, Abbott will produce, to the extent they exist and are reasonably obtainable, (i) contracts with non-hospital customers in the Commonwealth of Kentucky for the Subject Drugs; and (ii) correspondence with those customers relating to those contracts and/or pricing of the Subject Drugs.

70. All documents reflecting, referring to, describing, or consisting of agreements, contracts and correspondence with any agents, contractors, consultants, advisors, or other person(s) or Entity who sold, marketed, priced, advertised, negotiated, or otherwise consulted on behalf of you for your benefit concerning the Subject Drugs.

RESPONSE: In addition to its General Objections, Abbott objects to this request because it: (i) is overly broad and unduly burdensome, particularly to the extent it seeks all agreements, contracts and correspondence with any of Abbott's "agents, contractors, consultants, advisors or other person(s) or Entity who sold, marketed, priced, advertised, negotiated, or otherwise consulted on behalf" of Abbott concerning the Subject Drugs and to the extent it asks for personal information from Abbott's employees; (ii) is not limited to the Commonwealth of Kentucky; (iii) seeks confidential and/or proprietary information; (iv) seeks information protected by the attorney-client privilege and/or the work product doctrine; (v) seeks information that is not relevant nor reasonably calculated to lead to the discovery of admissible evidence; and (vi) seeks information outside of Abbott's custody, care or control.

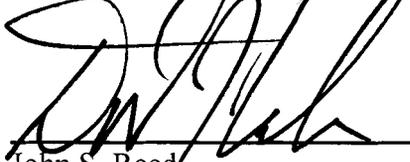
71. All documents reflecting, referring to, describing, or consisting of price file data bases or similar data bases within the possession, custody, or control of, or maintained by Abbott Laboratories, Inc., which contain information relating to the sale or distribution of the Subject Drugs.

RESPONSE: In addition to its General Objections, Abbott objects to this request because it: (i) is overly broad and unduly burdensome, particularly to the extent it seeks all documents that reflect, refer to, describe or consist of price file databases or “similar data bases” in Abbott’s possession; (ii) is vague and ambiguous, particularly with respect to the terms “price file data bases,” “similar databases” and “distribution,” and the phrase “documents...consisting of price file data bases or similar data bases”; (iii) is not limited to the Commonwealth of Kentucky; (iv) seeks confidential and/or proprietary information; (v) seeks information protected by the attorney-client privilege and/or the work product doctrine; and (vi) seeks information that is not relevant nor reasonably calculated to lead to the discovery of admissible evidence.

Subject to and without waiving any of its objections, Abbott will produce, to the extent they exist and are reasonably obtainable, non-privileged responsive documents describing those databases from which electronic data responsive to the Requests is produced.

Dated: November 15, 2004

Respectfully Submitted



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