

## **MASSACHUSETTS NPM ADJUSTMENT SETTLEMENT AGREEMENT**

### **A. RECITALS**

WHEREAS, the Commonwealth of Massachusetts and the undersigned Participating Manufacturers (“PMs”) are parties to the Master Settlement Agreement (“MSA”);

WHEREAS, the PMs make annual payments to Massachusetts pursuant to the MSA;

WHEREAS, there are disputes between the PMs and Massachusetts over the applicability of the NPM Adjustment to such annual payments for the years 2005 through 2023;

WHEREAS, the PMs and Massachusetts are currently arbitrating the applicability of such NPM Adjustments for the years 2005-2007, and expect to arbitrate in the future the applicability of such NPM Adjustments for the subsequent years;

WHEREAS, the PMs and Massachusetts wish to resolve their disputes with respect to the applicability of the NPM Adjustments for 2005-2011 in order to avoid the further expense, delay, inconvenience, burden and uncertainty of continued disputes with respect to the applicability of such NPM Adjustments; and

WHEREAS, the PMs and Massachusetts further wish to agree on an efficient process for resolving their disputes under the MSA with respect to the applicability of the NPM Adjustments for subsequent years;

NOW, THEREFORE, in consideration for the payments and credits provided for in this Settlement Agreement, and such other consideration as described in this Settlement Agreement, the sufficiency of which is hereby acknowledged, the PMs and Massachusetts, acting by and through their authorized representatives, memorialize and agree as follows:

## **B. NPM ADJUSTMENTS FOR 2005-2011**

1. Massachusetts's share of the amounts in the Disputed Payments Account ("DPA") (both principal and earnings) deposited by the PMs on account of the 2005-2011 NPM Adjustments shall be released to Massachusetts.

2. The PMs shall receive a settlement credit equal to 46% of Massachusetts's allocable share of the 2005-2011 NPM Adjustments.

a. Massachusetts's share of the Original Participating Manufacturers' ("OPMs") 2005-2011 NPM Adjustments is \$211,015,265.12, and the OPMs' aggregate settlement credit for 2005-2011 is \$97,067,021.95, allocated among them as follows: Philip Morris USA Inc. ("PM USA") – \$27,582,669.28; RJ Reynolds Tobacco Company ("RJR") – \$69,479,426.27; Scandinavian Tobacco Group Lane Ltd. ("Lane") – \$4,926.40.<sup>1</sup>

b. The OPMs shall receive 50% of their aggregate settlement credit as a credit against their MSA payments due on April 15, 2026, and the other 50% in four equal installments as credits against their MSA payments due on April 15 of the four subsequent years, with the principal of those credits allocated among them as follows:

OPM	Credit Against MSA Payment due on April 15 of:					Total
	2026	2027	2028	2029	2030	
<b>PM USA</b>	\$27,582,669.28	-	-	-	-	\$27,582,669.28
<b>RJR</b>	\$20,945,915.30	\$12,133,377.74	\$12,133,377.74	\$12,133,377.74	\$12,133,377.75	\$69,479,426.27
<b>Lane</b>	\$4,926.40	-	-	-	-	\$4,926.40
<b>Total</b>	\$48,533,510.98	\$12,133,377.74	\$12,133,377.74	\$12,133,377.74	\$12,133,377.75	\$97,067,021.95

<sup>1</sup> For purposes of this Agreement, Lane is treated as an OPM with respect to brands it purchased from RJR that are included in the OPM payment calculations.

RJR shall receive simple (i.e., non-compounded) interest on its credits for 2027 through 2030 commencing on April 15, 2026 at the Prime Rate.

c. Certain Subsequent Participating Manufacturers (“SPMs”) shall receive credits from Massachusetts for their 2005-2011 NPM Adjustments against their MSA payments due April 15, 2026 as follows:

<b>SPM</b>	<b>Credits 2005-2011</b>
Commonwealth Brands, LLC	\$3,620,043.26
Compania Industrial de Tabacos Monte Paz, S.A.	\$12,940.22
Daughters & Ryan, Inc.	\$4,307.78
House of Prince A/S	\$95.45
Japan Tobacco International U.S.A., Inc.	\$99,527.45
King Maker Marketing, Inc.	\$103,414.57
Kretek International	\$15,151.12
Scandinavian Tobacco Group Lane Ltd. (SPM)	\$11,487.72
Santa Fe Natural Tobacco Company	\$564,873.09
ITG Brands, LLC (SPM)	\$87,464.71
Peter Stokkebye Tobaksfabrik A/S	\$14,687.60
Premier Manufacturing, Inc.	\$117,528.17
P.T. Djarum	\$58,942.86
Reemtsma Cigarettenfabriken Gmbh (Germany)	\$2.86
Sherman 1400 Broadway N.Y.C., LLC	\$17,168.97
Top Tobacco, L.P.	\$191,370.71
U.S. Flue-Cured Tobacco Growers, Inc.	\$55,923.24
Von Eicken Group	\$1,779.76
Wind River Tobacco Company, LLC	\$2,998.90

d. Three SPMs which previously disputed and retained amounts related to the 2005-2011 NPM Adjustments shall pay Massachusetts the following amounts (either directly or, at their option, by depositing such amounts into the DPA and directing their release to Massachusetts) on April 15, 2026:

<b>SPM</b>	<b>Amounts Due 2005-2011</b>
Farmers Tobacco Co.	\$378,004.09
Liggett Group LLC	\$548,358.61
Vector Tobacco LLC	\$47,295.11

3. Upon the execution of this Settlement Agreement Massachusetts and the PMs shall jointly notify the 2005-2007 NPM Adjustments arbitration panel that their disputes with respect to such adjustments have been resolved and the arbitration as to Massachusetts shall discontinue.

4. Effective upon the implementation of the DPA releases, payments with respect to withheld amounts, and settlement credits set forth above, Massachusetts and the PMs absolutely and unconditionally release and discharge each other from any further Claims directly or indirectly based on, arising out of, or in any way related, in whole or in part, to the 2005-2011 NPM Adjustments.

#### **C. NPM ADJUSTMENTS FOR 2012-2016**

1. Massachusetts's share of the amounts in the DPA (both principal and earnings) deposited by the PMs on account of the 2012-2016 NPM Adjustments shall be released to Massachusetts. Any SPM which previously disputed and retained amounts related to the 2012-2016 NPM Adjustments shall pay Massachusetts its share of any such amount (either directly or, at their option, by depositing such amounts into the DPA and directing their release to Massachusetts) on April 15, 2026.

2. Massachusetts and the PMs agree to arbitrate their disputes over the applicability of the 2012-2016 NPM Adjustments in a single arbitration proceeding.

3. Such arbitration proceeding (and the subsequent arbitration pursuant to paragraph D.5 below) may include other Settling States that either agree to participate in it or are compelled to do so ("Participating States"). The arbitration proceedings with respect to such other Participating States may address disputes for the same NPM Adjustment years as for Massachusetts and/or for other years.

4. Such arbitration proceeding shall commence by the PMs and Massachusetts, together with the other Participating States, if any, simultaneously exchanging the names of the arbitrators selected for their respective sides (one for the PMs and one for Massachusetts and any other Participating States) pursuant to MSA Section XI(c), with the two arbitrators so selected selecting the third arbitrator as provided in MSA Section XI(c).

5. The exchange of the names of arbitrators pursuant to the preceding paragraph shall take place on the later of (i) March 17, 2025, or (ii) sixty days after Massachusetts (and any other Participating States) receives notice from the PMs requesting such arbitrator selection. Such notice shall be effective only if it is signed by the PMs with the aggregate 2023 Market Share of at least 75%, as such Market Shares have been determined by the Independent Auditor in Attachment 4a to Notice ID: 0687.

6. In the event that the PMs do not issue an effective notice pursuant to the preceding paragraph by June 15, 2025, the PMs and/or Massachusetts may exercise any rights they may have under the MSA and any applicable law to commence an arbitration to resolve their NPM Adjustment disputes for 2012-2016 or any other years. Provided, however, that the PMs are not obligated to issue such notice by any particular date, and may do so before or after June 15, 2025.

7. In the event that Massachusetts is found to have been non-diligent, and thus its MSA payments are subject to the NPM Adjustment, for any of the years 2012-2016, the PMs agree not to seek or receive interest on such NPM Adjustment amounts due to them other than the amount of the DPA earnings that will have been released to Massachusetts for such year(s) pursuant to paragraph C.1 of this Agreement.

**D. NPM ADJUSTMENTS FOR 2017 AND ALL SUBSEQUENT YEARS**

1. Massachusetts's share of all the amounts in the DPA (both principal and earnings) deposited by any PM on account of the NPM Adjustment for 2017 and any subsequent year shall be released from the DPA as follows: 75% to Massachusetts and 25% to each respective PM.

2. With respect to the NPM Adjustments that have not yet been deposited into the DPA, including for future years, at the time a PM could deposit its respective adjustment amount into the DPA pursuant to the MSA and other existing agreements between such PM and Massachusetts, instead of depositing Massachusetts's share of any such adjustment into the DPA such PM (i) shall pay 75% of such share to Massachusetts as part of the respective annual MSA payment, and (ii) shall retain 25% of such share. At its option, the PM may deposit all or part of such adjustment amount into the DPA and direct its release to Massachusetts and the PM as set forth in this paragraph D.2.

3. For purposes of the preceding paragraph, Massachusetts's share of a PM's NPM Adjustment for a given year shall equal the product of (i) the Potential Maximum NPM Adjustment for such year allocated to that PM, as calculated by the Independent Auditor in the latest Final or Revised Final Calculation for such year, and (ii) Massachusetts's Allocable Share.

4. The PMs and Massachusetts do not waive, and specifically reserve, their respective rights under the MSA to seek or dispute the applicability to Massachusetts of the NPM Adjustment for 2017 and any subsequent year. Payment to Massachusetts and retention by the PMs of the portions of the NPM Adjustment for any such year shall have no effect on the parties' rights under the MSA to seek or dispute the applicability of the NPM Adjustment for such year, and such paid and retained portions shall be subject to recoupment as part of the amounts due under the MSA upon a resolution of the dispute with respect to such NPM Adjustment.

5. Massachusetts and the PMs agree to arbitrate their disputes over the applicability of the NPM Adjustment for 2017 and no fewer than four additional years in a single arbitration proceeding.

6. Such arbitration proceeding shall commence by the PMs and Massachusetts, together with the other Participating States, if any, simultaneously exchanging the names of the arbitrators in the process described in paragraph C.4 of this agreement.

7. The exchange of the names of arbitrators pursuant to the preceding paragraph shall take place on the later of (i) 180 days after the conclusion of the Massachusetts state-specific arbitration hearing with respect to the applicability of the 2012-2016 NPM Adjustment (or after other resolution of such arbitration as to Massachusetts if earlier), or (ii) sixty days after Massachusetts (and any other Participating States) receive notice from the PMs requesting such arbitrator selection. Such notice shall be effective only if it is signed by the PMs with the aggregate 2023 Market Share of at least 81%, as such Market Shares have been determined by the Independent Auditor in Attachment 4a to Notice ID: 0687.

8. In the event that the PMs do not issue an effective notice pursuant to the preceding paragraph within the time period set forth in subparagraph D.7(i), the PMs and/or Massachusetts may exercise any rights they may have under the MSA and any applicable law to commence an arbitration to resolve their NPM Adjustment disputes for 2017 or any other years. Provided, however, that the PMs are not obligated to issue such notice by any particular date, and may do so before or after the end of the time period set forth in subparagraph D.7(i).

9. Massachusetts and the PMs agree not to seek or receive interest on any NPM Adjustment amounts that may be due to any of them pursuant to the MSA upon a resolution of

the dispute over the applicability to Massachusetts of the NPM Adjustment for 2017 and any subsequent year.

**E. OTHER TERMS**

1. All capitalized terms not otherwise defined herein shall be defined as in the MSA or the Independent Auditor's calculations.

2. The amounts to be released from the DPA pursuant to this Settlement Agreement shall be released in connection with the annual MSA payment due on April 15, 2025, or sooner if Massachusetts so elects. Massachusetts and the PMs shall provide joint instructions to the Independent Auditor to that effect at the time so elected by Massachusetts.

3. In the event that in the NPM Adjustment arbitration for 2012-2016 or any other multi-year NPM Adjustment arbitration Massachusetts is found to have been non-diligent in more than two years, and thus the PMs are entitled to more than two NPM Adjustments applicable to Massachusetts, the PMs shall receive credit for no more than two such adjustments against a single annual MSA payment, and shall receive credit for additional NPM Adjustment(s) against subsequent annual MSA payments.

4. As to Massachusetts for 2024, the Significant Factor condition to the applicability of the NPM Adjustment under MSA section IX(d)(1)(C) shall be deemed satisfied as of March 1, 2027, and for each subsequent year through and including 2034, sequentially on an annual basis such that no PM can retain or deposit into the DPA more than one disputed NPM Adjustment amount in connection with one annual MSA payment.

5. If a credit due to a particular SPM pursuant to this Settlement Agreement or pursuant to any arbitration for any year from 2012 forward cannot be applied in full because such SPM has insufficient or no MSA payments in such year because it had insufficient or no domestic sales in the preceding year, the SPM may carry forward such unused amount for



application in subsequent years or at its option my transfer some or all of it to another PM, to be applied against that transferee PM's MSA payments. If such transfer occurs, the transferor PM and transferee PM shall jointly notify the Independent Auditor of the transfer and its amount, and if necessary the transferor PM, transferee PM, and Massachusetts shall jointly instruct the Independent Auditor to apply the transferred amount as a dollar-for-dollar offset against the MSA payment(s) due from the transferee PM on the next MSA payment due date following the date of the notice. No interest shall accrue on such unused amount carried forward or transferred by the SPM except insofar as interest is otherwise due under another provision of the Settlement Agreement or the MSA as of the date on which the credit would have been applied had the SPM had sufficient MSA payment obligations.

6. The MSA Court for the Commonwealth of Massachusetts has exclusive jurisdiction over disputes arising out of this Settlement Agreement, provided that the Parties to this agreement must endeavor to resolve any such disputes in good faith, including mandatory mediation, before seeking recourse from the MSA Court. Entire Agreement (Section XVIII(y)) and Governing Law (Section XVIII(n)) provisions of the MSA apply to this Settlement Agreement as if fully set forth herein.

7. The PMs and Massachusetts acknowledge and agree that this Settlement Agreement constitutes a negotiated resolution of disputes related to the applicability of the NPM Adjustments pursuant to the MSA. The PMs and Massachusetts further acknowledge and agree that this Settlement Agreement provides for a selection of certain options available to the parties under the MSA, that the MSA remains fully binding on them, and that this Settlement Agreement does not amend the MSA or affect the application of any of its terms.

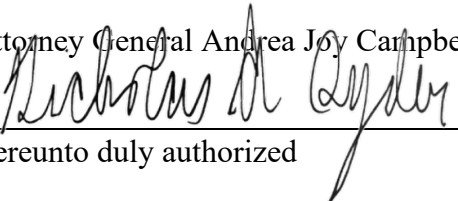
8. This Agreement may be executed in counterparts, each of which shall be deemed an original but all of which shall constitute one and the same instrument.

Signed under the Pains and Penalties of perjury as of the dates set forth below:

**Commonwealth of Massachusetts,**

By its attorney,

Attorney General Andrea Joy Campbell, by

  
Hereunto duly authorized

Print Name Nicholas A. Ogden

Date July 31, 2024

**Philip Morris USA Inc., and  
Sherman 1400 Broadway N.Y.C., LLC**

By their attorney,

  
Hereunto duly authorized

Print Name Alexander Shaknes

Date August 1, 2024

**RJ Reynolds Tobacco Company, and  
Santa Fe Natural Tobacco Company,**

By their attorney,

\_\_\_\_\_  
Hereunto duly authorized

Print Name \_\_\_\_\_

Date \_\_\_\_\_

**Farmers Tobacco Co. of Cynthiana, and  
Wind River Tobacco Company, LLC**

By their attorney,

\_\_\_\_\_  
Hereunto duly authorized

Print Name \_\_\_\_\_

Date \_\_\_\_\_

*Signatures Continue on the Following Page*

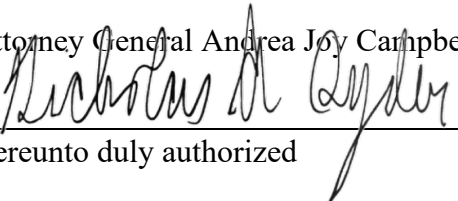
8. This Agreement may be executed in counterparts, each of which shall be deemed an original but all of which shall constitute one and the same instrument.

Signed under the Pains and Penalties of perjury as of the dates set forth below:

**Commonwealth of Massachusetts,**

By its attorney,

Attorney General Andrea Joy Campbell, by

  
\_\_\_\_\_  
Hereunto duly authorized

Print Name Nicholas A. Ogden

Date July 31, 2024

**Philip Morris USA Inc., and  
Sherman 1400 Broadway N.Y.C., LLC**

By their attorney,

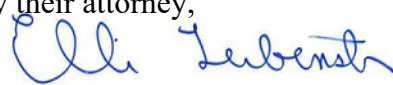
\_\_\_\_\_  
Hereunto duly authorized

Print Name \_\_\_\_\_

Date \_\_\_\_\_

**RJ Reynolds Tobacco Company, and  
Santa Fe Natural Tobacco Company,**

By their attorney,

  
\_\_\_\_\_  
Hereunto duly authorized

Print Name Elli Leibenstein

Date August 1, 2024

**Farmers Tobacco Co. of Cynthiana, and  
Wind River Tobacco Company, LLC**

By their attorney,

\_\_\_\_\_  
Hereunto duly authorized

Print Name \_\_\_\_\_

Date \_\_\_\_\_

*Signatures Continue on the Following Page*

8. This Agreement may be executed in counterparts, each of which shall be deemed an original but all of which shall constitute one and the same instrument.

Signed under the Pains and Penalties of perjury as of the dates set forth below:

**Commonwealth of Massachusetts,**

By its attorney,

Attorney General Andrea Joy Campbell, by

\_\_\_\_\_  
Hereunto duly authorized

Print Name Nicholas A. Ogden

Date July 31, 2024

**Philip Morris USA Inc., and  
Sherman 1400 Broadway N.Y.C., LLC**

By their attorney,

\_\_\_\_\_  
Hereunto duly authorized

Print Name \_\_\_\_\_

Date \_\_\_\_\_

**RJ Reynolds Tobacco Company, and  
Santa Fe Natural Tobacco Company,**

By their attorney,

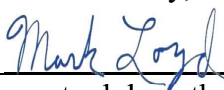
\_\_\_\_\_  
Hereunto duly authorized

Print Name \_\_\_\_\_

Date \_\_\_\_\_

**Farmers Tobacco Co. of Cynthiana, and  
Wind River Tobacco Company, LLC**

By their attorney,

  
\_\_\_\_\_  
Hereunto duly authorized

Print Name Mark A. Loyd

Date July 31, 2024

*Signatures Continue on the Following Page*

**Commonwealth Brands, LLC,  
Compania Industrial de Tabacos Monte Paz, S.A.,  
Daughters & Ryan, Inc.,  
Japan Tobacco International U.S.A., Inc.,  
King Maker Marketing, Inc.,  
Kretek International,  
Scandinavian Tobacco Group Lane Ltd.,  
Liggett Group LLC,  
ITG Brands, LLC,  
Peter Stokkebye Tobaksfabrik A/S,  
Premier Manufacturing, Inc.,  
P.T. Djarum,  
Reemtsma Cigarettenfabriken Gmbh (Germany),  
Top Tobacco, L.P.,  
U.S. Flue-Cured Tobacco Growers, Inc.,  
Vector Tobacco LLC and  
Von Eicken Group,**

By their attorney,



\_\_\_\_\_  
Hereunto duly authorized

Print Name Elizabeth B. McCallum

Date August 1, 2024

**House of Prince A/S,**

By their attorney,

\_\_\_\_\_  
Hereunto duly authorized

Print Name \_\_\_\_\_

Date \_\_\_\_\_