

3. TAP's specific objections to each request are in addition to the general limitations and objections set forth in this and the next sections. These limitations and objections form a part of the response to each and every request and are set forth here to avoid repetition. Thus, the absence of a reference to a general objection should not be construed as a waiver of the general objection as to a specific request.

4. By stating that TAP will produce any documents or things responsive to a particular request, TAP does not represent that any such documents or things exist or are within its custody, care, or control.

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

6. If and where TAP states herein that it will produce documents in accordance with the Wisconsin Rules of Civil Procedure, it will provide such documents to the extent they exist and can be reasonably obtained. TAP's responses are limited to documents within its possession, custody or control, and that are reasonably accessible.

7. To the extent TAP's responses to the Requests contain confidential information subject to the Protective Order entered on November 29, 2005 in this Matter, they must be treated accordingly.

8. TAP's responses to Plaintiff's Requests are limited to the TAP products currently at issue in this litigation, namely certain NDCs of Prevacid® and PrevPac® (hereinafter referred to as "Prevacid®").

9. TAP's responses to Plaintiff's Requests are submitted without prejudice to TAP's right to produce evidence of any subsequently discovered fact. TAP accordingly reserves its right to further production as additional facts are ascertained.

GENERAL OBJECTIONS TO REQUESTS

1. TAP generally objects to the Requests to the extent they seek information or documents not relevant to the issues in this action and not reasonably calculated to lead to the discovery of admissible evidence.

2. TAP generally objects to the Requests to the extent they seek information protected from disclosure by the attorney-client privilege, the attorney work-product doctrine, consulting-expert privilege, joint-defense privilege, third-party confidentiality agreements or protective orders, or any other applicable privilege, rule or doctrine.

3. TAP generally objects to the Requests to the extent they seek confidential and/or proprietary information.

4. TAP generally objects to the Requests to the extent they exceed the scope of discovery permitted under the Wisconsin Rules of Civil Procedure, Wisconsin law, or other applicable law or Court order.

5. TAP generally objects to the Requests to the extent they are duplicative of Plaintiff's other discovery requests.

6. TAP generally objects to the Requests to the extent that: (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, or oppressive.

7. TAP generally objects to the Requests to the extent they seek information about products not named in the Second Amended Complaint.

8. TAP's responses to the 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 the Requests. Furthermore, TAP is providing responses in an effort to expedite discovery in this action and not as an indication or admission by TAP of the relevancy, materiality or admissibility of the responses. TAP preserves all objections to Plaintiff's use of such responses at trial.

9. TAP objects to the time period covered by the Requests to the extent it encompasses any time period after June 3, 2004, the date Plaintiff filed its original Complaint in this case.

10. To the extent applicable, TAP adopts and incorporates by reference any objections to the Requests made by any other defendant in this matter.

11. TAP expressly incorporates the above General Objections into each specific response to the Requests set forth below as if set forth in full therein. The response to a Request shall not operate as a waiver of any applicable specific or general objection to the Request.

OBJECTIONS TO DEFINITIONS AND INSTRUCTIONS

1. TAP objects to Plaintiff's "Definitions" and "Instructions" contained within the Requests to the extent Plaintiff intends to expand upon or alter TAP's obligations under the Wisconsin Rules of Civil Procedure.

2. TAP objects to the definition of the term "Document" as vague and ambiguous. TAP further objects to this definition to the extent it seeks to impose discovery obligations that exceed or are inconsistent with the requirements of the Wisconsin Rules of Civil Procedure. TAP further objects to this definition to the extent that it seeks information protected by the attorney-client privilege, the work product doctrine, the consulting expert privilege, the joint-defense privilege or any other privilege or exemption recognized under Wisconsin or other applicable law. TAP further objects to this definition to the extent it seeks to: (i) require TAP to produce documents or data in a particular form or format; (ii) convert information into a particular file format; (iii) produce data, fields, records, or reports about produced documents or data; (iv) produce documents or data on any particular media; (v) search for and/or produce any documents or data on back-up tapes; (vi) produce any proprietary software, data, or other information; or (vii) violate any licensing agreement or copyright laws.

3. TAP objects to the definition of the term "Identify" to the extent it seeks to impose obligations that exceed or are inconsistent with the requirements of the Wisconsin Rules of Civil Procedure, the Court's Local Rules and Orders, or other applicable law.

4. TAP objects to the definition of "Incentive" on the grounds that it is overly broad, unduly burdensome, ambiguous and vague, particularly with respect to the language "anything of value," "provided," "customer," "reward a customer or other party for promoting, prescribing,

dispensing or administering a Pharmaceutical or course of treatment,” “lowering the cost of a Pharmaceutical to the customer in any way, regardless of the time the ‘incentive’ was provided,” “credits,” “discounts,” “return to practice discounts,” “prompt pay discounts,” “volume discounts,” “on-invoice discounts, “off-invoice discounts,” “rebates,” “market-share rebates,” “access rebates,” “bundled-drug rebates,” “free goods or samples,” “administrative fees or administrative fee reimbursements,” “marketing fees,” “stocking fees,” “conversion fees,” “patient education fees,” “off-invoice pricing,” “educational or other grants,” “research funding,” “clinical trials,” “honoraria,” “speaker’s fees or payments,” “patient education fees” and “consulting fees.” TAP further objects to this definition to the extent it seeks information from beyond the time period relevant to this litigation.

5. TAP objects to the definition of “You,” “Your, ” and “Your Company” as overly broad and unduly burdensome. TAP further objects to this definition to the extent it seeks to impose obligations broader than, or inconsistent with, TAP’s obligations under the Wisconsin Rules of Civil Procedure and the Court’s Local Rules and Orders.

6. TAP objects to the Instructions for Interrogatories on the grounds that they are unduly burdensome. In responding to these Requests, TAP will search for and produce information and documents, not already produced, from divisions responsible for selling and marketing Prevacid®, to non-hospitals and from the individuals responsible for communicating with representatives of the Medicare and Wisconsin Medicaid agencies regarding the Subject Drugs. TAP further objects to these Instructions to the extent that they purport to impose obligations that are broader than, or inconsistent with TAP’s obligations under the Wisconsin rules, statutes, or other applicable law. TAP also objects to these Instructions to the extent that

they seek information in the possession of TAP's "attorneys," and "anyone else subject to... [TAP's] attorneys' control."

7. TAP objects to the Instructions for Requests for Production of Documents on the ground that they are unduly burdensome. TAP further objects to these Instructions to the extent that they purport to impose obligations broader than, or inconsistent with, TAP's obligations under the Wisconsin rules, statute or other applicable law. TAP also objects to these Instructions to the extent that they seek collection of documents from TAP's "attorneys or their agents," "employees," "representatives," or "investigators."

8. TAP objects to the Instructions for Requests for Admission to the extent that they purport to impose obligations broader than, or inconsistent with, TAP's obligations under the Wisconsin rules, statutes, or other applicable law.

SPECIFIC RESPONSES AND OBJECTIONS

Subject to and without waiving the foregoing General Objections, which are incorporated by reference in the responses below, TAP responds to the Requests as follows:

CONSOLIDATED DISCOVERY REQUEST NO. 7

REQUEST FOR ADMISSION NO. 7: At no time has the State of Wisconsin and you agreed on the meaning or definition of average wholesale price ("AWP").

RESPONSE: In addition to the General Objections set forth above, TAP objects to this Request on the grounds that it is overly broad and unduly burdensome. TAP further objects to this Request on the grounds that the term "agreed" is vague, ambiguous and undefined. TAP further objects to this Request to the extent it seeks information that is not within TAP's possession, custody or control, publicly available, or more readily available to Plaintiff. Additionally, TAP

objects to this Request to the extent it implies that TAP has a legal duty to reach an explicit agreement with the State of Wisconsin as to the definition of AWP.

Subject to and without waiving its objections, TAP denies this Request.

INTERROGATORY NO. 7: If your response to request for admission no. 7 is anything other than an unqualified admission, state all bases for your response, including the following:

- (a) identify the definition of AWP that you contend the State of Wisconsin and you agreed on;
- (b) identify the date when you contend that the State of Wisconsin and you first agreed on the definition of AWP provided in response to subpart (a) of this interrogatory;
- (c) state whether you contend that the State of Wisconsin and you agree on the definition of AWP provided in your response to subpart (a) of this interrogatory as of the date that you answer this second set of consolidated discovery requests to all defendants;
- (d) if your answer to subpart (c) is “no,” identify the last date when you contend the State of Wisconsin and you agreed on the definition of AWP provided in response to subpart (a) of this interrogatory;
- (e) state whether you contend that the State of Wisconsin and you together developed the definition of AWP provided in response to subpart (a) of this interrogatory;
- (f) if your answer to subpart (e) is “yes,” describe in detail the manner in which the State of Wisconsin and you together developed the definition of AWP provided in response to subpart (a) of this interrogatory, including (1) the identity of each person involved in the development of the definition; (2) the role of each such person; (3) the dates of each such person’s participation in the development of the definition; and (4) the dates and substance of each communication between the State of Wisconsin and you regarding the development of the definition of AWP;
- (g) identify all documents supporting your response to request for admission no. 7;
- (h) identify all documents supporting your answer to interrogatory no. 7, including all subparts; and
- (i) identify all documents supporting any contention you provide in your answer to interrogatory no. 7, including all subparts.

RESPONSE: In addition to its General Objections, which are incorporated herein by reference, TAP objects to this Interrogatory on the grounds that it is overly broad and unduly burdensome. TAP further objects to this Interrogatory on the grounds that the terms “agreed” and “together

developed” are vague, ambiguous and undefined. TAP further objects to this Interrogatory to the extent it seeks information that is not within TAP’s possession, custody or control, publicly available, or more readily available to Plaintiff. Additionally, TAP objects to this Interrogatory to the extent it implies that TAP has a legal duty to reach an explicit agreement with the State of Wisconsin as to the definition of AWP.

Subject to and without waiving its General and Specific Objections, TAP states that both it and the State of Wisconsin understood throughout the entire relevant time period that AWP is a reimbursement benchmark, and does not represent an actual average of wholesale prices. TAP further states that the State of Wisconsin chose and continues to use AWP as a basis for reimbursement despite, and in part because of, its understanding that AWP does not represent an actual average of wholesale prices. TAP further states that Plaintiff is already in possession of documents from which the answer to this interrogatory may be obtained. Additionally, TAP refers Plaintiff to Defendants’ briefing and attached exhibits filed in response to Plaintiff’s motions for summary judgment, which contain information generally responsive to this interrogatory.

REQUEST FOR PRODUCTION OF DOCUMENTS NO. 7: Produce all documents identified in your response to interrogatory no. 7.

RESPONSE: In addition to its General Objections, which are incorporated herein by reference, TAP objects to this Request on the grounds that it is overly broad and unduly burdensome. TAP also objects to this Request to the extent it seeks information that is not within TAP’s possession, custody or control, publicly available, or more readily available to Plaintiff. TAP incorporates by reference its answer and objections to Interrogatory No. 7 above.

Subject to and without waiving its General and Specific Objections, TAP states that Plaintiff is already in possession of documents generally responsive to this Request.

CONSOLIDATED DISCOVERY REQUEST NO. 8

REQUEST FOR ADMISSION NO. 8: At no time has the State of Wisconsin and you agreed on the meaning or definition of wholesale acquisition cost (“WAC”).

RESPONSE: In addition to its General Objections, which are incorporated herein by reference, TAP objects to this Request on the grounds that it is overly broad and unduly burdensome. TAP further objects to this Request on the grounds that the term “agreed” is vague, ambiguous and undefined. TAP further objects to this Request to the extent it seeks information that is not within TAP’s possession, custody or control, publicly available, or more readily available to Plaintiff. Additionally, TAP objects to this Request to the extent it implies that TAP has a legal duty to reach an explicit agreement with the State of Wisconsin as to the definition of WAC.

Based on its General and Specific Objections, TAP denies this Request.

INTERROGATORY NO. 8: If your response to request for admission no. 8 is anything other than an unqualified admission, state all bases for your response, including the following:

- (a) identify the definition of WAC that you contend the State of Wisconsin and you agreed on;
- (b) identify the date when you contend that the State of Wisconsin and you first agreed on the definition of WAC provided in response to subpart (a) of this interrogatory
- (c) state whether you contend that the State of Wisconsin and you agree on the definition of WAC provided in your response to subpart (a) of this interrogatory as of the date that you answer this second set of consolidated discovery requests to all defendants;
- (d) if your answer to subpart (c) is “no,” identify the last date when you contend the State of Wisconsin and you agreed on the definition of WAC provided in response to subpart (a) of this interrogatory;
- (e) state whether you contend that the State of Wisconsin and you together developed the definition of WAC provided in response to subpart (a) of this interrogatory;
- (f) if your answer to subpart (e) is “yes,” describe in detail the manner in which the State of Wisconsin and you together developed the definition of WAC provided in response to subpart (a) of this interrogatory, including (1) the identity of each person involved in the development of the definition; (2) the role of each such person; (3) the dates of each such person’s participation in the development of the definition; and (4) the dates and substance of each communication between the State of Wisconsin and you regarding the development of the definition of WAC;

- (g) identify all documents supporting your response to request for admission no. 8;
- (h) identify all documents supporting your answer to interrogatory no. 8, including all subparts;
- (i) identify all documents supporting any contention you provide in your answer to interrogatory no. 8, including all subparts.

RESPONSE: In addition to its General Objections, which are incorporated herein by reference, TAP objects to this Interrogatory on the grounds that it is overly broad and unduly burdensome. TAP further objects to this Interrogatory on the grounds that the terms “agreed” and “together developed” are vague, ambiguous and undefined. TAP further objects to this Interrogatory to the extent it seeks information that is not within TAP’s possession, custody or control, publicly available, or more readily available to Plaintiff. Additionally, TAP objects to this Interrogatory to the extent it implies that TAP has a legal duty to reach an explicit agreement with the State of Wisconsin as to the definition of WAC.

Subject to and without waiving its General and Specific Objections, TAP states that both it and the State of Wisconsin understood throughout the entire relevant time period that WAC is a list price for pharmaceutical products that does not include customary prompt-pay discounts or other discounts. TAP further states that Plaintiff is already in possession of documents from which the answer to this Interrogatory may be obtained. Such documents include, but are not limited to, federal statutes, reports from various branches of the federal government and, upon information and belief, documents from the files of various agencies of the State of Wisconsin. Additionally, TAP refers Plaintiff to Defendants’ briefing and attached exhibits filed in response to Plaintiff’s motions for summary judgment, which contain information generally responsive to this Interrogatory.

REQUEST FOR PRODUCTION OF DOCUMENTS NO. 8: Produce all documents identified in your response to interrogatory no. 8.

RESPONSE: In addition to its General Objections, which are incorporated herein by reference, TAP objects to this Request on the grounds that it is overly broad and unduly burdensome. TAP further objects to this Request on the grounds that the terms “agreed” and “together developed” are vague, ambiguous and undefined. TAP further objects to this Request to the extent it seeks information that is not within TAP’s possession, custody or control, publicly available, or more readily available to Plaintiff. TAP also incorporates by reference its answer and objections to Interrogatory No. 8 of these Requests.

Subject to and without waiving its General and Specific Objections, TAP states that Plaintiff is already in possession of documents generally responsive to this Request.

Dated: August 11, 2008

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Certificate of Service

I, Lee Ann Russo, hereby certify that on this 11th day of August 2008, a true and correct copy of **TAP PHARMACEUTICAL PRODUCTS INC.'S RESPONSES AND OBJECTIONS TO PLAINTIFF STATE OF WISCONSIN'S SECOND SET OF CONSOLIDATED DISCOVERY REQUESTS TO ALL DEFENDANTS** was served on all counsel of record by Lexis Nexis File & Serve®.

/s/ Lee Ann Russo _____
Lee Ann Russo