



IN THE CIRCUIT COURT OF KANAWHA COUNTY, WEST VIRGINIA

IN RE: OPIOID LITIGATION **CIVIL ACTION NO. 21-C-9000 PHARM**

THIS DOCUMENT APPLIES TO:

STATE OF WEST VIRGINIA ex rel.
PATRICK MORRISEY, Attorney General,

Plaintiff,

v.

Civil Action No. 20-C-83 PNM

RITE AID CORPORATION *et al.*,

Defendants.

CONSENT JUDGMENT

Plaintiff, the State of West Virginia (“Plaintiff”), brought the above-captioned action against Defendants Rite Aid Corporation, Rite Aid of Maryland, Inc. d/b/a Mid-Atlantic Customer Support Center, and Rite Aid of West Virginia, Inc. (“Rite Aid”), among others, alleging: that Rite Aid violated West Virginia law by failing to detect or prevent diversion in its dispensing and distribution of prescription opioids, resulting in a public nuisance in West Virginia; and that Rite Aid violated the West Virginia Consumer Credit and Protection Act, W. Va. Code §§ 46A-1-101 et seq. (the “West Virginia AG Action”). The State avers that each of Rite Aid’s alleged violations caused losses to the State for or arising from care and treatment of individuals with opioid-related afflictions and ongoing abatement of such past and ongoing injuries within the State.

In addition, numerous governmental entities in West Virginia, including counties, cities, towns and villages (“Local Governments”) have brought separate lawsuits (“Actions”) in various forums against Rite Aid, among others. These Actions assert claims that arise out of or relate to alleged conduct that is substantially similar to or overlaps with the conduct alleged in the West Virginia AG Action (the “Covered Conduct”).

Rite Aid denies the allegations in the West Virginia AG Action and other Actions and maintains that it has no liability whatsoever to Plaintiff or to any Local Government or other governmental entity (whether such governmental entity has brought or is a party to another Action or not). Plaintiff and Rite Aid (the “Parties”), by their respective counsel, have agreed to a resolution of the West Virginia AG Action on terms set out in the Rite Aid West Virginia State-Wide Opioid Settlement Agreement (“Agreement,” attached to this judgment), which include the entry of this Consent Judgment (and the injunctive terms incorporated herein) by the Court without trial or finding of admission or wrongdoing or liability of any kind. Furthermore, under the Agreement, the West Virginia AG has agreed to obtain releases on behalf of Litigating Local Governments as well as Non-Litigating Local Governments as specified in the Agreement. The intention of the Parties is to resolve and release all Claims of the West Virginia AG and Local Governments, whether asserted previously or in the future, that arise out of or relate to the Covered Conduct. Unless otherwise specified, capitalized terms used herein shall have the meanings specified in the Agreement.

NOW THEREFORE, without trial or adjudication of any issue of fact or law presented in the West Virginia AG Action or the other Actions, without this Consent Judgment constituting evidence against or admission by anyone with respect to any issue of fact or law, and upon the Parties’ consent, IT IS HEREBY ORDERED AS FOLLOWS:

I. PARTIES

1. Defendant Rite Aid Corporation is a Delaware corporation with its principal place of business in Camp Hill, Pennsylvania.

2. Defendant Rite Aid of Maryland, Inc. is a Maryland corporation with its principal office located in Camp Hill, Pennsylvania. It is a subsidiary of Rite Aid Corporation and does business under the trade name Rite Aid Mid-Atlantic Customer Support Center.

3. Defendant Rite Aid of West Virginia, Inc. is a West Virginia Corporation with its principal office located in Camp Hill, Pennsylvania.

4. Plaintiff has the authority to act in the public interest and on behalf of the people of West Virginia.

II. JURISDICTION

5. This Court has jurisdiction over the Parties and the subject matter of this action.

III. AGREEMENT

6. The Parties have agreed to resolution of the West Virginia AG Action under the terms of their Agreement, which is attached hereto as Exhibit A. This Consent Judgment summarizes and gives effect to those terms. In the event of a conflict between the terms of the Agreement and this summary document, the terms of the Agreement shall govern.

IV. FINANCIAL TERMS

7. Pursuant to the terms of the Parties' Agreement, Rite Aid paid the Advance Amount into the Qualified Settlement Fund as specified in the Agreement, which will be allocated in accordance with the West Virginia First Memorandum of Understanding and as further directed by order of this Court to fund opioid abatement and treatment activities throughout the State and to reimburse the reasonable fees, costs and expenses incurred by the State and Litigating Local Governments (or their respective counsel) in connection with their Claims against Rite Aid in the Actions.

8. Through the entry of this Consent Judgment, the Court finds that the Advance Amount and the Settlement Amount were negotiated in good faith, are fair and are in the best interests of the State, the Local Governments and their respective citizens.

V. INJUNCTIVE TERMS

9. The Parties have agreed that Rite Aid shall not be subject to any injunctive terms as Rite Aid does not presently do business within the State of West Virginia. However, should Rite Aid begin to conduct business within the State sometime in the future, the Parties agree to amend the Agreement to include injunctive terms and shall confer and agree as to the final form of such terms.

10. Compliance with later-negotiated injunctive terms may be enforced in this Court.

VI. RELEASES AND DISMISSAL WITH PREJUDICE

11. Plaintiff and Rite Aid have agreed to the release of certain claims as provided in Section VI of the Agreement. Such releases are given in good faith and upon entry of this Consent Judgment shall be effective as to all Releasers.

12. Plaintiff's Claims against Rite Aid are hereby DISMISSED WITH PREJUDICE, with each Party to bear its own costs except as specified in the Agreement.

13. Further, as a condition precedent to the Agreement becoming Effective, all Participating Local Governments were required to execute an Election and Release Form (Exhibit C to the Agreement), through which those Participating Local Governments agreed to be bound by all terms and conditions of the Agreement, including but not limited to the Release of certain Claims provided in Section VI of the Agreement. Such Releases are given in good faith and upon entry of this Consent Judgment shall become effective (a) as to all Litigating Local Governments that have asserted Claims against Rite Aid as part of any Actions pending before any Court and

(b) as to all Non-Litigating Local Governments that, as of the date of this Consent Judgment, have become Participating Local Governments pursuant to Section VII.C of the Agreement.

14. The Claims of all Litigating Local Governments that have been asserted against Rite Aid in Actions pending before this Court, as shown on Exhibit B, are hereby DISMISSED WITH PREJUDICE, with each party to bear its own costs except as specified in the Agreement.

VII. MISCELLANEOUS

15. This Court retains jurisdiction to enforce the terms of this Consent Judgment. The parties may jointly seek to modify the terms of this Consent Judgment, subject to the approval of this Court. This Consent Judgment may be modified only by order of this Court.

16. This Consent Judgment shall remain in full force and effect for ten years from the date it is entered, at which time Rite Aid's obligations under the Consent Judgment shall expire.

17. Entry of this Consent Judgment is in the public interest.

IT IS SO ORDERED, ADJUDGED AND DECREED, this 31st day of March 2023.

/s/ Alan D. Moats
Lead Presiding Judge
Opioid Litigation

/s/ Derek C. Swope
Presiding Judge
Opioid Litigation

JOINTLY APPROVED AND
SUBMITTED FOR ENTRY:

FOR STATE OF WEST VIRGINIA

PATRICK MORRISEY
ATTORNEY GENERAL

By: /s/ Ann L. Haight
Ann L. Haight

Date: March 24, 2023

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[Additional approvals on subsequent pages]

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By: /s/ Webster J. Arceneaux III
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Date: March 24, 2023

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**RITE AID/WEST VIRGINIA
STATE-WIDE OPIOID SETTLEMENT AGREEMENT**

I. OVERVIEW

This Agreement sets forth the terms and conditions of a statewide settlement between and among the State (defined herein) and Rite Aid (defined herein) (collectively, “the Parties”) to resolve opioid-related Claims (defined herein) against Rite Aid.

Rite Aid has agreed to the below terms for the sole purpose of settlement, and nothing herein may be taken as or construed to be an admission or concession of any violation of law, rule, or regulation, or of any other matter of fact or law, or of any liability or wrongdoing, all of which Rite Aid expressly denies. No part of this Agreement, including its statements and commitments, shall constitute evidence of any liability, fault, or wrongdoing by Rite Aid. Unless the contrary is expressly stated, this Agreement is not intended for use by any third party for any purpose, including submission to any court for any purpose.

This Agreement resolves as to Rite Aid the lawsuit captioned *State of West Virginia ex rel. Patrick Morrisey, Attorney General v. Rite Aid Corporation et al.*, Civil Action No. 20-C-83 PNM (W. Va. Cir. Ct. Kanawha County) (the “West Virginia AG Action”), pending within *In re: Opioid Litigation*, Civil Action No. 21-C-9000 PHARM (W. Va. Cir. Ct. Kanawha County), and Actions brought by Participating Local Governments, which have alleged, *inter alia*, that Rite Aid’s alleged failure to maintain effective controls against diversion and contribution to oversupply of prescription opioids in West Virginia has caused plaintiffs to sustain significant losses through their past and ongoing medical treatment costs including for minors born addicted to opioids, rehabilitation costs, emergency personnel costs, naloxone costs, medical examiner expenses, self-funded state insurance costs, and other forms of losses to address opioid-related afflictions and loss of lives.

II. DEFINITIONS

- A. “*Actions*” means the West Virginia AG Action and any lawsuit by a Local Government asserting any Released Claim against one or more Released Entities.
- B. “*Advance Amount*” means the aggregate total sum to be paid pursuant to this Agreement by or on behalf of Rite Aid as specified in Section III.B below. Rite Aid shall not be called upon to make any payments pursuant to this Agreement in addition to the amount set forth in Section III.B below.
- C. “*Agreement*” and “*Settlement Agreement*” mean this settlement agreement together with the Exhibits thereto.
- D. “*Bar*” means (1) a ruling by the highest court of the State setting forth the general principle that no Local Governments in the State may maintain Released Claims against Released Entities, whether on the ground of the Agreement (or the release in it) or otherwise; (2) a law barring Local Governments in the State from maintaining or asserting Released Claims against Released Entities (either through

a direct bar or through a grant of authority to release claims and that authority is exercised in full); or (3) a Settlement Class Resolution in the State with full force and effect. For the avoidance of doubt, a law or ruling that is conditioned or predicated upon payment by a Released Entity (apart from payment of the Settlement Amount) shall not constitute a Bar.

- E. “*Case-Specific Resolution*” means either (1) a law barring specified Local Governments from maintaining Released Claims against Released Entities (either through a direct bar or through a grant of authority to release claims and that authority is exercised in full); or (2) a ruling by a court of competent jurisdiction over a particular Local Government that has the legal effect of barring the Local Government from maintaining any Released Claims at issue against Released Entities, whether on the ground of the Agreement (or the release in it) or otherwise; or (3) a release consistent with Section VI below. For the avoidance of doubt, a law, ruling, or release that is conditioned or predicated upon a post-Effective Date payment by a Released Entity (apart from payment of the Settlement Amount) shall not constitute a Case-Specific Resolution.
- F. “*Claim*” means, with respect to Covered Conduct as defined herein, any past, present, or future cause of action, claim for relief, cross-claim or counterclaim, theory of liability, demand, derivative claim, request, assessment, charge, covenant, damage, debt, lien, loss, penalty, judgment, right, obligation, dispute, suit, contract, controversy, agreement, *parens patriae* claim, promise, performance, warranty, omission, setoff, recoupment, or grievance of any nature whatsoever, whether legal, equitable, statutory, regulatory, contractual, quasi-contractual, or administrative, whether arising under federal, state, or local common law, statute, regulation, guidance, ordinance or principles of equity, whether filed or unfiled, whether asserted or unasserted, whether known or unknown, whether accrued or unaccrued, whether foreseen, unforeseen, or unforeseeable, whether discovered or undiscovered, whether suspected or unsuspected, whether fixed or contingent, and whether existing or hereafter arising, in all such cases, including but not limited to any request for declaratory, injunctive, or equitable relief, compensatory, punitive, or statutory damages, absolute liability, strict liability, restitution, subrogation, contribution, indemnity, apportionment, disgorgement, reimbursement, attorney fees, expert fees, consultant fees, fines, penalties, expenses, costs, or any other legal, equitable, civil, administrative, or regulatory remedy whatsoever.
- G. “*Class I Local Government*” means a Local Government that is a Class I city as that term is defined in W. Va. Code § 8-1-3(1).
- H. “*Class II Local Government*” means a Local Government that is a Class II city as that term is defined in W. Va. Code § 8-1-3(2).

- I. “*Class III Local Government*” means a Local Government that is a Class III city as that term is defined in W. Va. Code § 8-1-3(3).
- J. “*Class IV Local Government*” means a Local Government that is a Class IV town or village as that term is defined in W. Va. Code § 8-1-3(4).
- K. “*Common Benefit Fund Commissioner*” means the Honorable Christopher C. Wilkes, acting with the authority granted to him pursuant to the Court’s Order Authorizing Common Benefit Fund and Appointing Common Benefit Fund Commissioner, dated October 4, 2021 (Transaction ID 66985632), and the Court’s Order Establishing Common Benefit Fund, dated November 4, 2021 (Transaction ID 67071292).
- L. “*Consent Judgment*” means a consent decree, order, judgment, or similar action; in connection with this Agreement, the Parties have agreed to the entry of the Consent Judgment attached hereto as Exhibit E, which provides for, among other things, the release set forth below, the Court’s approval of the Litigation Cost Amount, the dismissal with prejudice of any Released Claims that the State has brought against Released Entities, and the dismissal with prejudice of all other Actions pending before the Court, on the terms and conditions specified herein.
- M. “*Counsel*” means a solo practitioner, multi-attorney law firm, or other legal representative of the State or a Local Government.
- N. “*Court*” means the panel overseeing the mass litigation proceeding captioned *In re Opioid Litigation*, Civil Action No. 19-C-9000 (W. Va. Cir. Ct. Kanawha County).
- O. “*Covered Conduct*” means any actual or alleged act, failure to act, negligence, statement, error, omission, breach of any duty, conduct, event, transaction, agreement, misstatement, misleading statement, or other activity of any kind whatsoever, occurring from the beginning of time through the Effective Date (and any past, present, or future consequence of any such act, failure to act, negligence, statement, error, omission, breach of any duty, conduct, event, transaction, agreement, misstatement, misleading statement, or other activity), arising from or relating in any way to (a) the packaging, repackaging, marketing, promotion, advertising, labeling, recall, withdrawal, distribution, delivery, monitoring, reporting, supply, sale, prescribing, dispensing, physical security, warehousing, use or abuse of, or operating procedures relating to, any Product, or any system, plan, policy, or advocacy relating to any Product or class of Products, including but not limited to any unbranded promotion, marketing, programs, or campaigns relating to any Product or class of Products; (b) the characteristics, properties, risks, or benefits of any Product; (c) the reporting, disclosure, non-reporting, or non-disclosure to federal, state, or other regulators of orders for any Product placed with any Released Entity; (d) the handling, promoting, packaging, supplying,

distributing, converting, or selling of, or otherwise engaging in any activity relating to, precursor or component Products, including but not limited to natural, synthetic, semi-synthetic, or chemical raw materials, starting materials, finished active pharmaceutical ingredients, drug substances, or any related intermediate Products; or (c) diversion control programs, corresponding responsibility, or suspicious order monitoring related to any Product.

- P. “*Effective Date*” means the date on which Rite Aid makes the Advance Amount payment described in Section III.C.
- Q. “*Execution Date*” means the date on which this Agreement is executed by the last Party to do so.
- R. “*Finality*” means:
1. the Agreement and the Consent Judgment have been approved and entered by the Court as to Rite Aid, including the release of all Released Claims against Released Entities as provided in this Agreement; and
 2. (a) the time for appeal or to seek review of or permission to appeal from such approval and entry has expired; or (b) in the event of an appeal, the appeal has been dismissed or denied, or the approval and entry described above have been affirmed in all material respects (to the extent challenged in the appeal) by the court of last resort to which such appeal has been taken and such dismissal or affirmance has become no longer subject to further appeal (including, without limitation, review by the United States Supreme Court).
- S. “*Initial Participation Date*” means the date by which Local Governments must join to become initial Participating Local Governments. The Initial Participation Date shall be January 20, 2023. The Parties may alter the Initial Participation Date by mutual written agreement.
- T. “*Later Litigating Local Government*” means a Local Government (or Local Government official asserting the right of or for the Local Government to recover for alleged harms to the Local Government and/or the people thereof) that is not a Litigating Local Government as of the Execution Date and that files a lawsuit bringing a Released Claim against a Released Entity, or that adds such a claim to a pre-existing lawsuit, after the Execution Date. It may also include a Litigating Local Government whose Claims were resolved by a judicial Bar or Case-Specific Resolution which is later revoked following the Execution Date, when such

Litigating Local Government takes any affirmative step in its lawsuit other than seeking a stay or removal.

- U. “*Litigating Local Government*” means a Local Government (or Local Government official asserting the right of or for the Local Government to recover for alleged harms to the Local Government and/or the people thereof) that brought any Released Claims against one or more Released Entities on or before the Execution Date that were not separately resolved prior to that date. Exhibit A includes Litigating Local Governments identified by the Parties as of the Execution Date but is subject to amendment in the event it proves to be incomplete and other entities that satisfy the definition for “Litigating Local Governments” are subsequently identified.
- V. “*Litigation Cost Amount*” has the meaning specified in Section III.C below.
- W. “*Local Government*” means a formal and legally recognized sub-entity of the State that provides general governance for a defined area, including a county, city, town, village, or similar entity, as further described in W. Va. Code §§ 7-1-1 *et seq.*, and §§ 8-1-1 *et seq.* A list of counties, and lists of Class I, II, III and IV Local Governments, are attached as Exhibit B. Historic, non-functioning sub-entities of the State are not Local Governments, unless the entity has filed a lawsuit that includes a Released Claim against a Released Entity in a direct, *parens patriae*, or any other capacity.
- X. “*Non-Litigating Local Government*” means a Local Government that is neither a Litigating Local Government nor a Later Litigating Local Government.
- Y. “*Non-Participating Local Government*” means a Local Government that is not a Participating Local Government.
- Z. “*Participating Local Government*” means a Local Government that signs the Election and Release Form annexed as Exhibit C and meets the requirements for becoming a Participating Local Government under Section VII.A or VII.C.
- AA. “*Plaintiff*” means the State of West Virginia, acting by and through its Attorney General.
- BB. “*Product*” means any chemical substance, whether used for medicinal or nonmedicinal purposes, and whether natural, synthetic, or semi-synthetic, or any finished pharmaceutical product made from or with such substance, that is an opioid or opiate, as well as any product containing any such substance. It also includes: (1) the following when used in combination with opioids or opiates: benzodiazepines (e.g., alprazolam), muscle relaxers (e.g., carisoprodol), zolpidem, or gabapentin; and (2) a combination of any stimulant or other chemical substance prescribed, sold, bought, or dispensed to be used together that includes opioids or

opiates. For the avoidance of doubt, "Product" does not include benzodiazepines, muscle relaxers, zolpidem, or gabapentin when not used in combination with opioids or opiates. "Product" includes but is not limited to any substance consisting of or containing buprenorphine, codeine, dihydrocodeine, fentanyl, hydrocodone, hydromorphone, meperidine, methadone, morphine, oxycodone, oxymorphone, tapentadol, tramadol, opium, heroin, carfentanil, any variant of these substances, or any similar substance.

- CC. "*Qualified Settlement Fund*" means the West Virginia Qualified Settlement Fund contemplated by this Agreement, into which the Advance Amount and/or Settlement Amount shall be paid and which shall be established under the authority and jurisdiction of the Court in accordance with the requirements of 26 C.F.R. § 1.468B-1.
- DD. "*Qualified Settlement Fund Administrator*" means the Administrator appointed to administer the Qualified Settlement Fund under the authority and jurisdiction of the Court. The duties of the Qualified Settlement Fund Administrator shall be governed by this Agreement. The identity of the Qualified Settlement Fund Administrator and a detailed description of the Qualified Settlement Fund Administrator's duties and responsibilities, including a detailed mechanism for paying the Qualified Settlement Fund Administrator's fees and costs, will be set forth in a separate document to be prepared by the Parties and filed with the Court to establish the fund and be attached later to this Agreement.
- EE. "*Released Claims*" means any and all Claims that directly or indirectly are based on, arise out of, or in any way relate to or concern the Covered Conduct occurring prior to the Effective Date. Without limiting the foregoing, "*Released Claims*" include any Claims that have been asserted against the Released Entities by the State or any of its Litigating Local Governments in any federal, state, or local action or proceeding (whether judicial, arbitral, or administrative) based on, arising out of, or relating to, in whole or in part, the Covered Conduct, or any such Claims that could be or could have been asserted now or in the future in those actions or in any comparable action or proceeding brought by the State, any of its Local Governments, or any Releasor (whether or not such State, Local Government, or Releasor has brought such action or proceeding). Released Claims also include all Claims asserted in any proceeding to be dismissed pursuant to the Agreement, whether or not such claims relate to Covered Conduct. The Parties intend that "*Released Claims*" be interpreted broadly. This Agreement does not release Claims by private individuals for damages for any alleged personal injuries arising out of their own use of any opioid product. It is the intent of the Parties that such Claims by private individuals be treated in accordance with applicable law. Released Claims is also used herein to describe Claims brought by a Later Litigating Local Government or other non-party Local Government that would have been Released Claims if they had been brought by a Releasor against a Released Entity.

- FF. “*Released Entities*” and “*Rite Aid*” mean (i) Rite Aid Corporation, Rite Aid of Maryland, Inc. d/b/a Mid-Atlantic Customer Support Center (“Rite Aid of Maryland”), and Rite Aid of West Virginia, Inc. (“Rite Aid of West Virginia”); (ii) all of their respective past and present direct or indirect predecessors, parents, subsidiaries, divisions, affiliates, joint ventures, successors, and assigns; and (iii) all of the respective past and present officers, directors, members, shareholders (solely in their capacity as shareholders of the foregoing entities), partners, trustees, employees, agents, representatives, and attorneys (including each of these individuals’ respective successors, assigns, heirs, administrators, and executors) of each of the foregoing entities and persons referenced in clauses (i) and (ii) above for actions or omissions that occurred during and related to their work for, or employment with, any of the foregoing entities with respect to the Released Claims. For the avoidance of doubt, Released Entities does not include Rite Aid’s insurers as specified in Section III.A.
- GG. “*Releasors*” means (1) the State; (2) each Participating Local Government; and (3) without limitation and to the maximum extent of the power of the State’s Attorney General and/or each Participating Local Government to release Claims, (a) the State’s and each Participating Local Government’s departments, agencies, divisions, boards, commissions, instrumentalities of any kind and attorneys, including its Attorney General, and any person in their official capacity whether elected or appointed to serve any of the foregoing and any agency, person, or other entity claiming by or through any of the foregoing, (b) any public entities, public instrumentalities, public educational institutions, public service districts, unincorporated districts, water districts, law enforcement districts, emergency services districts, school districts, highway authorities, conservation districts, development authorities, reclamation districts, recreation districts, economic development authorities, housing authorities, sanitary districts, solid waste authorities, urban mass transportation authorities, and any other person or entity that performs services at the direction of the State and/or one or more Participating Local Governments and (c) any person or entity acting in a *parens patriae*, sovereign, quasi-sovereign, private attorney general, qui tam, taxpayer, or other capacity seeking relief on behalf of or generally applicable to the general public with respect to the State or Local Governments in the State, whether or not any of them participate in the Agreement. The inclusion of a specific reference to a type of entity in this definition shall not be construed as meaning that the entity is not a Local Government. In addition to being a Releasor as provided herein, a Participating Local Government shall also provide an Election and Release Form (in the form attached as Exhibit C to this Agreement) providing for a release to the fullest extent of the Participating Local Government’s authority. The State’s Attorney General represents that he has or has obtained the authority set forth in Section VI.F.
- HH. “*Remediation Amount*” has the meaning specified in Section III.C below.

- II. “*Settlement Amount*” means the aggregate total sum to be paid pursuant to this Agreement by or on behalf of Rite Aid’s insurers as specified in Section III.A below. Rite Aid’s insurers shall not be called upon to make any payments pursuant to this Agreement in addition to the amount set forth in Section III.A below.
- JJ. “*Settlement Class Resolution*” means a class action resolution in a court of competent jurisdiction in the State with respect to a class of Local Governments in the State that (1) conforms with the State’s statutes, case law, and/or rules of procedure regarding class actions; (2) is approved and entered as an order of a court of competent jurisdiction in the State and has achieved Finality; (3) is binding on all Non-Participating Local Governments in the State (other than opt outs as permitted under the next sentence); (4) provides that all such Non-Participating Local Governments may not bring Released Claims against Released Entities, whether on the ground of the Agreement (or the releases herein) or otherwise; and (5) does not impose any costs or obligations on Rite Aid other than those provided for in the Agreement, or contain any provision inconsistent with any provision of the Agreement. If applicable State law requires that opt-out rights be afforded to members of the class, a class action resolution otherwise meeting the foregoing requirements shall qualify as a Settlement Class Resolution unless Local Governments collectively representing 1% or more of the State’s population opt out. In seeking certification of any Settlement Class, the State and applicable Local Governments shall make clear that certification is sought solely for settlement purposes and shall have no applicability beyond approval of the settlement for which certification is sought. Nothing in this Agreement constitutes an admission by any Party that class certification would be appropriate for litigation purposes in any case.
- KK. “*State*” means the State of West Virginia, including all of its executive departments, agencies, divisions, boards, commissions, instrumentalities and officers, including the Attorney General.

III. CONSIDERATION TO BE PROVIDED BY RITE AID

- A. *Settlement Amount.* The Parties agree that the Settlement Amount is Thirty Million Dollars (\$30,000,000) (the “Settlement Amount”) and further agree that, subject to all of the terms, conditions, recitals, and provisions of this Agreement, the Settlement Amount is a reasonable compromise of matters in dispute and fairly apportions the risk of proceeding further in litigation *inter se*. In order to effectuate this Agreement, the Parties further agree as follows:
1. This Agreement and all of its terms will be tendered to Rite Aid’s Insurers which shall be afforded a reasonable time, not to exceed 10 days from the Execution Date (the “Insurance Notice Window”), to determine whether

one or more of Rite Aid's Insurers will pay the Settlement Amount on Rite Aid's behalf.

2. If any of Rite Aid's Insurers agree to pay the Settlement Amount, Rite Aid agrees that it will not insist that such insurer(s) do so without asserting any reservation of rights.

B. *Procedure and Agreement In the Event Rite Aid's Insurers Fail Timely To Pay the Settlement Amount In Full.* Should Rite Aid's Insurers, individually and collectively, fail to agree to pay the Settlement Amount on Rite Aid's behalf during the Insurance Notice Window, the Parties agree that Rite Aid will pay the Advance Amount of Five Million Dollars (\$5,000,000) (the "Advance Amount"), subject to the conditions set forth in Section III.C, and shall seek to collect the entirety of the Settlement Amount from Rite Aid's Insurers. The Parties further agree as follows:

1. Rite Aid shall seek the entirety of the Settlement Amount from Rite Aid's Insurers, including interest on the Settlement Amount at the statutory rate, at Rite Aid's sole expense as between these Parties;
2. Rite Aid shall promptly pay over all amounts collected from one or more of the Rite Aid Insurers in respect of the Settlement Amount less the Advance Amount and interest thereon, within fifteen (15) days after Rite Aid's receipt; and
3. Rite Aid shall retain all "bad faith", statutory remedies, breach of contract and other claims against the Rite Aid Insurers including those relating to the Rite Aid Insurers' failure or refusal timely to pay the Settlement Amount.
4. If Rite Aid's Insurers fail or refuse to meet their obligations, then there shall be no obligation on the part of the State of West Virginia to re-pay the Advance Amount. It is further understood and agreed that these provisions shall impose no restriction, limitation or cap on Rite Aid's damages or remedies against its insurers.
5. Regardless whether Rite Aid's Insurers fail or refuse to meet their obligations, then there shall be no obligation on the part of Rite Aid to pay or advance more than the Advance Amount set forth in Section III.B.

C. *Monetary Payment.* On or before the Initial Participation Date, the State shall provide to Rite Aid Election and Release Forms (in the form annexed as Exhibit C) demonstrating that (1) at least 96% of the population of Litigating Local Governments, (2) at least 96% of the population of all Counties, and (3) at least 96% of the population of Non-Litigating Local Governments that are Class I or Class II Local Governments have become Participating Local Governments. Rite

Aid shall, within seven (7) days after the latest of (1) the Initial Participation Date, (2) Rite Aid's receipt of all necessary Election and Release Forms, or (3) the date the Qualified Settlement Fund has been established under the authority and jurisdiction of the Court and Rite Aid has received from the West Virginia Attorney General a W-9 and wire instructions for the Qualified Settlement Fund, pay into the Qualified Settlement Fund the Advance Amount. If and when Rite Aid recovers any portion of the Settlement Amount from one or more of its Insurers pursuant to Section III.A or Section III.B, Rite Aid shall also promptly pay that amount, less the Advance Amount, into the Qualified Settlement Fund. The Settlement Amount shall consist of (1) an Attorney's fee portion (the "Litigation Cost Amount") to reimburse the State and Qualified Local Governments for reasonable attorney fees, costs, and expenses incurred before the Execution Date in connection with their Claims against Rite Aid in the Actions and disbursed as provided in Section VIII below, and (2) a Remediation portion (the "Remediation Amount"), which shall be disbursed as provided in Section IV below to fund opioid abatement and treatment activities throughout the State. For the avoidance of doubt, payment of the Settlement Amount is not conditioned on the participation of Non-Litigating Class III and IV Local Governments, but the State will use its best efforts to secure participation by all Local Governments within the State, including all Non-Litigating Class III and IV Local Governments. The Qualified Settlement Fund Administrator shall place the Litigation Cost Amount and the Remediation Amount into separate sub-funds within the Qualified Settlement Fund pending their disbursement as provided in this Settlement Agreement. For the avoidance of doubt, Rite Aid shall not be required to pay the Advance Amount until this Agreement is fully executed and the State has dismissed the West Virginia AG Action with prejudice.

- D. *Consent Judgment.* As soon as practicable following the Effective Date, Plaintiff shall file in the Court a proposed Consent Judgment substantially in the form of Exhibit E. The Consent Judgment shall provide for the Court's approval of the Litigation Cost Amount and the dismissal with prejudice, as to Rite Aid and all other Released Parties, of the West Virginia AG Action and the Actions of Participating Local Governments pending before the Court. The Consent Judgment shall further provide that, notwithstanding the dismissal, the Court shall retain jurisdiction for purposes of determining the allocation of the Litigation Cost Amount as provided in Section VIII. The Parties shall confer and agree as to the final form and time of filing of the Consent Judgment prior to its filing with the Court.
- E. *Injunctive Relief.* Given that Rite Aid does not presently do business within the State of West Virginia, the Consent Judgment shall not provide for any injunctive relief. However, should Rite Aid begin to conduct business within the State

sometime in the future, the Parties agree to amend this Agreement to include injunctive terms and shall confer and agree as to the final form of such terms.

IV. INTRA-STATE ALLOCATION AND DISBURSEMENT OF REMEDIATION AMOUNT

- A. Within a reasonable time after entry of the Consent Judgment, subject to the limitations set forth in Section VII.D below, the Qualified Settlement Fund Administrator shall allocate and distribute the Remediation Amount to the State and Participating Local Governments to abate the impact of any alleged Covered Conduct in the State as provided in this Agreement and the West Virginia First Memorandum of Understanding, attached as Exhibit D.

Rite Aid shall have no duty, liability, or influence of any kind with respect to the apportionment and use of the Remediation Amount. Plaintiff specifically represents, however, that any such apportionment and use shall be made in accordance with all applicable laws.

V. CESSATION OF LITIGATION ACTIVITIES

- A. In anticipation of finalizing this Agreement, a stay has been entered by the Court with respect to any proceedings, including all discovery, related to the State's Claims against Rite Aid in the West Virginia AG Action. It is the Parties' intent that this stay shall remain in place and that any and all litigation activities in the Actions relating to Claims against Rite Aid shall immediately cease as of the Execution Date, and that Claims against Rite Aid shall not be included in the trial of any Action against any other defendant.

VI. RELEASE AND DISMISSAL

- A. *Scope.* As of the Effective Date, (1) the Released Entities shall be released and forever discharged from all of the Releasors' Released Claims, and (2) the State (for itself and its Releasors) and each Participating Local Government (for itself and its Releasors) shall be deemed to have absolutely, unconditionally, and irrevocably covenanted not to bring, file, or claim, or to cause, assist in bringing, or permit to be brought, filed, or claimed, or to otherwise seek to establish liability for any Released Claims against any Released Entity in any forum whatsoever. The releases provided for in the Agreement are intended by the Parties to be broad and shall be interpreted so as to give the Released Entities the broadest possible bar against any liability arising from or relating in any way to the Released Claims and extend to the full extent of the power of the State, its Attorney General, and each Releasor to release claims. The Release shall be a complete bar to any Released Claim.

- B. The Release does not extend to Walgreens for any liability that may have been acquired by Walgreens through its purchase of Rite Aid pharmacies in West Virginia and is not intended to do so.
- C. *Claim-Over and Non-Party Settlement.*
1. *Statement of Intent.* It is the intent of the Parties that:
 - a. Released Entities shall not seek contribution or indemnification (other than pursuant to an insurance contract and as set forth in Section VI.C.2) from other parties for their payment obligations under this Agreement.
 - b. The payments made under this Agreement shall be the sole payments made by the Released Entities to the Releasors involving, arising out of, or related to Covered Conduct (or conduct that would be Covered Conduct if engaged in by a Released Entity), and each Releasor expressly waives its right to seek reallocation to Rite Aid pursuant to W. Va. Code § 55-7-13C(d) of any amount that the Releasor is unable to collect from any other party held to be liable to the Releasor;
 - c. Claims by Releasors against non-Parties shall not result in additional payments by Released Entities, whether through contribution, indemnification or any other means; and
 - d. It is expressly understood and agreed that the Parties have entered into this Agreement in good faith. In accordance with the Supreme Court of Appeals of West Virginia's decisions in *Board of Education of McDowell County v. Zando, Martin & Milstead, Inc.*, 182 W. Va. 597, 390 S.E.2d 796 (1990), and *Smith v. Monongahela Power Co.*, 189 W. Va. 237, 429 S.E.2d 643 (1993), it is the intent of the Releasors and the Released Entities that by making this good faith settlement of a disputed matter, the Released Entities are hereby relieved from any liability for Covered Conduct under any Claim-Over theory.
 - e. The provisions of this subsection VI.C are intended to be implemented consistent with these principles. This Agreement and the releases and dismissals provided for herein are made in good faith.
 2. *Insurance Recovery Permitted.* Nothing herein shall prohibit Rite Aid, its successors or assigns from relying on this Agreement to pursue insurance recoveries related to the West Virginia AG Action and Actions brought by

Participating Local Governments, including by submitting this Agreement to any of Rite Aid's liability insurers and entering this Agreement into evidence in any litigation or arbitration concerning Rite Aid's right to coverage under an insurance contract.

3. *Contribution/Indemnity Prohibited.* Except as provided in subsection VI.C.2, no Released Entity shall seek to recover for amounts paid under this Agreement based on indemnification, contribution, or any other theory from a manufacturer, pharmacy, hospital, pharmacy benefit manager, health insurer, third-party vendor, trade association, distributor, or health care practitioner, provided that a Released Entity shall be relieved of this prohibition with respect to any entity that asserts a Claim-Over against it.
4. *Non-Party Settlement.* To the extent that any Releasor enters into a Non-Party Settlement involving or relating to Covered Conduct, including in any bankruptcy case or through any plan of reorganization (whether individually or as a class of creditors), the Releasor will include (or in the case of a Non-Party Settlement made in connection with a bankruptcy case, will cause the debtor to include) in the Non-Party Settlement, unless prohibited from doing so under applicable law, a prohibition on contribution or indemnity of any kind substantially equivalent to that required from Rite Aid in subsection VI.C.3, or a release from such Non-Released Entity in favor of the Released Entities (in a form equivalent to the releases contained in this Agreement) of any Claim-Over. The obligation to obtain the prohibition and/or release required by this subsection is a material term of this Agreement.
5. *Claim-Over.* In the event that any Releasor obtains a judgment with respect to Non-Party Covered Conduct against a Non-Released Entity that does not contain a prohibition like that in subsection VI.C.3, or any Releasor files a Non-Party Covered Conduct Claim against a Non-Released Entity in bankruptcy or a Releasor is prevented for any reason from obtaining a prohibition/release in a Non-Party Settlement as provided in subsection VI.C.4, and such Non-Released Entity asserts a Claim-Over against a Released Entity, such Releasor and Rite Aid shall meet and confer concerning any additional appropriate means by which to ensure that the Released Entities are not required to make any payment with respect to Covered Conduct (beyond the Advance Amount that will have already been paid by Rite Aid under this Settlement Agreement).

- D. *General Release.* In connection with the releases provided for in the Agreement, the State (for itself and its Releasors), and each Participating Local Government (for itself and its Releasors) expressly waive, release, and forever discharge any and all provisions, rights, and benefits conferred by any law of the State or principle of

common law which would exclude from the scope of the Released Claims any Claims that a Releasor does not know or suspect to exist in the Releasor's favor as of the Effective Date that, if known by the Releasor, would have materially affected the State's or any Participating Local Government's decision to provide the general release contemplated by this Section VI.D. A Releasor may thereafter discover facts other than or different from those which it presently knows, believes, or assumes to be true with respect to the Released Claims, but the State (for itself and its Releasors) and each Participating Local Government (for itself and its Releasors) expressly waive and fully, finally, and forever settle, release and discharge, upon the Effective Date, any and all Released Claims that may exist as of the Effective Date but which Releasors do not know or suspect to exist, whether through ignorance, oversight, error, negligence, fraud or through no fault whatsoever, and which, if known, would materially affect the State's decision to enter into the Agreement or the Participating Local Government's decision to participate in the Agreement.

- E. *Cooperation.* Releasors (a) will not encourage any person or entity to bring or maintain any Released Claim against any Released Entity and (b) will not oppose any effort by a Released Entity to secure the prompt dismissal of any and all Released Claims.
- F. *Res Judicata.* Nothing in the Agreement shall be deemed to reduce the scope of the *res judicata* or claim preclusive effect that the settlement memorialized in the Agreement, and/or any Consent Judgment or other judgment entered on the Agreement, gives rise to under applicable law.
- G. *Representation and Warranty.* The State's Attorney General expressly represents and warrants that he will, on or before the Initial Participation Date, have (or have obtained) the authority to settle and release Claims of (1) the State, (2) all past and present executive departments, state agencies, divisions, boards, commissions and instrumentalities with the regulatory authority to enforce state and/or federal controlled substances acts, and (3) any of the State's past and present executive departments, agencies, divisions, boards, commissions and instrumentalities that have the authority to bring Claims related to Covered Conduct seeking money (including abatement and/or remediation) or revocation of a pharmaceutical distribution license. For the purposes of clause (3) above, executive departments, agencies, divisions, boards, commissions, and instrumentalities are those that are under the executive authority or direct control of the State's Governor. Also, for the purposes of clause (3), a release from the State's Governor is sufficient to demonstrate that the appropriate releases have been obtained.
- H. *Effectiveness.* The releases set forth in the Agreement shall not be impacted in any way by any dispute that exists, has existed, or may later exist between or among the State, any Local Government, or any other Releasors. Nor shall such releases

be impacted in any way by any current or future law, regulation, ordinance, or court or agency order limiting, seizing, or controlling the distribution or use of the Advance Amount or Settlement Amount or any portion thereof, or by the enactment of future laws, or by any seizure of the Advance Amount or Settlement Amount or any portion thereof.

- I. *Non-Released Claims.* Notwithstanding the foregoing or anything in the definition of Released Claims, the Agreement does not waive, release or limit any criminal liability, Claims not related to Covered Conduct, Claims for any outstanding liability under any tax or securities law, Claims against parties who are not Released Entities, Claims by individuals for damages for any alleged personal injuries arising out of their own use of any Product, and any Claims arising under the Agreement for enforcement of the Agreement.
- J. *Dismissal of Actions.* The State and Participating Local Governments with Actions pending before the Court as of the Effective Date shall have their Claims against Rite Aid and any other Released Entities dismissed as part of the Consent Judgment to be entered pursuant to Section III.D above. Participating Local Governments with Actions pending in other courts as of the Effective Date shall dismiss (or if necessary move to dismiss) their Actions as to Rite Aid and any other Released Entities within seven (7) business days of the Effective Date. Any Later Litigating Local Government that becomes a Participating Local Government after the Effective Date shall dismiss (or if necessary move to dismiss) its Action(s) as to Rite Aid and any other Released Entities within seven (7) business days of the date on which the Later Litigating Local Government executes its Election and Release Form. All dismissals required by this Agreement shall be with prejudice and with each Party to bear its own costs.

VII. PARTICIPATION BY LOCAL GOVERNMENTS

- A. *Requirements for Becoming a Participating Local Government: Litigating or Later Litigating Local Governments.* A Litigating Local Government or Later Litigating Local Government may become a Participating Local Government either by (1) executing an Election and Release Form (Exhibit C); or (2) having its claims extinguished by operation of law or released by the State's Office of the Attorney General.
- B. *Notice.* As soon as practicable after the Execution Date, Plaintiff shall send notice to all Local Governments in the State eligible to participate in the settlement and the requirements for participation. Such notice may include publication, email, and other standard forms of notification.
- C. *Requirements for Becoming a Participating Local Government: Non-Litigating Local Governments.* A Non-Litigating Local Government may become a

Participating Local Government either (1) by executing an Election and Release Form (Exhibit C) specifying (a) that the Local Government agrees to the terms of this Agreement pertaining to Participating Local Governments, (b) that the Local Government releases all Released Claims against all Released Entities, and (c) that the Local Government submits to the jurisdiction of the Court for purposes limited to the Court's role under the Agreement or (2) by having their claims extinguished by operation of law or released by the State's Office of the Attorney General.

- D. *Non-Participating Local Governments.* Non-Participating Local Governments shall be ineligible to receive any direct portion of the Settlement Amount. Any portion of the Remediation Amount that would be directly allocable to a Non-Participating Local Government under the West Virginia First Memorandum of Understanding if it were a Participating Local Government shall be withheld from any distribution of the Remediation Amount; the funds so withheld shall remain in the Qualified Settlement Fund for 150 days from the date the Qualified Settlement Fund Administrator first distributes any portion of the Remediation Amount to Participating Local Governments, or unless and until the Non-Participating Local Government has satisfied the requirements of Section VII.C (i.e., has become a Participating Local Government), whichever occurs sooner. If, at the conclusion of the 150 day period, the Non-Participating Local Government has failed to satisfy the requirements of Section VII.C (i.e., has failed to become a Participating Local Government), then the amount allocable to that Non-Participating Local Government shall be reallocated and used as provided in the West Virginia First Memorandum of Understanding.
- E. *Representation With Respect to Local Government Participation.* The State represents and warrants that it has a good faith belief that both (a) all Litigating Local Governments, and (b) all Non-Litigating Local Governments that are Class I or II Local Governments, will become Participating Local Governments. The State acknowledges the materiality of the foregoing representation and warranty. Further, the State will use its best efforts to secure participation by all Local Governments within the State, including all Litigating Local Governments and all Non-Litigating Local Governments. To the extent any Local Governments do not become Participating Local Governments, the West Virginia Attorney General shall take all appropriate steps to resolve any remaining Claims by such Local Governments against Rite Aid, which may include seeking the enactment of a legislative Bar or pursuit of a Settlement Class Resolution. A Bar shall constitute 100% government participation.
- F. *Representation With Respect to State Abatement and Treatment Claims.* The State represents and warrants that the Remediation Amount shall be used to fund opioid abatement and treatment activities throughout the State, and that the Settlement is intended to release any and all Claims for past losses for or arising from care and treatment of individuals with opioid-related afflictions and ongoing abatement of

such past and ongoing injuries within the State. The State acknowledges the materiality of the foregoing representation and warranty.

- G. *Representation With Respect to Claims by Later Litigating Local Governments.* The State represents and warrants that, if any Later Litigating Local Government brings any Released Claim(s) against any Released Entity after the Execution Date, the State will take appropriate steps to cease the litigation as soon as reasonably possible. Depending on facts and circumstances, such steps may include intervening in the Action to move to dismiss or otherwise terminate the Local Government's Claims as to the Released Entities in the Action, commencing a declaratory judgment or other action that establishes a Bar to the Local Government's Claims as to the Released Entities, or other means.
- H. Concurrently with Plaintiff's submission of the Consent Judgment per Section III.D above, the Parties will jointly ask the Court to enter the Case Management Order annexed hereto as Exhibit F, which is applicable only to Non-Participating Local Governments and Later Litigating Local Governments.

VIII. ATTORNEY FEES, COSTS AND EXPENSES

Attorney's fees will be handled through an agreement between the Attorney General's Office and Plaintiffs' counsel, subject to political subdivision participation and review and orders by the Court, in particular regarding how political subdivision fees are handled. Rite Aid shall not be responsible for making payments for attorneys' fees and costs beyond amounts paid to the State under Section III.

IX. BANKRUPTCY

- A. *Bankruptcy.* Nothing in this Agreement shall preclude the State or any Participating Local Government from receiving a distribution from a potential bankruptcy of Rite Aid to the extent that the State or Participating Local Government has a right to receive a payment or distribution in accordance with this Agreement. Subject to the terms of this Agreement (including all releases, covenants and payment terms contained herein), all of the State's and the Participating Local Governments' rights with respect to any bankruptcy case of Rite Aid are specifically reserved by the State and the Participating Local Governments.

X. ENFORCEMENT AND DISPUTE RESOLUTION

- A. If the State believes Rite Aid is not in compliance with any term of this Agreement, then the State shall (1) provide written notice to Rite Aid specifying the reason(s) why the State believes Rite Aid is not in compliance with the Agreement; and (2) allow Rite Aid at least thirty (30) days to attempt to cure such alleged noncompliance (the "Cure Period"). In the event the alleged non-compliance is

cured within the Cure Period, Rite Aid shall not have any liability for such alleged noncompliance. Disputes regarding this Agreement that are not resolved within the Cure Period shall be resolved by the Court. Rite Aid consents to the jurisdiction of the Court for the limited purpose of resolution of disputes identified in this Section X.

XI. MISCELLANEOUS

- A. *No Admission of Liability.* The Settling Parties intend the Settlement as described herein to be a final and complete resolution of all disputes between Rite Aid and Plaintiff and between the Released Entities and all Releasors. Rite Aid is entering into this Settlement Agreement solely for the purposes of settlement, to resolve the West Virginia AG Action and all Actions and Released Claims and thereby avoid significant expense, inconvenience, and uncertainty. This Agreement is not a concession as to the viability or addressability of any claim asserted. Rite Aid denies the allegations in the West Virginia AG Action and the other Actions and denies any civil or criminal liability in the West Virginia AG Action and the other Actions. Nothing contained herein may be taken as or deemed to be an admission or concession by Rite Aid of: (1) any violation of any law, regulation, or ordinance; (2) any fault, liability, or wrongdoing; (3) the strength or weakness of any Claim or defense or allegation made in the West Virginia AG Action, in any other Action, or in any other past, present or future proceeding relating to any Covered Conduct; or (4) any other matter of fact or law. Nothing in this Settlement Agreement shall be construed or used to prohibit any Released Entity from engaging in the marketing, distribution, sale or dispensing of branded or generic opioid medications or any other Product in accordance with applicable laws and regulations.
- B. *Use of Agreement as Evidence.* Neither this Agreement nor any act performed or document executed pursuant to or in furtherance of this Agreement: (1) is or may be deemed to be or may be used as an admission or evidence relating to any matter of fact or law alleged in the West Virginia AG Action or the other Actions, the strength or weakness of any Claim or defense or allegation made in those cases, or any wrongdoing, fault, or liability of any Released Entities; or (2) is or may be deemed to be or may be used as an admission or evidence relating to any liability, fault or omission of Released Entities in any civil, criminal or administrative proceeding in any court, administrative agency or other tribunal. Neither this Agreement nor any act performed or document executed pursuant to or in furtherance of this Agreement shall be admissible in any proceeding for any purpose, except to enforce the terms of the Agreement, and except that Released Entities may file this Agreement in any action in order to support a defense or counterclaim based on principles of *res judicata*, collateral estoppel, release, good-faith settlement, judgment bar or reduction or any other theory of claim preclusion or issue preclusion or similar defense or counterclaim or to support a claim for contribution and/or indemnification. For the avoidance of any doubt, nothing

herein shall prohibit Rite Aid from entering this Agreement into evidence in any litigation or arbitration concerning Rite Aid's right to coverage under an insurance contract.

- C. *Voluntary Settlement.* This Settlement Agreement was negotiated in good faith and at arm's-length over several months, and the exchange of the Remediation Amount and the Litigation Cost Amount for the releases set forth herein is agreed to represent appropriate and fair consideration.
- D. *Taxes.* Each of the Parties acknowledges, agrees, and understands that it is its intention that, for purposes of Section 162(f) of the Internal Revenue Code, the Remediation Amount constitutes restitution for damage or harm allegedly caused by the potential violation of a law and/or is an amount paid to come into compliance with the law. The Parties acknowledge, agree and understand that only the Litigation Cost Amount represents reimbursement to the State, any Participating Local Government or other person or entity for the costs of any investigation or litigation; that no portion of the Remediation Amount represents reimbursement to the State, any Participating Local Government or any other person or entity for the costs of any investigation or litigation; and that no portion of the Remediation Amount represents or should properly be characterized as the payment of fines, penalties, or other punitive assessments. The State and Participating Local Governments acknowledge, agree and understand that Rite Aid intends to allocate the cost of the Remediation Amount among the Released Entities using a reasonable basis. If reasonably requested by Rite Aid, the State and every Participating Local Government shall complete and file Form 1098-F with the Internal Revenue Service, identifying the Remediation Amount as remediation/restitution amounts, and shall furnish Copy B of such Form 1098-F to Rite Aid. Rite Aid makes no warranty or representation to the State or any Participating Local Government as to the tax consequences of the Remediation Amount or the Litigation Cost Amount or any portion thereof.
- E. *Federal, State and Local Laws Prevail.* Nothing in this Agreement shall be construed to authorize or require any action by Rite Aid in violation of applicable federal, state, or other laws.
- F. *No Third-Party Beneficiaries.* Except as to Released Entities, nothing in this Settlement Agreement is intended to or shall confer upon any third party any legal or equitable right, benefit or remedy of any nature whatsoever.
- G. *Binding Agreement.* This Agreement shall be binding upon, and inure to the benefit of, the successors and assigns of the Parties hereto.

- H. *Choice of Law.* Any dispute arising from or in connection with this Settlement Agreement shall be governed by West Virginia law without regard to its choice-of-law provisions.
- I. *No Conflict Intended.* The headings used in this Agreement are intended for the convenience of the reader only and shall not affect the meaning or interpretation of this Agreement. The definitions contained in this Agreement or any Exhibit hereto are applicable to the singular as well as the plural forms of such terms.
- J. *No Party Deemed to be the Drafter.* None of the Parties hereto shall be deemed to be the drafter of this Agreement or any provision hereof for the purpose of any statute, case law or rule of interpretation or construction that would or might cause any provision to be construed against the drafter hereof.
- K. *Most Favored Nations.* If, after execution of this Agreement, there is a collective resolution—through settlement, bankruptcy or other mechanism—of substantially all claims against Rite Aid brought by states, counties, and municipalities (a “Global Resolution”) then the State and Rite Aid agree that the net present value (“NPV”) of the Settlement Amount to be received by the State and its Local Governments under this Agreement shall be no less favorable net present value of the consideration the State and its Local Governments would have received based on an allocation share of 2.25% of the total Settlement Amount in the Global Resolution.
- L. *Modification.* This Agreement may be modified by a written agreement of the Parties or, in the case of the Consent Judgment, by court proceedings resulting in a modified judgment of the Court. For purposes of modifying this Agreement or the Consent Judgment, Rite Aid may contact the West Virginia Attorney General for purposes of coordinating this process. Modifications must be in writing and agreed to by all Parties to be enforceable.
- M. *Waiver.* Any failure by any party to this Agreement to insist upon the strict performance by any other party of any of the provisions of this Agreement shall not be deemed a waiver of any of the provisions of this Agreement, and such party, notwithstanding such failure, shall have the right thereafter to insist upon the specific performance of any and all of the provisions of this Judgment.
- N. *Entire Agreement.* This Agreement represents the full and complete terms of the settlement entered into by the Parties hereto, except as provided herein. In any action undertaken by the Parties, no prior versions of this Agreement and no prior versions of any of its terms may be introduced for any purpose whatsoever.
- O. *Counterparts.* This Agreement may be executed in counterparts, and a facsimile or .pdf signature shall be deemed to be, and shall have the same force and effect as,

an original signature.

- P. *Severability.* In the event any one or more provisions of this Settlement Agreement shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision of this Settlement Agreement.
- Q. *Notice.* All notices under this Agreement shall be provided to the following via email and Overnight Mail:

For Rite Aid:

Paul Gilbert, General Counsel
Rite Aid Hdqtrs. Corp.
30 Hunter Lane
Camp Hill, PA 17011
paul.d.gilbert@riteaid.com

CC: Kelly A. Moore
MORGAN, LEWIS & BOCKIUS LLP
101 Park Avenue
New York, NY 10178
Phone: (212) 309-6612
kelly.moore@morganlewis.com

For the State:

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Abby G. Cunningham
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APPROVED:

Date: August 9, 2022

THE STATE OF WEST VIRGINIA

By: Patrick Morrissey by [Signature]
Name: Patrick Morrissey
Title: Attorney General

Date: August 8, 2022

RITE AID

By: [Signature]

Name: Paul Gilbert

Title: Executive Vice President,
Secretary and General Counsel



City Or Town	Party	Court
Town of	Addison (Webster Springs)	Circuit Court of Marshall County, Civil Action No. 19-C-9
	Barbour County	Circuit Court of Marshall County, Civil Action No. 19-C-5
Village of	Barboursville	Circuit Court of Marshall County, Civil Action No. 19-C-6
City of	Beckley	Circuit Court of Marshall County, Civil Action No. 20-C-34
Town of	Belington	Circuit Court of Marshall County, Civil Action No. 20-C-23
Town of	Belle	Circuit Court of Marshall County, Civil Action No. 19-C-264H
	Brooke County	Circuit Court of Marshall County, Civil Action No. 17-C-248
Town of	Chesapeake	Circuit Court of Marshall County, Civil Action No. 19-C-266H
Town of	Ceredo	Circuit Court of Marshall County, Civil Action No. 19-C-265H
City of	Clarksburg	Circuit Court of Marshall County, Civil Action No. 19-C-259H
Town of	Delbarton	Circuit Court of Marshall County, Civil Action No. 20-C-16
	Doddridge County	Circuit Court of Marshall County, Civil Action No. 18-C-232
Town of	Elizabeth	Circuit Court of Marshall County, Civil Action No. 19-C-104
City of	Fairmont	Circuit Court of Marshall County, Civil Action No. 20-C-55
City of	Grafton	Circuit Court of Marshall County, Civil Action No. 19-C-151
	Grant County	Circuit Court of Marshall County, Civil Action No. 20-C-79
	Hancock County	Circuit Court of Marshall County, Civil Action No. 17-C-249
	Hardy County	Circuit Court of Marshall County, Civil Action No. 20-C-18
	Harrison County	Circuit Court of Marshall County, Civil Action No. 17-C-250
Town of	Harrisville	Circuit Court of Marshall County, Civil Action No. 19-C-108
	Jackson County	Circuit Court of Marshall County, Civil Action No. 19-C-98
Town of	Junior	Circuit Court of Marshall County, Civil Action No. 20-C-25
	Lewis County	Circuit Court of Marshall County, Civil Action No. 17-C-251
Town of	Madison	Circuit Court of Marshall County, Civil Action No. 20-C-031H
	Marion County	Circuit Court of Marshall County, Civil Action No. 18-C-233
	Marshall County	Circuit Court of Marshall County, Civil Action No. 17-C-252
	Mason County	Circuit Court of Marshall County, Civil Action No. 19-C-4
Town of	Matewan	Circuit Court of Marshall County, Civil Action No. 20-C-19
	Mineral County	Circuit Court of Marshall County, Civil Action No. 20-C-80
	Monongalia County	Circuit Court of Marshall County, Civil Action No. 18-C-222
	Monroe County	Circuit Court of Marshall County, Civil Action No. 20-C-81
City of	Moundsville	Circuit Court of Marshall County, Civil Action No. 20-C-26
City of	Mullens	Circuit Court of Marshall County, Civil Action No. 20-C-20
City of	Nitro	Circuit Court of Marshall County, Civil Action No. 19-C-260H
Town of	Oceana	Circuit Court of Marshall County, Civil Action No. 20-C-21
	Ohio County	Circuit Court of Marshall County, Civil Action No. 17-C-253
	Pendleton County	Circuit Court of Marshall County, Civil Action No. 20-C-53
City of	Philippi	Circuit Court of Marshall County, Civil Action No. 19-C-152
	Pleasants County	Circuit Court of Marshall County, Civil Action No. 19-C-105
City of	Point Pleasant	Circuit Court of Marshall County, Civil Action No. 20-C-24
	Preston County	Circuit Court of Marshall County, Civil Action No. 20-C-22
	Randolph County	Circuit Court of Marshall County, Civil Action No. 18-C-235
Town of	Ravenswood	Circuit Court of Marshall County, Civil Action No. 19-C-100
City of	Richwood	Circuit Court of Marshall County, Civil Action No. 19-C-261H
City of	Ripley	Circuit Court of Marshall County, Civil Action No. 19-C-99
	Ritchie County	Circuit Court of Marshall County, Civil Action No. 19-C-107

	Roane County	Circuit Court of Marshall County, Civil Action No. 19-C-96
Town of	Romney	Circuit Court of Marshall County, Civil Action No. 20-C-54
City of	South Charleston	Circuit Court of Marshall County, Civil Action No. 19-C-262H
City of	Spencer	Circuit Court of Marshall County, Civil Action No. 19-C-97
City of	St. Mary's	Circuit Court of Marshall County, Civil Action No. 19-C-106
Town of	Star City	Circuit Court of Marshall County, Civil Action No. 19-C-52
	Taylor County	Circuit Court of Marshall County, Civil Action No. 19-C-7
	Tucker County	Circuit Court of Marshall County, Civil Action No. 20-C-17
	Tyler County	Circuit Court of Marshall County, Civil Action No. 17-C-254
	Upshur County	Circuit Court of Marshall County, Civil Action No. 18-C-236
	Webster County	Circuit Court of Marshall County, Civil Action No. 19-C-8
City of	Weirton	Circuit Court of Marshall County, Civil Action No. 20-C-27
	Wetzel County	Circuit Court of Marshall County, Civil Action No. 17-C-255
City of	White Sulphur Springs	Circuit Court of Marshall County, Civil Action No. 19-C-263H
City of	Williamstown	Circuit Court of Marshall County, Civil Action No. 19-C-101
	Wirt County	Circuit Court of Marshall County, Civil Action No. 19-C-103
	Wood County	Circuit Court of Marshall County, Civil Action No. 19-C-101