

DAVIS POLK & WARDWELL LLP  
450 Lexington Avenue  
New York, New York 10017  
Telephone: (212) 450-4000  
Facsimile: (212) 701-5800  
Marshall S. Huebner  
Benjamin S. Kaminetzky  
Eli J. Vonnegut  
Christopher S. Robertson  
Joshua Y. Sturm  
Abraham Bane

*Counsel to the Debtors  
and Debtors in Possession*

**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK**

**In re:**

**PURDUE PHARMA L.P., et al.,  
  
Debtors.<sup>1</sup>**

**Chapter 11**

**Case No. 19-23649 (SHL)**

**(Jointly Administered)**

**NOTICE OF FILING OF GOVERNMENTAL ENTITY DIRECT  
SHAREHOLDER SETTLEMENT AGREEMENT**

**PLEASE TAKE NOTICE** that on March 18, 2025, the Debtors filed the *Thirteenth Amended Joint Chapter 11 Plan of Reorganization of Purdue Pharma L.P. and Its Affiliated Debtors* [D.I. 7306] (the “**Thirteenth Amended Plan**”) and the *Disclosure Statement for Thirteenth Amended Joint Chapter 11 Plan of Reorganization of Purdue Pharma L.P. and Its*

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<sup>1</sup> The Debtors in these cases, along with the last four digits of each Debtor’s registration number in the applicable jurisdiction, are as follows: Purdue Pharma L.P. (7484), Purdue Pharma Inc. (7486), Purdue Transdermal Technologies L.P. (1868), Purdue Pharma Manufacturing L.P. (3821), Purdue Pharmaceuticals L.P. (0034), Imbrium Therapeutics L.P. (8810), Adlon Therapeutics L.P. (6745), Greenfield BioVentures L.P. (6150), Seven Seas Hill Corp. (4591), Ophir Green Corp. (4594), Purdue Pharma of Puerto Rico (3925), Purdue Products L.P. (4140), Purdue Pharmaceutical Products L.P. (3902), Purdue Neuroscience Company (4712), Nayatt Cove Lifescience Inc. (7805), Button Land L.P. (7502), Rhodes Associates L.P. (N/A), Paul Land Inc. (7425), Quidnick Land L.P. (7584), Rhodes Pharmaceuticals L.P. (6166), Rhodes Technologies (7143), UDF LP (0495), SVC Pharma LP (5717) and SVC Pharma Inc. (4014). The Debtors’ corporate headquarters is located at One Stamford Forum, 201 Tresser Boulevard, Stamford, CT 06901.

*Affiliated Debtors* [D.I. 7307] (the “**Disclosure Statement for Thirteenth Amended Plan**”). Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to such terms in the Plan.

**PLEASE TAKE FURTHER NOTICE** that on May 16, 2025, the Debtors filed an updated *Thirteenth Amended Joint Chapter 11 Plan of Reorganization of Purdue Pharma L.P. and Its Affiliated Debtors* [D.I. 7445] (the “**May 16 Thirteenth Amended Plan**”) and an updated *Disclosure Statement for Thirteenth Amended Joint Chapter 11 Plan of Reorganization of Purdue Pharma L.P. and Its Affiliated Debtors* [D.I. 7446] (the “**Disclosure Statement for May 16 Thirteenth Amended Plan**”).

**PLEASE TAKE FURTHER NOTICE** that on June 5, 2025, the Debtors filed a further updated *Thirteenth Amended Joint Chapter 11 Plan of Reorganization of Purdue Pharma L.P. and Its Affiliated Debtors* [D.I. 7508] (the “**June 5 Updated Thirteenth Amended Plan**” and, together with the May 16 Thirteenth Amended Plan and Thirteenth Amended Plan, the “**Plan**”) and a further updated *Disclosure Statement for Thirteenth Amended Joint Chapter 11 Plan of Reorganization of Purdue Pharma L.P. and Its Affiliated Debtors* [D.I. 7509] (the “**Disclosure Statement for June 5 Thirteenth Amended Plan**” and, together with the Disclosure Statement for May 16 Thirteenth Amended Plan and the Disclosure Statement for Thirteenth Amended Plan, the “**Disclosure Statement**”).

**PLEASE TAKE FURTHER NOTICE** that, as described in the Disclosure Statement, in connection with the Shareholder Settlements, certain holders of Non-Federal Domestic Governmental Claims, the Master Disbursement Trust and the Sackler Payment Parties will enter into the Governmental Entity Shareholder Direct Settlement Agreement (the “**GESA**”) which,

among other things, will govern direct settlement payment determinations, enforcement, and release terms for Settling Creditors holding Non-Federal Domestic Governmental Claims.

**PLEASE TAKE FURTHER NOTICE** that the Debtors will not be party to the GESA, the GESA will not constitute a Plan Supplement document, and the GESA is filed for informational purposes only.

**PLEASE TAKE FURTHER NOTICE** that the Debtors hereby file the GESA (without its associated exhibits) attached hereto as **Exhibit A**.

**PLEASE TAKE FURTHER NOTICE** that the GESA may be amended, supplemented, or modified in accordance with its terms by the Parties prior to its execution.

**PLEASE TAKE FURTHER NOTICE** that copies of the Plan, the Disclosure Statement, the GESA and certain documents related thereto may be obtained free of charge by visiting the website of Kroll Restructuring Administration LLC at <https://restructuring.ra.kroll.com/purduepharma>. You may also obtain copies of any pleadings by visiting the Bankruptcy Court's website at <http://www.nysb.uscourts.gov> in accordance with the procedures and fees set forth therein.

Dated: June 17, 2025  
New York, New York

DAVIS POLK & WARDWELL LLP

By: /s/ Eli J. Vonnegut

450 Lexington Avenue  
New York, New York 10017  
Telephone: (212) 450-4000  
Facsimile: (212) 701-5800  
Marshall S. Huebner  
Benjamin S. Kaminetzky  
Eli J. Vonnegut  
Christopher S. Robertson  
Joshua Y. Sturm  
Abraham Bane

*Counsel to the Debtors  
and Debtors in Possession*

**Exhibit A**

Governmental Entity Settlement Agreement

**GOVERNMENTAL ENTITY**

**& SHAREHOLDER**

**DIRECT SETTLEMENT AGREEMENT<sup>1</sup>**

**BY AND AMONG**

**[●]**

**[REDACTED], 2025**

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<sup>1</sup> **NTD:** This draft is a work in progress which is subject to ongoing review and discussion and will need to be revised as all definitive documents evolve. Internal cross-references to be confirmed when revisions are complete.

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<sup>2</sup> NTD: Exhibit list to be conformed/finalized.

## GOVERNMENTAL ENTITY & SHAREHOLDER SETTLEMENT AGREEMENT

This Settlement Agreement, dated as of [●], 2025 (the “Agreement”), sets forth the terms of settlement between and among the Settling States, the MDT, solely as of the Effective Date, with respect to Article 4, or otherwise as expressly set forth herein, the Participating Subdivisions, and the Payment Parties (as those terms are defined below). Upon the Effective Date and satisfaction of the conditions set forth in Article 2 and Article 8, this Agreement will be binding on the Settling States, Participating Subdivisions and the Payment Parties. This Agreement will then be filed as part of a Consent Judgment in the respective courts of each of the Settling States, pursuant to the terms set forth in Article 8.

This Agreement addresses and resolves the Settling State and Participating Subdivision alleged direct claims against the Shareholder Released Parties and claims against the Released Parties. However, it is only one part of a set of agreements addressed through the Plan. Party obligations and agreement terms are also addressed in the Plan and its related documents, including the Master Settlement Agreement and the Governmental Remediation Trust Agreement; provided, that (i) in the event of any conflict between this Agreement and the Governmental Remediation Trust Agreement, the terms of this Agreement shall govern; (ii) in the event of any conflict between this Agreement and the Master Settlement Agreement, relating to payment determinations pursuant to this Agreement, enforcement, and/or release terms set forth herein, the terms of this Agreement shall govern, (iii) in the event of any other conflict between this Agreement and the Master Settlement Agreement, the terms of the Master Settlement Agreement shall govern, and (iv) in the event of any conflict between this Agreement and the Plan or Confirmation Order (a) with respect to any matter affecting, or a dispute involving, a party that is not a Party or otherwise bound by this Agreement, the Plan or Confirmation Order shall govern, as applicable, and (b) with respect to all other matters, this Agreement shall govern. This Agreement shall not be enforced against any Person not party to or otherwise bound by this Agreement. The determination of whether there is any inconsistency between this Agreement and the Plan or Confirmation Order shall be made by the Bankruptcy Court.

### ARTICLE 1. DEFINITIONS; INTERPRETATION PROVISIONS

#### **Section 1.01 Unless otherwise specified, the following definitions apply:**

“A-Side Payment Party” has the meaning set forth in the Master Settlement Agreement.

“Accelerated Payment States” means certain States that qualify for an accelerated payment schedule with Annual Remediation Payments being made over nine or ten Payment Dates. If they become Settling States, Connecticut and Oregon are scheduled to receive payments through Payment Date 9; and Kentucky, Maine, Nevada, New Hampshire, New Mexico, Utah, West Virginia and the Oklahoma Subdivisions (to the extent they are Participating Subdivisions) are scheduled to receive payments through Payment Date 10.

“Advisory Committee” has the meaning set forth in Section 5.05(b)(iv).

“Agreement” means this agreement, as set forth above. For the avoidance of doubt, this Agreement is inclusive of all exhibits.

“Alleged Harms” means the alleged past, present, and future financial, societal, public nuisance, and other harms, as well as any expenditures related to the foregoing, arising out of the conduct, omission, or liability of the Debtors and relating to Covered Conduct, including the alleged use, misuse, and abuse of Products, non-exclusive examples of which are described in the documents listed on Exhibit A, that have

allegedly arisen as a result of the physical and bodily injuries sustained by individuals suffering from opioid-related addiction, abuse, death, and other related diseases and disorders, and that have allegedly been caused by Shareholder Released Parties.

“Allocation Statute” means a state law that governs allocation, distribution, and/or use of some or all of the Settlement Fund amounts allocated to that Settling State and/or its Subdivisions. An Allocation Statute may, without limitation, contain a Statutory Trust, further restrict expenditures of funds, form an advisory committee, establish oversight and reporting requirements, or address other default provisions and other matters related to the funds. An Allocation Statute is not required to address all three (3) types of funds comprising the Settlement Fund or all default provisions.

“Annual Fees Payment” means the amounts payable by the Payment Groups on each Payment Date comprised of the State Direct Expenses payment and the Local Government Costs and Expenses Fund payment as determined pursuant to this Agreement, and not including the Annual Remediation Payment. For the avoidance of doubt, the Annual Fees Payment does not include amounts designated pursuant to Section 5.9 of the Plan as attorneys’ fees and costs based on Estate Distributions.

“Annual Remediation Payment” means the amounts owing pursuant to the Master Settlement Agreement by the Payment Groups on each Payment Date as determined pursuant to this Agreement and comprised of the Base Payments and Incentive Payments. For the avoidance of doubt, the Annual Remediation Payment does not include amounts owing pursuant to the Master Settlement Agreement for Estate Distributions.

“Appropriate Official” has the meaning set forth in Section 13.06(c).

“Authorized Action” has the meaning set forth in Section 13.25(c).

“B-Side Payment Party” has the meaning set forth in the Master Settlement Agreement.

“Bankruptcy Cases” has the meaning set forth in the Master Settlement Agreement.

“Bankruptcy Code” has the meaning set forth in the Master Settlement Agreement.

“Bar” means either: (1) a law barring or having the effect of barring Subdivisions in a Settling State from maintaining Shareholder Released Claims against Shareholder Released Parties (either through a direct bar or through a grant of authority to release claims and the exercise of such authority in full) or (2) a ruling by the highest court of the Settling State (or, in a Settling State with a single intermediate court of appeals, the intermediate court of appeals) when setting forth the general principle that Subdivisions in the Settling State may not maintain any Shareholder Released Claims against Shareholder Released Parties, whether on the ground of this Agreement (or the release in it) or otherwise. For the avoidance of doubt, a law or ruling that is conditioned or predicated upon payment by a Shareholder Released Party (apart from the Annual Remediation Payments by any Payment Group under this Agreement) shall not constitute a Bar.

“Base Payment” has the meaning set forth in Section 4.05.

“Business Day” means a day, other than Saturday, Sunday or a federal holiday.

“Case-Specific Resolution” means either: (1) a law barring or having the effect of barring the Subdivision at issue from maintaining any Shareholder Released Claims against any Shareholder Released Parties (either through a direct bar or through a grant of authority to release claims and the exercise of such authority in full); or (2) a ruling by a court of competent jurisdiction over the Subdivision at issue that the

Subdivision may not maintain any Shareholder Released Claims at issue against any Shareholder Released Parties, whether on the ground of this Agreement (or the release in it) or otherwise. For the avoidance of doubt, a law or ruling that is conditioned or predicated upon payment by a Shareholder Released Party (apart from the annual payments by any Payment Group under this Agreement) shall not constitute a Case-Specific Resolution.

“Cause of Action” means any Claim, action, class action, claim, cross-claim, counterclaim, third-party claim, cause of action, controversy, dispute, demand, right, Lien, indemnity, contribution, rights of subrogation, reimbursement, guaranty, suit, obligation, liability, debt, damage, judgment, loss, cost, attorneys’ fees and expenses, account, defense, remedy, offset, power, privilege, license or franchise, in each case, of any kind, character or nature whatsoever, asserted or unasserted, accrued or unaccrued, known or unknown, contingent or non-contingent, matured or unmatured, suspected or unsuspected, liquidated or unliquidated, disputed or undisputed, foreseen or unforeseen, direct or indirect, choate or inchoate, secured or unsecured, allowable or disallowable, Allowed or Disallowed, assertible directly or derivatively (including, without limitation, under alter-ego theories), in rem, quasi in rem, in personam or otherwise, whether arising before, on or after the Petition Date, arising under federal or state statutory or common law, or any other applicable international, foreign or domestic law, rule, statute, regulation, treaty, right, duty, requirement or otherwise, in contract or in tort, at law, in equity or pursuant to any other theory or principle of law, including fraud, negligence, gross negligence, recklessness, reckless disregard, deliberate ignorance, public or private nuisance, breach of fiduciary duty, avoidance, willful misconduct, veil piercing, alter ego, unjust enrichment, disgorgement, restitution, contribution, indemnification, rights of subrogation and joint liability, regardless of where in the world accrued or arising. For the avoidance of doubt, “Cause of Action” expressly includes (i) any Cause of Action held by a natural person who is not yet born or who has not yet attained majority as of the Petition Date or as of the Effective Date, (ii) any right of setoff, counterclaim or recoupment and any Cause of Action for breach of contract or for breach of duty imposed by law or in equity, (iii) the right to object to or otherwise contest Claims or Interests, (iv) any Cause of Action pursuant to section 362 of the Bankruptcy Code or chapter 5 of the Bankruptcy Code, (v) any claim or defense, including fraud, mistake, duress and usury and any other defense set forth in section 558 of the Bankruptcy Code, and (vi) any claim under any state or foreign law, including for the recovery of any fraudulent transfer or similar theory.

“Claim” has the meaning set forth in the Plan.

“Claim-Over” means a Cause of Action asserted by a Non-Shareholder Released Party against a Shareholder Released Party or, as applicable, Released Party on the basis of contribution, indemnity, or other claim-over on any theory relating to a Non-Party Covered Conduct Claim asserted by a Releasor.

“Co-Defendants” has the meaning set forth in the Plan.

“Compensatory Restitution Amount” means the aggregate amount paid or incurred by or on behalf of any Payment Party hereunder for Opioid Remediation, which includes each Annual Remediation Payment and does not include amounts paid as attorneys’ fees and costs or identified pursuant to Section 5.02(b) as being used to pay attorneys’ fees, investigation costs or litigation costs, which shall be up to the amount of the Total Maximum Remediation Payment.

“Confirmation Order” has the meaning set forth in the Plan.

“Consent Judgment” means a consent judgment in a form to be agreed by the Settling States and the Sackler Parties’ Representative prior to the Effective Date that, among other things, (1) approves this Agreement and (2) reflects the release set forth in Section 10.01, including the dismissal with prejudice of any Shareholder Released Claims that the Settling State has brought against Shareholder Released Parties

or, as applicable, the Released Parties, provided, that notwithstanding the foregoing, any such dismissal may be subject to pursuit by the MDT of a Release Remedy (as defined in the Master Settlement Agreement) under the Master Settlement Agreement Section 9.02(a)(ii)(B) with respect to a Payment Party.

“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 from the beginning of time through the Plan Effective Date (and any past, present, or future consequence of any such act, failure to act, negligence, statement, error, omission, breach of duty, conduct, event, transaction, agreement, misstatement, misleading statement, or other activity) relating in any way to (1) compounding, counseling or documentation relating to any Product or class of Products; (2) the discovery, development, manufacture, 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; (3) the characteristics, properties, risks, or benefits of any Product; (4) the reporting, disclosure, non-reporting or nondisclosure to federal, state or other regulators of orders placed with any Shareholder Released Parties or physicians or pharmacists identified by any Shareholder Released Party as potentially engaging in suspicious or problematic conduct; or (5) diversion control programs or suspicious order monitoring.

“Debtors” means Purdue Pharma L.P., Purdue Pharma Inc., Purdue Transdermal Technologies L.P., Purdue Pharma Manufacturing L.P., Purdue Pharmaceuticals L.P., Imbrium Therapeutics L.P., Adlon Therapeutics L.P., Greenfield BioVentures L.P., Seven Seas Hill Corp., Ophir Green Corp., Purdue Pharma of Puerto Rico, Avrio Health L.P., Purdue Pharmaceutical Products L.P., Purdue Neuroscience Company, Nayatt Cove Lifescience Inc., Button Land L.P., Rhodes Associates L.P., Paul Land Inc., Quidnick Land L.P., Rhodes Pharmaceuticals L.P., Rhodes Technologies UDF LP, SVC Pharma LP, and SVC Pharma Inc (each, a “Debtor”).

“Designated State” means New York.

“Effective Date” means the Plan Effective Date unless it is extended by written agreement of the Sackler Parties’ Representative and the MDT Advisory Council.

“Eligible States” means all States except for Oklahoma, which has a preexisting settlement. Oklahoma Subdivisions are eligible to participate pursuant to Exhibit H.

“Emergence Payment States” means certain States that, if they become Settling States and qualify for Incentive Payment A, are scheduled to receive their full Statewide Payment Amount on Payment Date 1. These states are Delaware, the District of Columbia, Rhode Island, and Vermont.

“Estate Causes of Action” means, in each case whether or not asserted, any and all Causes of Action that any Debtor or its Estate may have, hold, or control, or be entitled to assert, or that any Person may be entitled to assert, currently or in the future, by, through, under, or on behalf of any Debtor or its Estate, and each of their respective successors or assigns, including, without limitation, any and all Causes of Action that: (i) were included in the proposed complaint filed by the Creditors’ Committee [D.I. 6685-2]; (ii) seek to avoid or recover any transfer of property or value by any Debtor or its Estate, or to avoid any obligation incurred by any Debtor or its Estate, including on a theory of fraudulent transfer, fraudulent conveyance, preference, turnover, unjust enrichment, constructive trust, or conversion; (iii) arise from an injury suffered by a Debtor, including Causes of Action arising from a breach of fiduciary duty, mismanagement, corporate waste, or similar theories arising out of a Person’s ownership, management, oversight, operation, status,



tenure, conduct, omission, liability, action, or inaction at any time as a stockholder, affiliate, owner, partner, member, manager, director, officer, employee, servant, agent, representative, attorney, creditor, successor, assign, or other relationship with a Debtor or any of its predecessors; (iv) arise from disregarding the separateness of any Debtor or its Estate or imputing the liability of any Debtor or its Estate to another Person, including on a theory of successor liability, vicarious liability, respondeat superior, alter ego, veil piercing, agency, control person liability, or joint venture; (v) arise from a common injury that (a) could be asserted by creditors of a Debtor or its Estate or (b) arises from a breach of duty owed to a Debtor or its Estate; (vi) are property of any Debtor or its Estate or can be asserted, settled, or released by any Debtor or its Estate under the Bankruptcy Code or other applicable law; or (vii) are other derivative claims duplicative of any of the foregoing. Estate Causes of Action shall not include any Cause of Action arising from a breach by a non-Debtor of a legally cognizable duty or statutory prohibition – including not to engage personally in fraud, misrepresentation, or misconduct that causes a nuisance, in each case under consumer protection laws and like regulatory laws or statutes (such as UDAP laws) or the common law – which duty or statutory obligation is owed by such non-Debtor directly to the Person asserting such Cause of Action (or to the citizenry on whose behalf such Person is charged to act), where the injury caused by such breach is particular to the Person asserting such Cause of Action (or the citizenry on whose behalf such Person is charged to act) and is not an injury common to creditors of the Debtor or its Estate.

“Estate Distributions” has the meaning set forth in the Plan.

“Excluded Claim” means (i) any criminal action or criminal proceeding arising under a criminal provision of any statute instituted (A) by a Domestic Governmental Entity (as defined in the Plan) that has authority to bring such a criminal action or criminal proceeding, and (B) to adjudicate a person’s guilt or to set a convicted person’s punishment; (ii) any Cause of Action against a non-Debtor Person (as defined in the MSA) by any federal, state or local authority with respect to taxes (other than tax laws targeting Covered Conduct<sup>3</sup>) imposed on such non-Debtor Person; (iii) any Estate Cause of Action (as defined in the Plan) that the applicable Releasor does not have authority to release or bring or any Cause of Action against an Excluded Party (as defined in the Plan); (iv) any Cause of Action against any Person to the extent based on the actual conduct of such Person after the Settlement Effective Date (as defined in the MSA); (v) any Cause of Action against Persons or Entities who are not Released Parties or Shareholder Released Parties; (vi) any Cause of Action belonging to private individuals or private entities; or (vii) any claim arising under the Plan, the Master Settlement Agreement, or this Agreement for enforcement of the Plan, the Master Settlement Agreement, or this Agreement; (viii) any claim, potential claim or a cause of action held by a Domestic Governmental Entity (as defined under the Plan) against any (A) Co-Defendants or their insurers, including for the avoidance of doubt, any Settling Co-Defendant or their insurers, or any (B) pharmacy benefit manager (including any entity or third-party administrator of prescription drug programs) that is not a Shareholder Released Party.

“Fee Reimbursement Order” means the *Order Authorizing the Debtors to Assume the Reimbursement Agreement and Pay the Fees and Expenses of the Ad Hoc Committee’s Professionals* [Dkt. No. 553] entered in the Bankruptcy Cases.

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<sup>3</sup> Provided, however, that none of the following as currently enacted shall be considered a tax law targeting Covered Conduct: 16 Del. Code Chapter 48B; fees assessed by the Minnesota Board of Pharmacy under Minnesota Statutes section 151.065; any penalty assessed under Minnesota’s Opiate Product Registration Fee law, Minnesota Statutes section 151.066; the Minnesota Care Wholesale Drug Distributor and Use Tax, Minnesota Statutes section 292.52; the Excise Tax on sale of Opioids, Article 20-D of New York’s Tax Law; the Opioid Stewardship Act, Article 33, Title 2-A of New York’s Public Health Law; and Rhode Island’s Opioid Stewardship Act, R.I. Gen. Laws §§21-28.10, et seq.

“Final Dispute Response Notice” has the meaning set forth in Section 4.04(c)(ii).

“Fire District” shall correspond to Special Districts categorized by the U.S. Census Bureau under the function name (a) “Local Fire Protection” or (b) “Fire Protection and Water Supply.”

“General Purpose Government” means the three types of local governments recognized by the U.S. Census Bureau as “General Purpose” – county, municipal, and township governments – and match its 2017 list of Governmental Units.<sup>4</sup> This includes, but is not limited to, a municipality, county, county subdivision, city, town, township, parish, village, borough, gore, or any other entities that provide municipal-type government.

“Governmental Remediation Trust” has the meaning set forth in the Plan.

“Governmental Remediation Trust Agreement” has the meaning set forth in the Plan.

“Health District” shall correspond to Special Districts categorized by the U.S. Census Bureau under the function name “Health.”

“Hospital District” shall correspond to Special Districts categorized by the U.S. Census Bureau under the function name “Hospital.”

“Hospital Shareholder Direct Settlement Agreement” has the meaning set forth in the Plan.

“Implementation Administrator” means Rubris, Inc., which is the vendor to be retained, prior to the Effective Date, pursuant to the Fee Reimbursement Order F, and, as applicable, following the Effective Date, by the MDT, to provide notice pursuant to Section 7.01 and to manage the initial joinder period for Subdivisions, including the issuance and receipt of Subdivision Settlement Participation Forms.

“Incentive B Eligible Subdivisions” has the meaning set forth in Section 4.06(e)(iii)(B).

“Incentive C Eligible Subdivisions” has the meaning set forth Section 4.06(f)(iii)(B).

“Incentive Payment” means each of Incentive Payment A, Incentive Payment B, Incentive Payment C and Incentive Payment D made to the Settling States pursuant to their eligibility to receive such payment, as applicable.

“Incentive Payment A” means the incentive payment described in Section 4.06(d).

“Incentive Payment A Catch-up Payment” has the meaning set forth in Section 4.06(d)(v).

“Incentive Payment B” means the incentive payment described in Section 4.06(e).

“Incentive Payment C” means the incentive payment described in Section 4.06(f).

“Incentive Payment D” means the incentive payment described in Section 4.06(g).

“Incentive Payment D Lookback Date” has the meaning set forth in Section 4.06(g)(iv).

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<sup>4</sup> All such entities are found on the “General Purpose” tab of the Census Bureau’s 2017 Government Units Listing spreadsheet available at [https://www2.census.gov/programs-surveys/gus/datasets/2017/govt\\_units\\_2017.ZIP](https://www2.census.gov/programs-surveys/gus/datasets/2017/govt_units_2017.ZIP).



“Incentive Payment Final Eligibility Date” means with respect to a Settling State, the date that is ninety (90) calendar days prior to the Payment Date for Payment Date 4, unless the Sackler Parties’ Representative, the MDT Advisory Council, and the relevant Settling State agree to allow Incentive Payments for a Settling State to be adjusted for a Later Participating Subdivision that becomes a Participating Subdivision after the Incentive Payment Final Eligibility Date.

“Initial Participating Subdivision” means a Subdivision that meets the requirements set forth in Section 7.04.

“Initial Subdivision Participation Date” means the ninetieth (90<sup>th</sup>) calendar day immediately following Preliminary Agreement Date, unless it is extended by written agreement of the Sackler Parties’ Representative, the States’ AG Negotiating Group, the MDL PEC, and the MSGE Group.

“Injunctive Relief Terms” means the terms described in Article 3.

“Later Litigating Subdivision” means a Subdivision (or Subdivision official asserting the right of or for the Subdivision to recover for Alleged Harms to the Subdivision and/or the people thereof) that: (1) first files a lawsuit bringing a Shareholder Released Claim against a Shareholder Released Party after the Initial Subdivision Participation Date and had not previously filed a lawsuit against a Debtor; or (2) adds a Shareholder Released Claim against a Shareholder Released Party after the Initial Subdivision Participation Date to a lawsuit brought before the Initial Subdivision Participation Date that, prior to the Initial Subdivision Participation Date, did not include any Shareholder Released Claims against a Shareholder Released Party or any Causes of Action against a Debtor that would otherwise constitute a Shareholder Released Claim if asserted against a Shareholder Released Party; or (3) (a) was a Litigating Subdivision whose Shareholder Released Claims against Shareholder Released Parties were resolved by a legislative Bar or legislative Case-Specific Resolution as of the Initial Subdivision Participation Date, (b) such legislative Bar or legislative Case-Specific Resolution is subject to a Revocation Event after the Initial Subdivision Participation Date, and (c) the earlier of the date of completion of opening statements in a trial in an action brought by a Subdivision in that Settling State that includes a Shareholder Released Claim against a Shareholder Released Party or one hundred eighty (180) calendar days from the Revocation Event passes without a Bar or Case-Specific Resolution being implemented as to that Litigating Subdivision or the Litigating Subdivision’s Shareholder Released Claims being dismissed; (4) (a) was a Litigating Subdivision whose Shareholder Released Claims against Shareholder Released Parties were resolved by a judicial Bar or judicial Case-Specific Resolution as of the Initial Subdivision Participation Date, (b) such judicial Bar or judicial Case-Specific Resolution is subject to a Revocation Event after the Initial Subdivision Participation Date, and (c) such Litigating Subdivision takes any action in its lawsuit asserting a Shareholder Released Claim against a Shareholder Released Party other than seeking a stay or dismissal; or (5) was a Prior Litigating Subdivision and subsequently files a lawsuit bringing a Shareholder Released Claim against a Shareholder Released Party after the Initial Subdivision Participation Date.

“Later Participating Subdivision” means a Participating Subdivision that is not an Initial Participating Subdivision, but meets the requirements set forth in Section 7.05.

“Library District” shall correspond to Special Districts categorized by the U.S. Census Bureau under the function name “Libraries.”

“Litigating Subdivision” means a Subdivision (or Subdivision official asserting the right of or for the Subdivision to recover for Alleged Harms to the Subdivision and/or the people thereof) that brought any Shareholder Released Claim against any Debtor and/or any Shareholder Released Party in connection with Covered Conduct on or prior to the Initial Subdivision Participation Date; *provided, however*, that a Subdivision (or Subdivision official) that is a Prior Litigating Subdivision shall not be considered a

Litigating Subdivision. Exhibit C is an agreed list of all Litigating Subdivisions. Exhibit C will be updated (including with any corrections) periodically, and a final version of Exhibit C will be attached hereto as of the Reference Date.

“Litigation Costs” has the meaning set forth in the Master Settlement Agreement.

“Local Government Costs and Expenses Fund” has the meaning set forth in the Plan.

“Master Disbursement Trust” or “MDT” has the meaning set forth in the Plan.

“Master Settlement Agreement” or “MSA” means that certain Master Settlement Agreement entered into by and among the MDT and each of the parties listed pursuant to the Exhibits A and B of the Master Settlement Agreement and PRA L.P. on or about the date hereof, as it may be amended or supplemented from time to time.

“Maximum Annual Remediation Payment” means the maximum Annual Remediation Payment payable pursuant to the Master Settlement Agreement on a Payment Date by the Payment Groups.

“MDL PEC” means the MDL Plaintiffs’ Executive Committee as defined in the Plan.

“MDT Advisory Council” has the meaning set forth in the Plan.

“MDT Segregated Account” means a segregated account of the MDT to be used in accordance with Section 4.04.

“MSGE Group” means the Multi-State Governmental Entities Group as defined in the Plan.

“National Arbitration Panel” means the panel comprised as described in Section 6.06(b)(ii).

“National Disputes” has the meaning set forth in Section 6.06(b)(i).

“Non-Federal Acute Care Hospital” has the meaning set forth in the Plan.

“Non-Litigating Subdivision” means any Subdivision that is neither a Litigating Subdivision nor a Later Litigating Subdivision.

“Non-Litigating Threshold Subdivision” means any Subdivision that is a General Purpose Government and that is not otherwise a Litigating Subdivision and (1) (a) filed a timely proof of claim against the Debtors in the Bankruptcy Cases pursuant to the applicable deadline set forth in the *Order Establishing (I) Deadlines for Filing Proofs of Claim and Procedures Relating Thereto, (II) Approving the Proof of Claim Forms, and (III) Approving the Form and Manner of Notice Thereof*, Case No., Purdue Pharma L.P. et al., 19-23649 (Bankr. S.D.N.Y. Feb. 3, 2020) [Dkt. No. 800] and (b) is a Primary Subdivision or (2) was a “Litigating Subdivision” or “Later Litigating Subdivision” under any of the Prior National Settlements as of the Initial Subdivision Participation Date. Attached as Exhibit W is a list of the Non-Litigating Threshold Subdivisions in each Eligible State. Exhibit W will be updated (including with any corrections) periodically, and a final version of Exhibit W will be attached hereto as of the Reference Date.

“Non-Participating Subdivision” means any Subdivision that is not a Participating Subdivision.

“Non-Party Covered Conduct Claim” means a Cause of Action against any Non-Shareholder Released Party involving, arising out of, or related to Covered Conduct (or conduct that would be Covered Conduct if engaged in by a Shareholder Released Party).

“Non-Party Settlement” means a settlement by any Releasor that settles any Non-Party Covered Conduct Claim and includes a release of any Non-Shareholder Released Party.

“Non-Settling State” means any Eligible State that is not a Settling State.

“Non-Shareholder Released Party” means an entity that is not a Shareholder Released Party or Released Party.

“Oklahoma Subdivisions” means [Subdivisions within Oklahoma as specified in Exhibit H].<sup>5</sup>

“Opioid Remediation” means care, treatment, and other programs and expenditures (including reimbursement for past such programs or expenditures<sup>6</sup> except where this Agreement restricts the use of funds solely to future Opioid Remediation) designed to (1) address the misuse and abuse of opioid products in the Settling States, (2) treat or mitigate opioid use or related disorders in the Settling States, or (3) mitigate other alleged effects of, including on those injured as a result of, the opioid epidemic in the Settling States. Exhibit E provides a non-exhaustive list of expenditures that qualify as being paid for Opioid Remediation. Qualifying expenditures may include reasonable related administrative expenses in connection with the above.

“Participating Subdivision” means any Subdivision that meets the requirements for becoming a Participating Subdivision under Section 7.02 and Section 7.03. Participating Subdivisions include both Initial Participating Subdivisions and Later Participating Subdivisions.

“Parties” means the Payment Parties, the Settling States and, solely as of the Effective Date, with respect to Article 4, or otherwise as expressly set forth herein, the MDT (each, a “Party”).

“Payment Date” means each date on which a payment is required to be made by a Payment Group pursuant to the terms of the Master Settlement Agreement.

“Payment Group” has the meaning set forth in the Master Settlement Agreement.

“Payment Party” means an A-Side Payment Party or a B-Side Payment Party.

“Plan” refers to the chapter 11 plan filed by the Debtors and has the meaning set forth in the Master Settlement Agreement.

“Plan Effective Date” has the meaning set forth in the Master Settlement Agreement.

“Preliminary Agreement Date” has the meaning set forth in Section 2.02.

“Preliminary Payment Determination” has the meaning set forth in Section 4.04(c).

“Primary Fire Districts” shall mean Fire Districts that cover a population of 25,000, or 0.20% of a State’s population if a State’s population is greater than 18 million. If not easily calculable from state data

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<sup>5</sup> Provisions related to Oklahoma Subdivisions are further addressed in Exhibit H.

<sup>6</sup> Reimbursement includes amounts paid to any governmental entities for past expenditures or programs.

sources and agreed to between the State and the Sackler Parties' Representative, a Fire District's population is calculated by dividing the population of the county or counties a Fire District serves by the number of Fire Districts in the county or counties. For Settling States that earned Incentive A in the July 21, 2021 Janssen Settlement Agreement, Primary Fire Districts are presumptively the list agreed to between the Settling State and Janssen.

"Primary Subdivision" means a Subdivision that is a General Purpose Government with population over 10,000. Attached as Exhibit I is an agreed list of the Primary Subdivisions in each Eligible State.

"Prime Rate" means the rate of interest per annum from time to time published in the money rates section of The Wall Street Journal or any successor publication thereto as the "prime rate" then in effect; *provided*, that if such rate of interest, as set forth from time to time in the money rates section of The Wall Street Journal, becomes unavailable for any reason, the "Prime Rate" shall mean the rate of interest per annum publicly announced from time to time by JPMorgan Chase Bank, N.A. or its successor as its prime rate in effect at its principal office in New York City (or the location of its successor's headquarters).

"Prior Litigating Subdivision" means a Subdivision (or Subdivision official asserting the right of or for the Subdivision to recover for Alleged Harms to the Subdivision and/or the people thereof,) that brought any Shareholder Released Claim against any Debtor and/or any Shareholder Released Party prior to the Initial Subdivision Participation Date and all such Debtor and Shareholder Released Claims were separately settled, were dismissed through a final order that is not subject to appeal so that there are no such active claims by the Subdivision (or Subdivision official), including through an order that substitutes another party for the Subdivision (or Subdivision official) or were finally adjudicated prior to the Initial Subdivision Participation Date; provided, however, that if the final adjudication was pursuant to a Bar, such Subdivision shall not be considered a Prior Litigating Subdivision. Notwithstanding the prior sentence, the Sackler Parties' Representative and the Settling State of the relevant Subdivision may agree in writing that the Subdivision shall not be considered a Prior Litigating Subdivision. Any entity that otherwise would qualify as a Prior Litigating Subdivision that subsequently brings a Shareholder Released Claim against any Debtor and/or any Shareholder Released Party shall not be considered a Prior Litigating Subdivision.

"Prior National Settlements" means each of (1) the July 21, 2021 Settlement Agreement concerning McKesson Corporation, Cardinal Health, Inc., and AmerisourceBergen Corporation; (2) the July 21, 2021 Janssen Settlement Agreement; (3) the November 14, 2022 Walmart Settlement Agreement; (4) the November 22, 2022 Allergan Settlement Agreement; (5) the November 22, 2022 Teva Settlement Agreement; (6) the December 9, 2022 Walgreens Settlement Agreement; (7) the December 9, 2022 CVS Settlement Agreement; and (8) the March 22, 2024 Kroger Settlement Agreement.

"Prior Settling Subdivision" means a Subdivision that has fully resolved its claims with Shareholder Released Parties outside of this Agreement.

"Pro Rata" means, with respect to any Payment Group on a Payment Date, the portion of an Annual Remediation Payment or Annual Fee Payment, as applicable, assigned to such Payment Group pursuant to Exhibit M-X.

"Products" means any and all products developed, designed, manufactured, marketed or sold, in research or development, or supported by, the Debtors, whether work in progress or in final form, whether used for medicinal or non-medicinal purposes, and whether natural, synthetic, or semi-synthetic, or any finished pharmaceutical product made from or with such product, including, but not limited to (a) any such products that are: (i) an opioid or opiate, as well as any product containing any such substance; or (ii) benzodiazepine, carisoprodol, or gabapentin; or (iii) a combination or "cocktail" of chemical substances prescribed, sold, bought, or dispensed to be used together that includes opioids or opiates and (b) any such

product consisting of or containing buprenorphine, codeine, fentanyl, hydrocodone, hydromorphone, meperidine, methadone, morphine, oxycodone, oxymorphone, tapentadol, tramadol, opium, heroin, carfentanil, diazepam, estazolam, quazepam, alprazolam, clonazepam, oxazepam, flurazepam, triazolam, temazepam, midazolam, carisoprodol, gabapentin, or any variant of these substances or any similar substance.

“Proofs of Claim” has the meaning set forth in the Plan.

“Purdue” means Purdue Pharma L.P.

“Reference Date” means the date on which the Sackler Parties’ Representative shall provide to the States’ AG Negotiating Group, the MDL PEC, and the MSGE Group the Sackler (Subdivision) Participation Notice of its election to proceed pursuant to Section 8.03.

“Release” means, with respect to a Settling State, a release in the form attached hereto as Exhibit V, and with respect to a Participating Subdivision, the release granted pursuant to the Subdivision Settlement Participation Form.

“Released Claims” has the meaning set forth in Exhibit [V] or Exhibit [K], as applicable.

“Released Parties” means, collectively, (i) the Debtors, and (ii) each of the Debtors’ Related Parties, solely in their respective capacities as such; *provided, however*, that, notwithstanding the foregoing or anything herein to the contrary, no Excluded Party (as defined in the Plan) or Shareholder Release Snapback Party (as defined in the Plan) shall be a Released Party in any capacity or respect. For purposes of this definition of “Released Parties,” the phrase “solely in their respective capacities as such” means, with respect to a Person, solely to the extent a claim against such Person (x) arises from such Person’s conduct or actions taken in such capacity, or from such Person’s identified capacity in relation to another specified Released Party and not, in either case, from such Person’s conduct or actions independent of such capacity, and (y) to the extent such Person’s liability depends on or derives from the liability of such other Released Party, such claim would be released if asserted against such other Released Party. For the avoidance of doubt, “Released Party” shall not include any Co-Defendants or their insurers, including for the avoidance of doubt any Settling Co-Defendant or their insurers.

“Releasors” means the State Releasors and the Subdivision Releasors.

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 Subdivision.

“Remediation Accounts Fund” means the component of the Settlement Fund described in Article 5.

“Revocation Event” means with respect to a Bar, Settlement Class Resolution, or Case- Specific Resolution, a revocation, rescission, reversal, overruling, or interpretation that in any way limits the effect of such Bar, Settlement Class Resolution, or Case-Specific Resolution on Shareholder Released Claims, or any other action or event that otherwise deprives the Bar, Settlement Class Resolution, or Case-Specific Resolution of force or effect in any material respect.

“Sackler Parties’ Representative” means Plerus AB LLC, a limited liability company organized under the laws of Delaware.

“Sackler (States) Participation Initial Deadline” has the meaning set forth in Section 2.02.



“Sackler (States) Participation Notice” has the meaning set forth in Section 2.02.

“Sackler (Subdivision) Participation Notice” means the notice delivered by the Sackler Parties’ Representative to the States’ AG Negotiating Group, the MDL PEC, and the MSGE Group pursuant to which the Sackler Parties’ Representative elects to proceed with this Agreement based on the satisfaction (which shall be determined at the Sackler Parties’ Representative’s sole discretion) of the conditions set forth in Article 8.

“Sackler Party” has the meaning set forth in the Master Settlement Agreement.

“School District” shall correspond to Special Districts categorized by the U.S. Census Bureau under the tab “School District” or “DEP School District.”

“Separately Settling Payment Group” has the meaning set forth in Section 13.04(b).

“Settlement Class Resolution” means a class action resolution in a court of competent jurisdiction in a Settling State (that is not successfully removed to federal court) with respect to a class of Subdivisions in that Settling State that (1) conforms with that Settling State’s statutes, case law, and rules of procedure regarding class actions; (2) is approved and entered as an order of a court of competent jurisdiction in that Settling State and such order has become a final order; (3) is binding on all Non-Participating Subdivisions in that Settling State (other than opt outs as permitted under the next sentence); (4) provides that all such Non-Participating Subdivisions may not bring any Shareholder Released Claims against any Shareholder Released Parties, whether on the ground of this Agreement (or the releases herein) or otherwise; and (5) does not impose any costs or obligations on a Payment Party or Shareholder Released Party other than those provided for in this Agreement, or contain any provision inconsistent with any provision of this 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 Subdivisions collectively representing more than one percent (1%) of the total population of that Settling State opt out. In seeking certification of any Settlement Class Resolution, the applicable Settling State and Participating Subdivisions 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 or for purposes unrelated to this Agreement.

“Settlement Administrator” means BrownGreer PLC, or such other entity as may be engaged, prior to the Effective Date, pursuant to the Fee Reimbursement Order, or by the MDT from and after the Effective Date (in each case, subject to the reasonable consent of the Sackler Parties’ Representative), as a representative of the Governmental Remediation Trust (as defined in the Plan) that annually determines the Annual Remediation Payment (including calculating offset or reduction Incentive Payments pursuant to Article 4 and any amounts subject to offset or reduction pursuant to Article 12), administers the Settlement Fund, and distributes amounts into the Remediation Accounts Fund, State Fund, Subdivision Fund, and the State Direct Expenses fund pursuant to this Agreement. References herein to the Settlement Administrator shall refer to the Settlement Administrator in its capacities as the representative of the Governmental Remediation Trust, the MDT or both, as context requires.

“Settlement Fund” means the interest-bearing fund established pursuant to the [Governmental Remediation Trust Agreement] into which Annual Remediation Payments and Estate Distributions received by the MDT that are ultimately payable to the Governmental Remediation Trust. The Settlement Fund may be held and administered by the Settlement Administrator so long as it meets the foregoing requirements.

“Settlement Payment” has the meaning set forth in the Master Settlement Agreement.

“Settlement Payment Dispute Notice” has the meaning set forth in Section 4.04(c)(i).

“Settling Co-Defendants” has the meaning set forth in the Plan.

“Settling State” means an Eligible State that has entered into this Agreement and delivers executed releases in accordance with Section 8.01.

“Shareholder Released Claims” has the meaning set forth in the Release.

“Shareholder Released Party” or “Shareholder Released Parties” has the meaning set forth in the Plan.

“Special District” means formal and legally recognized sub-entities of a State recognized by the U.S. Census Bureau<sup>7</sup> that are not General Purpose Governments. “Special Districts” shall include Fire Districts, Health Districts, Hospital Districts, and Library Districts. For the avoidance of doubt, “Special District” does not include entities that include any of the following words or phrases in its name: mosquito, pest, insect, spray, vector, animal, air quality, air pollution, clean air, coastal water, tuberculosis, and sanitary.

“Special Operating Reserve” has the meaning set forth in the Plan.

“State” means any state of the United States of America, the District of Columbia, American Samoa, Guam, the Northern Mariana Islands, Puerto Rico, and the U.S. Virgin Islands. Additionally, the use of non-capitalized “state” to describe something (e.g., “state court”) shall also be read to include parallel entities in commonwealths, territories, and the District of Columbia (e.g., “territorial court”).

“State Direct Expenses” means the amount payable by the Payment Groups on each Payment Date to the Settling States for their litigation expenses (including attorneys’ fees) as determined pursuant to Section 9.02, Exhibit M-X, and Exhibit S of this Agreement. The maximum amount of State Direct Expenses is \$136,550,050.39 and is subject to reductions described herein and prepayments. For the avoidance of doubt, the State Direct Expenses do not include amounts designated pursuant to Section 5.9(b) of the Plan for the payment of expenses of the Settling States based on Estate Distributions.

“State Expenses Fund” has the meaning set forth in the Plan.

“State Fund” means the component of the Settlement Fund described in Article 5.

“State Participation Initial Deadline” has the meaning set forth in Section 2.01(b).

“State Participation Notice” means the written notice given to the Sackler Parties’ Representative by the Attorneys General of each of the Eligible States pursuant to which such Eligible State elects to proceed with this Agreement and becomes a Settling State.

“State Releasors” means (1) each Settling State; (2) without limitation and to the maximum extent of the power of each Settling State’s Attorney General to release Causes of Action, (a) the Settling State’s departments, agencies, divisions, boards, commissions, Subdivisions, districts, instrumentalities of any kind

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<sup>7</sup> All such entities are found on the “Special District,” “School District,” and “DEP School District” tabs of the Census Bureau’s 2017 Government Units Listing spreadsheet available at [https://www2.census.gov/programs-surveys/gus/datasets/2017/govt\\_units\\_2017.ZIP](https://www2.census.gov/programs-surveys/gus/datasets/2017/govt_units_2017.ZIP). For the avoidance of doubt, certain Special Districts are not Subdivisions for purposes of this settlement term sheet, as noted elsewhere.

and attorneys, including its Attorney General, and any person in his or her 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, unincorporated districts, fire districts, irrigation districts, and other Special Districts in a Settling State, 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 a Settling State or Subdivision in a Settling State, whether or not any of them participate in this Agreement; (3) all past and present executive departments, state agencies, divisions, boards, commissions and instrumentalities with the regulatory authority to enforce state and federal controlled substances acts within a Settling State; and (4) any of the Settling State's past and present executive departments, agencies, divisions, boards, commissions, and instrumentalities that have the authority to bring Shareholder Released Claims or Released Claims, whether or not any of them participate in the Agreement (for the purposes of this clause (4), executive departments, agencies, divisions, boards, commissions, and instrumentalities are those that are under the executive authority or direct control of the Settling State's Governor).

"State Review Deadline" has the meaning set forth in Section 2.01(a).

"State-Subdivision Agreement" means an agreement that a Settling State reaches with the Subdivisions in that Settling State regarding the allocation, distribution, and/or use of funds allocated to that Settling State and to its Subdivisions. A State-Subdivision Agreement shall be effective if approved pursuant to the provisions of Exhibit O or if adopted by statute. Preexisting agreements addressing funds other than those allocated pursuant to this Agreement shall qualify if the approval requirements of Exhibit O are met. A Settling State and its Subdivisions may revise a State-Subdivision Agreement if approved pursuant to the provisions of Exhibit O, or if such revision is adopted by statute.

"States AG Negotiating Group" means the negotiating committee of State Attorneys General comprised of: California, Connecticut, Delaware, Florida, Illinois, Massachusetts, New York, North Carolina, Oregon, Pennsylvania, Tennessee, Texas, Vermont, Virginia, and West Virginia, but excluding any State that (i) does not become a Settling State by the Preliminary Agreement Date or (ii) ceases to be a Settling State at any point after the Preliminary Agreement Date.

"Statewide Payment Amount" means the amount from an Annual Remediation Payment to be paid to a Settling State and its Participating Subdivisions listed on Exhibit G.

"Statutory Trust" means a trust fund established by state law to receive funds allocated to a Settling State's Remediation Accounts Fund and restrict any expenditures made using funds from the Settling State's Remediation Accounts Fund to Opioid Remediation, subject to reasonable administrative expenses. A Settling State may give a Statutory Trust authority to allocate one (1) or more of the three (3) types of funds comprising such Settling State's Settlement Fund, but this is not required.

"Subdivision" means any (1) General Purpose Government or Special District within a Settling State, and (2) any other subdivision, subdivision official (acting in an official capacity on behalf of the subdivision) or sub-entity of or located within a Settling State (whether political, geographical or otherwise, whether functioning or non-functioning, regardless of population overlap, and including, but not limited to, public institutions) that has filed a lawsuit (a) against any of the Debtors or that includes a Shareholder Released Claim against a Shareholder Released Party in a direct, *parens patriae*, or any other capacity or (b) against any other person or entity released pursuant to any of the Prior National Settlements in connection with a "Released Claim" as such term (or equivalent terminology) is defined in those settlements; provided, however, "Subdivision" shall not include: (i) any Non-Federal Acute Care Hospitals,



(ii) School Districts, (iii) Health Districts that have filed Proofs of Claim as Third-Party Payors, or (iv) any hospitals listed on Exhibit A of the Hospital Shareholder Direct Settlement Agreement.

“Subdivision Allocation Percentage” means the portion of a Settling State’s Subdivision Fund set forth in Exhibit G that a Subdivision will receive pursuant to Article 5 if it becomes a Participating Subdivision. The aggregate Subdivision Allocation Percentage of all Subdivisions receiving a Subdivision Allocation Percentage in each Settling State shall equal one hundred percent (100%). Immediately upon the effectiveness of any State-Subdivision Agreement, Allocation Statute, Statutory Trust, or voluntary redistribution allowed by Section 5.04(c) (or upon the effectiveness of an amendment to any State-Subdivision Agreement, Allocation Statute, Statutory Trust, or voluntary redistribution allowed by Section 5.04(c)) that addresses allocation from the Subdivision Fund, whether before or after the Initial Subdivision Participation Date, Exhibit G will automatically be amended to reflect the allocation from the Subdivision Fund pursuant to the State-Subdivision Agreement, Allocation Statute, Statutory Trust, or voluntary redistribution allowed by Section 5.04(c). The Subdivision Allocation Percentages contained in Exhibit G may not change once notice is distributed pursuant to Section 7.01, except upon the effectiveness of any State-Subdivision Agreement, Allocation Statute, Statutory Trust, or voluntary redistribution allowed by Section 5.04(c) (or upon the effectiveness of an amendment to any State-Subdivision Agreement, Allocation Statute, Statutory Trust, or voluntary redistribution allowed by Section 5.04(c)) that addresses allocation from the Subdivision Fund. For the avoidance of doubt, no Subdivision not listed on Exhibit G shall receive an allocation from the Subdivision Fund and no provision of this Agreement shall be interpreted to create such an entitlement.

“Subdivision Fund” means the component of the Settlement Fund described in Section 5.01.

“Subdivision Participation Threshold Notice” means a notice from the States’ AG Negotiating Group to the Sackler Parties’ Representative, the MSA PEC and the MSGE Group stating whether or not the States elect to proceed with the Agreement and, if proceeding, listing all Settling States.

“Subdivision Releasors” means with respect to Shareholder Released Claims and such other Claims released pursuant to the Release, (1) each Participating Subdivision, (2) without limitation and to the maximum extent of the power of a Participating Subdivision to release Causes of Action, (a) the Participating Subdivision’s departments, agencies, divisions, boards, commissions, Subdivisions, districts, instrumentalities of any kind and attorneys, and any person in his or her 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, unincorporated districts, fire districts, irrigation districts, and other Special Districts, 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 a Participating Subdivision.<sup>8</sup> 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 Subdivision.

“Subdivision Settlement Participation Form” means the form attached as Exhibit K that Participating Subdivisions must execute and return to the Implementation Administrator or Settlement Administrator, and which shall (1) make such Participating Subdivisions signatories to this Agreement, (2) include a full and complete release of any and of such Subdivision’s claims, and (3) require the dismissal with prejudice of any Shareholder Released Claims and such other Claims released pursuant to the Release that have been filed by any such Participating Subdivision, but subject in all cases to the exercise by the

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<sup>8</sup> In addition to being a Releasor as provided herein, a Participating Subdivision shall also provide the Subdivision Settlement Participation Form as set forth in Exhibit K providing for a release to the fullest extent of the Subdivision’s authority.

MDT of a Release Remedy (as defined in the Master Settlement Agreement) pursuant to and in accordance with Master Settlement Agreement Section 9.02(a)(ii)(B) with respect to a Payment Party.

“Tax Matters” has the meaning set forth in Section 13.06.

“Third-Party Payors” has the meaning set forth in the Plan.

“Threshold Motion” means a motion to dismiss or equivalent dispositive motion made at the outset of litigation against any of the Shareholder Released Parties for Covered Conduct under applicable procedure.

“Total Direct Settlement Amount” means the sum of Annual Remediation Payments and Annual Fee Payments.

“Total Maximum Direct Settlement Amount” means the sum of the Total Maximum Remediation Payment and the total maximum amount of Annual Fee Payments to be paid under the Master Settlement Agreement as determined by this Agreement. The Total Maximum Direct Settlement Amount is \$3,485,264,791.64.

“Total Maximum Remediation Payment” means the sum of all Maximum Annual Remediation Payments of all Payment Dates and Payment Groups, as set forth in Exhibit M-2. The Total Maximum Remediation Payment is \$3,090,786,868.28, subject to an increase pursuant to Article 9.

#### **Section 1.02 Interpretation Provision.**

(a) “The words “hereof,” “herein” and “hereunder” and words of like import used in this Agreement shall refer to this Agreement as a whole and not to any particular provision of this Agreement.

(b) The captions herein are included for convenience of reference only and shall be ignored in the construction or interpretation hereof. References to Articles, Sections, Annexes and Exhibits are to the Articles, Sections, Annexes and Exhibits of this Agreement unless otherwise specified.

(c) All Exhibits and Annexes annexed hereto or referred to herein are hereby incorporated in and made a part of this Agreement as if set forth in full herein. Any capitalized terms used in any Exhibit or Annex but not otherwise defined therein shall have the meaning as defined in this Agreement.

(d) Any singular term in this Agreement shall be deemed to include the plural, and any plural term the singular, and words denoting either gender shall include both genders as the context requires. Where a word or phrase is defined herein, each of its other grammatical forms shall have a corresponding meaning.

(e) Whenever the words “include,” “includes” or “including” are used in this Agreement, they shall be deemed to be followed by the words “without limitation,” whether or not they are in fact followed by those words or words of like import.

(f) The word “will” shall be construed to have the same meaning and effect as the word “shall.”

(g) The word “party” shall, unless the context otherwise requires, be construed to mean a party to this Agreement. Any reference to a party to this Agreement or any other agreement or document

contemplated hereby shall include such party's estate, legal and personal representatives, successors and permitted assigns.

(h) Any reference in this Agreement to an estate of a deceased individual or trust as a person or party shall, unless the context otherwise requires, be construed to be or include, as the context may require, the personal representatives and trustees thereof, respectively, acting in their capacity as such personal representatives and trustees.

(i) Any reference in this Agreement to the rights and obligations of the estate of a deceased individual or a trust that does not have a separate legal personality under applicable law shall be construed as a reference to the rights and obligations of the personal representatives of such estate and the trustees of those trusts, respectively, in their capacity as such.

(j) All references to "\$" and dollars shall be deemed to refer to United States currency unless otherwise specifically provided.

(k) All references to a day or days shall be deemed to refer to a calendar day or calendar days, as applicable, unless otherwise specifically provided.

(l) Any reference to any contract shall be a reference to such agreement or contract, as amended, amended and restated, modified, supplemented or waived.

(m) A reference to any legislation or to any provision of any legislation shall include any modification, amendment, re-enactment thereof, any legislative provision substituted therefor and all rules, regulations and statutory instruments issued or related to such legislation.

(n) Any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not be applied in the construction or interpretation of this Agreement. No prior draft of this Agreement nor any course of performance or course of dealing shall be used in the interpretation or construction of this Agreement. No parol evidence shall be introduced in the construction or interpretation of this Agreement unless the ambiguity or uncertainty in issue is plainly discernable from a reading of this Agreement without consideration of any extrinsic evidence. Although the same or similar subject matters may be addressed in different provisions of this Agreement, the Parties intend that, except as reasonably apparent on the face of the Agreement or as expressly provided in this Agreement, each such provision shall be read separately, be given independent significance and not be construed as limiting any other provision of this Agreement (whether or not more general or more specific in scope, substance or content).

(o) Any reference in this Agreement, including in any exhibit or schedule, to a "maximum" scheduled amount refers to the highest (gross) theoretical amount before applying any reductions, credits, offsets, or limitations under this Agreement or any related document.

## **ARTICLE 2.**

### **PARTICIPATION BY ELIGIBLE STATES AND CONDITION TO PRELIMINARY AGREEMENT**

**Section 2.01 Notice to Eligible States; States Participation Initial Deadline.** By [●], 2025, this Agreement shall be distributed to all Eligible States.

(a) The Eligible States shall have thirty (30) calendar days from the date this Agreement is distributed to Eligible States (the "State Review Deadline") to review this Agreement. The Attorney

General of any Eligible State may elect to cause the State to become a Settling State by providing its State Participation Notice to the States AG Negotiating Group and shall commit to obtaining any necessary additional state releases prior to the Effective Date. On or prior to the State Review Deadline, the States AG Negotiating Group shall provide a list of the Eligible States that elect to become Settling States and their State Participation Notices to the Sackler Parties' Representative.

(b) On or prior to the third (3<sup>rd</sup>) Business Day following the State Review Deadline (the "State Participation Initial Deadline"), unless every Eligible State has delivered a State Participation Notice on or prior to the State Participation Initial Deadline and thereby becomes a Settling State, the Settling States may elect, in their sole discretion, to terminate this Agreement by having the States AG Negotiating Group deliver a written termination notice to the Sackler Parties' Representative. If the Settling States elect not to proceed, this Agreement will have no further effect and other commitments or obligations contained herein will be void. The State Participation Initial Deadline may be extended by written agreement of the Sackler Parties' Representative and the States AG Negotiating Group.

**Section 2.02 Condition to Preliminary Agreement.** On or prior to the seventh (7<sup>th</sup>) day following the State Participation Initial Deadline (the "Sackler (States) Participation Initial Deadline"), unless every Eligible State has delivered a State Participation Notice on or prior to the State Participation Initial Deadline and thereby becomes a Settling State, the Sackler Parties' Representative may elect, in its sole discretion, to terminate this Agreement by delivering a written termination notice to the States AG Negotiating Group. If the Sackler Parties' Representative delivers a termination notice on or prior to the Sackler (States) Participation Initial Deadline in compliance with the immediately preceding sentence, then this Agreement shall terminate and will have no further effect with respect to the Payment Parties and all releases and other commitments or obligations contained herein will be void. If the Sackler Parties' Representative determines that every Eligible State has delivered a State Participation Notice on or prior to the State Participation Initial Deadline and thereby becomes a Settling State, or otherwise elects not to terminate this Agreement, then the Sackler Parties' Representative shall so notify the States AG Negotiating Group, which notice shall include an instruction to the Implementation Administrator to proceed with the Subdivision solicitation contemplated by Article 7 (a "Sackler (States) Participation Notice"). The date, if any, on which the Sackler Parties' Representative delivers a Sackler (States) Participation Notice is referred to as the "Preliminary Agreement Date".

**Section 2.03 Later Joinder by Eligible States.** After the Preliminary Agreement Date, an Eligible State may only become a Settling State with the consent of the Sackler Parties' Representative and the States AG Negotiating Group. If an Eligible State becomes a Settling State more than sixty (60) calendar days after the Preliminary Agreement Date, but on or before the Effective Date, the Subdivisions in that Eligible State that become Participating Subdivisions within ninety (90) calendar days of the Eligible State becoming a Settling State shall be considered Initial Participating Subdivisions. An Eligible State may not become a Settling State after the Effective Date without written approval by the Sackler Parties' Representative and the MDT Advisory Council.

**Section 2.04 Litigation Activity.** Following the Preliminary Agreement Date, Eligible States that elected to become Settling States shall cease litigation activity against the Shareholder Released Parties and the Released Parties, including by jointly seeking stays or, where appropriate, severance of claims against the Shareholder Released Parties or Released Parties, where feasible, and otherwise to minimize such activity by means of agreed deadline extensions and agreed postponement of depositions, document productions, and motion practice if a motion to stay or sever is not feasible or is denied, provided, however, that nothing herein shall require any Settling State to take any action in connection with this Section 2.04 or otherwise that would prejudice such State's ability to recommence or continue such litigation in the event the Effective Date does not occur or, if with respect to a particular Payment Party and pursuant to the Master

Settlement Agreement, the MDT pursues the Release Remedy (as defined in the Master Settlement Agreement) under Master Settlement Agreement Section 9.02(a)(ii)(B) with respect to such Payment Party.

### **ARTICLE 3. INJUNCTIVE RELIEF**

**Section 3.01 Injunctive Relief.** As part of the Consent Judgment, the Parties agree to enter into the injunctive relief terms set forth in the Master Settlement Agreement.

**Section 3.02 State Enforcement.** In addition to all of the rights, remedies, and enforcement provisions in the Master Settlement Agreement, a Settling State may enforce MSA Section 8.05 (Naming Rights) and MSA Section 8.08 (Opioid Business) in the state or other court that enters the Settling State's Consent Judgment for alleged violations that occur in such state.

### **ARTICLE 4. SETTLEMENT FUND PAYMENTS<sup>9</sup>**

#### **Section 4.01 General Provisions and Payment Overview**

(a) **Master Settlement Agreement.** The payment obligations addressed in this Agreement are a subset of the Payment Group obligations set out in the Master Settlement Agreement. The parties hereto acknowledge and agree that (i) the liability of each Payment Group with respect to the obligations of each other Payment Group are limited in the manner contemplated by this Agreement and the Master Settlement Agreement, and (ii) payment in full to the MDT by or on behalf of a Payment Group of its payment obligations under the Master Settlement Agreement shall satisfy in full all of such Payment Group's payment obligations hereunder.

(b) **Annual Remediation Payments.** The aggregate amount of the Annual Remediation Payments required to be made by the Payment Groups pursuant to the Master Settlement Agreement shall be determined pursuant to this Article 4; provided that (1) each Payment Group's responsibility for an Annual Remediation Payment shall be computed Pro Rata to the Payment Groups and (2) all payments determined under this Article 4 shall be made to the MDT in the manner contemplated by the Master Settlement Agreement. The MDT shall make corresponding payments into the Settlement Fund or the MDT Segregated Account, as required by this Agreement. The Settlement Administrator shall in turn direct the payments from the Settlement Fund and the MDT Segregated Account, as applicable, to the Settling States in the manner contemplated hereby.

(c) **Offset Provisions.** In addition to payment calculation provisions in this Article 4, there are potential adjustments to Annual Remediation Payments as set out in Article 12.

(d) **State Payment Schedules.** Certain Settling States shall be paid over fewer than 16 Payment Dates. Emergence Payment States will be paid on Payment Date 1 and Accelerated Payment States will be paid through Payment Dates 9 or 10. All other Settling States are scheduled to be paid over all 16 Payment Dates. The payment schedule for each Eligible State is set forth in Exhibit M-5.

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<sup>9</sup> [Oklahoma Subdivisions are eligible to participate in this Agreement pursuant to Exhibit H and subject to the amounts scheduled in Exhibit M-5.]



(e) **Fees and Costs.** Attorneys' fees and costs are addressed separately from Annual Remediation Payments. The Local Government Costs and Expenses Fund payment and State Direct Expenses payment are addressed in Article 9.

(f) **Payment Charts.** The Payment Groups' maximum scheduled payment amounts to be made pursuant to this Agreement and the allocation of those payments across Annual Remediation Payments and Annual Fee Payments are set forth in Exhibit M. In showing "maximum" payments, Exhibit M sets forth amounts before the application of any reductions or adjustments required by this Agreement, including those related to Non-Settling States and before accounting for any prepayments. The amounts in the Exhibit M charts have been adjusted to reflect the Samantha Hunt payment terms. Each Payment Group's share of each Payment Date's payment obligations under this Agreement shall be calculated pursuant to Exhibit M-X and are subject to the prepayment provisions set forth in the Master Settlement Agreement. Exhibit M to this Agreement will be updated from time to time to reflect any changes made to Exhibit M of the Master Settlement Agreement (e.g., to account for prepayments), to the extent applicable.

- (i) Exhibit M-1: Payment Schedule – sets out the Maximum Annual Remediation Payment, the maximum Annual Fees Payment and the total maximum payment by Payment Date.
- (ii) Exhibit M-2: Schedule of Maximum Payments – for each Payment Date, Exhibit M-2 sets forth the maximum amounts for Base Payment, Incentive Payment A, Incentive Payment B, Incentive Payment C, Incentive Payment D, Annual Remediation Payment, Local Government Costs and Expenses Fund and State Direct Expenses.
- (iii) Exhibit M-3: Annual Fees Payment Schedule – breaks down the Local Government Costs and Expenses Fund payment and the State Direct Expenses payment by Payment Date, without considering any reductions described in Article 9.
- (iv) Exhibit M-4: Maximum Remediation Payments by Payment Group – sets forth the Maximum Annual Remediation Payments by Payment Group by Payment Date.
- (v) Exhibit M-5: States Maximum Payments Schedule – for each Eligible State, Exhibit M-5 sets forth the maximum amounts for Base Payment, Incentive Payment A, Incentive Payment B, Incentive Payment C, and Incentive Payment D.

**Section 4.02 Annual Remediation Payments.** Subject to the terms and conditions of the Master Settlement Agreement, the Payment Groups shall make sixteen (16) Annual Remediation Payments, each comprised of Base Payments and Incentive Payments as provided in this Article 4 and as determined by the Settlement Administrator pursuant to this Agreement (including the offsets in Article 12 and permitted prepayments).

#### **Section 4.03 Annual Remediation Payment Distributions**

(a) Each Payment Date shall occur as and when required by the Master Settlement Agreement. The Annual Remediation Payments for each Payment Date shall be determined as set forth in Article 4 and made to the MDT pursuant to the Master Settlement Agreement.

(b) The MDT shall pay the Annual Remediation Payments and the Annual Fee Payment for each Payment Date to the Settlement Fund. Payments shall be disbursed by the Settlement Administrator promptly after each payment to the Settlement Fund by the MDT to each Settling State and to its Initial Participating Subdivisions listed on Exhibit G; *provided, however*, that for any Settling State where the

Consent Judgment has not been entered as of the Effective Date, the Settlement Administrator shall not disburse funds allocable to that Settling State and its Participating Subdivisions listed on Exhibit G until ten (10) calendar days after the entry of the Consent Judgment in that Settling State. The Settlement Administrator shall notify the Sackler Parties' Representative of the entry of a Consent Judgment for each State prior to disbursing funds to such State. Neither the Payment Parties nor the Sackler Parties' Representative shall have any obligation or liability with respect to the obligations of the MDT or the Settlement Fund, including under this Section 4.03(b) and Section 4.04(d).

#### **Section 4.04 Payment Determination Process**

(a) To determine each Annual Remediation Payment the Settlement Administrator shall use the necessary data to compute amounts under this Agreement as of ninety (90) calendar days prior to the applicable Payment Date, unless another provision of the Agreement specifies a different date.

(b) The Settlement Administrator shall determine the Statewide Payment Amount for each Settling State, and the amount owed by each Payment Group for the Annual Remediation Payment, the State Direct Expenses, and the Local Government Costs and Expenses Fund payments for such Payment Date, consistent with the provisions in Exhibit M-X. As part of this determination, the Settlement Administrator shall:

(i) determine the Statewide Payment Amount for each Settling State by calculating the amount of Base Payments and Incentive Payments to which the Settling State is entitled by applying the criteria under Section 4.05, Section 4.06, and Article 9;

(ii) apply any offsets or reductions as specified under this Article 4 and Article 12 and reflecting all prepayments permitted pursuant to this Agreement and the Master Settlement Agreement; and

(iii) determine the amount owed by each Payment Group, to the MDT, and the amount owed by the MDT to the Settlement Fund or the MDT Segregated Account, as applicable, which shall be directed to the Settling States.

(c) Not later than fifty (50) calendar days prior to the applicable Payment Date, the Settlement Administrator shall give notice to the Sackler Parties' Representative, any Settling State, and the MDT Advisory Council of the amounts determined pursuant to Section 4.04(b) (such notice, a "Preliminary Payment Determination") and the following timeline shall apply:

(i) Within twenty-one (21) calendar days of the Preliminary Payment Determination provided by the Settlement Administrator, the Sackler Parties' Representative, any Settling State or the MDT Advisory Council may dispute, in writing, the amounts provided by the Settlement Administrator. Such disputing party must provide a written notice of dispute to the Settlement Administrator, the MDT Advisory Council, any affected Settling State, and the Sackler Parties' Representative identifying the nature of the dispute, the amount of money that is disputed, and the Settling State(s) and Payment Group(s) affected (a "Settlement Payment Dispute Notice"). If no Settlement Payment Dispute Notice is timely provided, then the Preliminary Payment Determination is deemed accepted for all purposes. Only matters included in a timely Settlement Payment Dispute Notice will be allowed to be the subject of any dispute regarding the Annual Remediation Amount payable on a given Payment Date.

(ii) Any party that received a Settlement Payment Dispute Notice may submit a response, in writing, to the Settlement Administrator, the MDT Advisory Council, any affected

Settling State, and the Sackler Parties' Representative identifying the basis for disagreement with the Payment Dispute Notice (a "Final Dispute Response Notice") within fourteen (14) calendar days that either:

(A) Agrees to one or more proposals in the Settlement Payment Dispute Notice; or

(B) Rejects one or more proposals in the Settlement Payment Dispute Notice and identifies the basis for disagreement. Any item within the Settlement Payment Dispute Notice that is rejected in the Final Dispute Response Notice will be deemed disputed

(iii) If no party timely delivers a Final Dispute Response Notice, then the Settlement Payment Dispute Notice is accepted for all purposes, and the Settlement Administrator shall adjust amounts determined pursuant to Section 4.04(b) consistent with the Payment Dispute Notice.

(iv) If a Final Dispute Response Notice is timely provided to the Settlement Administrator, the Settlement Administrator shall notify the Sackler Parties' Representative of the preliminary amount to be paid, in the aggregate and for each Payment Group, which shall be the greater of (i) the amount originally calculated by the Settlement Administrator or (ii) the amount that would be consistent with the Payment Dispute Notice, *provided, however*, that in no circumstances shall the preliminary amount determined for a Payment Group for a Payment Date be higher than the Maximum Annual Remediation Payment for that Payment Group for a Payment Date. For the avoidance of doubt, a transfer of payments from the MDT Segregated Account for other Payment Dates does not count toward determining whether the amount determined is higher than the Maximum Annual Remediation Payment.

(v) The Settlement Administrator shall place any disputed amount of the preliminary amount paid by the Payment Groups in accordance with the Master Settlement Agreement into the MDT Segregated Account<sup>10</sup> and shall disburse all undisputed amounts to each Settling State and its Participating Subdivisions listed on Exhibit G pursuant to Section 4.04(d). Upon resolution of a dispute after the Payment Date, amounts in the MDT Segregated Account related to that Payment Date shall be disbursed as follows: (i) to the Settlement Fund if determined to be required payments or (ii) to the applicable Payment Party (or Parties), as designated by the Sackler Parties' Representative, if determined not to be required payments.

(d) The Settlement Administrator shall allocate the Settling State's amount received into the Settlement Fund (including both the Statewide Payment Amount and its portion of the Estate Distributions) for each Payment Date pursuant to Article 5, among the separate types of funds for the Settling State (if applicable), and among its Participating Subdivisions listed on Exhibit G using the following procedures:

(i) As soon as possible but not later than ten (10) calendar days following the determination described in Section 4.04(b) and Section 4.04(c) and the determination of a Settling State's portion of the Estate Distributions for the relevant Payment Date, the Settlement Administrator shall give notice to each Settling State and their Participating Subdivisions listed on Exhibit G of the amount to be received by such Settling State, the amount to be received by the

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<sup>10</sup> Note to Draft: There needs to be accounting for 12.4% in attorneys' fees (either elsewhere or in the Plan) that the Plan will pay should be disbursed to the fee funds if some or all of this money is paid to Settlement Fund.



separate types of funds for such Settling State (if applicable), and the amount to be received by each Participating Subdivision listed on Exhibit G for such Settling State.

(ii) Within fourteen (14) calendar days of the notice provided by the Settlement Administrator, any Settling State or Participating Subdivision listed on Exhibit G may dispute, in writing, the calculation of the amount to be received by the relevant Settling State and/or its Participating Subdivision listed on Exhibit G. A dispute will be deemed invalid and disregarded if it challenges the allocations adopted by a State-Subdivision Agreement approved pursuant to the provisions of Exhibit O or by statute. Such disputing party must provide a written notice of dispute to the Settlement Administrator, any affected Settling State, and any affected Participating Subdivision identifying the nature of the dispute, the amount of money that is disputed, and the Settling State(s) affected.

(iii) Within fourteen (14) calendar days of the sending of a written notice of dispute, any affected Settling State or any affected Participating Subdivision may submit a response, in writing, to the Settlement Administrator, any affected Settling State and any affected Participating Subdivision identifying the basis for disagreement with the notice of dispute.

(iv) If no response is filed, the Settlement Administrator shall adjust the amount calculated consistent with the written notice of dispute.

(v) The Settlement Administrator shall not release any disputed amount to the Settling State and its Participating Subdivisions eligible for payment until such dispute has been resolved.

(vi) For the avoidance of doubt, neither the Payment Parties nor the Sackler Parties' Representative shall be liable for any breach of this Section 4.04(d) by any party.

(e) Disputes described in this Section 4.04 shall be resolved in accordance with the terms of Section 6.06.

(f) For the avoidance of doubt, a Subdivision not listed on Exhibit G shall not receive an allocation from the Subdivision Fund and no provision of this Agreement shall be interpreted to create such an entitlement.

**Section 4.05 Base Payments.** Subject to the offset and reduction provisions set forth in this Agreement, the obligation of the Payment Groups to make payments to the MDT pursuant to the Master Settlement Agreement shall include "Base Payments" in a maximum total amount equal to \$818,286,868.28, subject to an increase pursuant to Article 9. The Base Payments shall be due in installments consistent with Exhibit M-2 over the sixteen (16) Payment Dates starting with Payment Date 1. The Base Payment portion of an Annual Remediation Payment of a Payment Group shall be Pro Rata.

**Section 4.06 Incentive Payments.**

(a) Subject to the offset and reduction provisions set forth in Article 4 and Article 12, the obligation of the Payment Groups to make payments to the MDT pursuant to the Master Settlement Agreement shall include potential additional Incentive Payments totaling up to a maximum of \$2,272,500,000, with the Incentive Payment amount depending on whether and the extent to which the criteria set forth in Section 4.06(d) to (g) are met in each Settling State. The Incentive Payment portion of an Annual Remediation Payment of a Payment Group shall be Pro Rata.

(b) A Settling State qualifies to receive Incentive Payments in addition to Base Payments if it meets the incentive eligibility requirements as set forth in Section 4.06(d) to (g). The maximum total Incentive Payment for any Settling State for a given Payment Date shall be no more than the maximum total for Incentive Payments listed for that Settling State and Payment Date as set forth in Exhibit M-5. Incentive Payments are state-specific, with the actual amount depending on whether and the extent to which the criteria set forth in Section 4.06(d) to (g) are met in such Settling State.

(c) Incentive Payments shall be available from four (4) categories, referred to as Incentive Payment A, Incentive Payment B, Incentive Payment C, and Incentive Payment D and shall be determined with respect to a specific Settling State based on its eligibility for that Payment Date under the criteria set forth in Section 4.06(d) to (g). Eligibility for Incentive Payment A, Incentive Payment B, Incentive Payment C, and Incentive Payment D shall be determined on a Settling State-by-Settling State basis and for each Payment Date as set forth in Section 4.06(d) to (g). Except to the limited extent provided for in Section 4.06(d) with respect to Incentive Payment A, a Settling State may not earn and shall not be paid on any later Payment Date an annual incentive payment for a prior Payment Date, or any portion thereof, that it failed to qualify for that Payment Date. Incentive Payment A, Incentive Payment B, and Incentive Payment C will be due in installments over the sixteen (16) Payment Dates beginning with Payment Date 1, and except for the Emergence Payment States, Incentive Payment D will be due in installments beginning with Payment Date 7, as described in Section 4.06(g). Each Payment Group shall only be responsible for its Pro Rata share of each Incentive Payment. The total amount of Incentive Payments in an Annual Remediation Payment shall be the sum of the Incentive Payments for which individual Settling States are eligible for that Payment Date under the criteria set forth in Section 4.06(d) to (g).

(d) Incentive Payment A.

(i) Incentive Payment A is mutually exclusive with Incentive Payments B and C; if a Settling State receives Incentive Payment A, such Settling State is not eligible for Incentive Payments B or C.

(ii) The total potential maximum amount for Incentive Payment A is \$2,083,125,000, assuming all Eligible States qualify for Incentive Payment A on all Payment Dates and ignoring all offsets and reductions (including prepayments) contemplated or permitted by this Agreement. Each Settling State that qualifies for Incentive Payment A for a Payment Date shall be entitled to receive the amount set forth on Exhibit M-5 for such Settling State and Payment Date, subject to this Agreement and the Master Settlement Agreement.

(iii) Qualification for Incentive Payment A is as follows: A Settling State qualifies for Incentive Payment A if, as of Payment Date 3:

(A) there is a Bar in that Settling State in full force and effect;

(B) there is a Settlement Class Resolution in that Settling State in full force and effect;

(C) there is a ruling from the State's highest court barring all Subdivisions from bringing or maintaining Shareholder Released Claims;

(D) the Shareholder Released Claims of all of the following entities are released through the execution of Subdivision Settlement Participation Forms, or there is a Case-Specific Resolution against such entities:

(i) all Litigating Subdivisions (including Special Districts that are Litigating Subdivisions);

(ii) all Primary Subdivisions that are not also Litigating Subdivisions;

(iii) all Non-Litigating Threshold Subdivisions that are not captured by Section 4.06(d)(iii)(D)(i)-(ii);

(iv) all Subdivisions that are Hospital Districts that have at least one hundred twenty-five (125) hospital beds in one or more hospitals rendering services in that district; and

(v) all Primary Fire Districts; or

(E) a combination of the actions in clauses (A) to (D) above has achieved the same level of resolution of a Cause of Action (e.g., a Bar against future litigation combined with full joinder by Litigating Subdivisions, Non-Litigating Threshold Subdivisions and Primary Fire Districts). For the avoidance of doubt, this clause (E) cannot be satisfied unless all Litigating Subdivisions, Primary Subdivisions, Non-Litigating Threshold Subdivisions, relevant Hospital Districts and Primary Fire Districts are Participating Subdivisions or there is a Case-Specific Resolution against any such Subdivisions that are not Participating Subdivisions.

(iv) A Settling State that does not qualify for Incentive Payment A as of ninety (90) days prior to Payment Date 3 shall not be eligible for Incentive Payment A for that Payment Date or any subsequent Payment Dates.

(v) If a Settling State does not qualify for Incentive Payment A for Payment Date 1, and becomes eligible for Incentive Payment A for Payment Date 2, it shall receive the payment that it would have received for Incentive Payment A for Payment Date 1 (the “Incentive Payment A Catch-up Payment”) on Payment Date 2. If a Settling State does not qualify for Incentive Payment A for Payment Dates 1 or 2, and becomes eligible for Incentive Payment A for Payment Date 3, it shall receive Incentive Payment A Catch-up Payment for both Payment Dates 1 and 2 on Payment Date 3. The Incentive Payment A Catch-up Payments shall be reduced by any amounts paid to the Settling State under Incentives Payments B or C prior to the Settling State’s eligibility for Incentive Payment A.

(vi) Each Payment Group’s share of Incentive Payment A shall be computed on a Pro Rata basis.

(vii) On or prior to the thirtieth (30<sup>th</sup>) calendar day immediately preceding the Initial Subdivision Participation Date, the Settling States shall provide the Sackler Parties’ Representative with a list of Settling States with existing laws or rulings that they consider sufficient to qualify as a Bar. Settling States with putative Bars shall make their representatives and advisers reasonably available to the Sackler Parties’ Representative and its advisers for investigating the sufficiency of each Bar. The Sackler Parties’ Representative shall notify the Settling States and the Implementation Administrator whether such existing laws or rulings are sufficient to qualify as a Bar no later than the Initial Subdivision Participation Date (such response not to be unreasonably withheld, denied or delayed).

(e) Incentive Payment B.

(i) Incentive Payment B shall be available to Settling States that are not eligible for Incentive Payment A for the applicable Payment Date. Settling States may be eligible for both Incentive Payment B and Incentive Payment C.

(ii) The total potential maximum amount for Incentive Payment B for all Settling States combined is \$1,230,937,500, assuming all Eligible States qualify for the maximum Incentive Payment B on all Payment Dates and ignoring all offsets and reductions (including prepayments) contemplated or permitted by this Agreement.

(iii) Eligibility for Incentive Payment B is determined as follows:

(A) A Settling State's eligibility for Incentive Payment B for a Payment Date shall be determined as of ninety (90) calendar days prior to the Payment Date; provided that the percentage of Incentive Payment B for which a Settling State is eligible as of the Incentive Payment Final Eligibility Date shall cap its eligibility for that Payment Date and all subsequent Payment Dates.

(B) Each Settling State's maximum Incentive Payment B for a Payment Date is set forth in Exhibit M-5. The amount of Incentive Payment B for which a Settling State is eligible for a Payment Date shall be a percentage of that State's maximum Incentive Payment B based on the extent to which (x) Litigating Subdivisions and Non-Litigating Threshold Subdivisions in the State are Participating Subdivisions or (y) there is a Case-Specific Resolution against Litigating Subdivisions and Non-Litigating Threshold Subdivisions in the State, collectively, "Incentive B Eligible Subdivisions." The percentage of the State's maximum share of Incentive Payment B that the State is eligible for a Payment Date shall be determined according to the table below:

Percentage of Litigating Subdivision and Non-Litigating Threshold Subdivision Population that is Incentive B Eligible Subdivision Population <sup>11</sup>	Incentive Payment B Eligibility Percentage
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<sup>11</sup> The "Percentage of Litigating Subdivision and Non-Litigating Threshold Subdivision Population that is Incentive B Eligible Subdivision Population" shall be determined by the aggregate population of the Settling State's Litigating Subdivisions and Non-Litigating Threshold Subdivisions that are Incentive B Eligible Subdivisions divided by the aggregate population of the Settling State's Litigating Subdivisions and Non-Litigating Threshold Subdivisions. In calculating the Settling State's population that resides in Litigating Subdivisions and Non-Litigating Threshold Subdivisions, (a) the population of the Settling State's Litigating Subdivisions and Non-Litigating Threshold Subdivisions shall be the sum of the population of all Litigating Subdivisions and Non-Litigating Threshold Subdivisions in the Settling State, notwithstanding that persons may be included within the population of more than one Litigating Subdivision and/or Non-Litigating Threshold Subdivision, and (b) the population that resides in Incentive B Eligible Subdivisions shall be the sum of the population of the Incentive B Eligible Subdivisions, notwithstanding that persons may be included within the population of more than one Incentive B Eligible Subdivision. An individual Litigating Subdivision or Non-Litigating Threshold Subdivision shall not be included more than once in the numerator, and shall not be included more than once in the denominator, of the calculation regardless of whether it (or any of its officials) is named as multiple plaintiffs in the same lawsuit; provided, however, that for the avoidance of doubt, no Litigating Subdivision or Non-Litigating Threshold Subdivision will be excluded from the numerator or denominator under this sentence unless a Litigating Subdivision or Non-Litigating Threshold Subdivision otherwise counted in the denominator has the authority to release the Claims of the Litigating Subdivision or Non-Litigating Threshold Subdivision to be excluded. For the avoidance of doubt, a Settling State in which the population that resides

Less than 85%	0%
85% or more but less than 86%	30%
86% or more but less than 91%	40%
91% or more but less than 95%	50%
95% or more but less than 97%	60%
97% or more but less than 99%	75%
99% or more but less than 100%	95%
100%	100%

(iv) For each Payment Date, the Settlement Administrator shall: (i) identify all Settling States that are eligible for Incentive Payment B pursuant to this Section 4.06(e); (ii) determine the Incentive Payment B eligibility percentage for each such Settling State; (iii) multiply the Incentive Payment B eligibility percentage for each such Settling State by its maximum Incentive Payment B for that Payment Date as set forth in Exhibit M-5. If all Litigating Subdivisions and Non-Litigating Threshold Subdivisions in a Settling State are Participating Subdivisions, and that Settling State is otherwise eligible for Incentive Payment B, that Settling State will receive its full allocable share of Incentive Payment B consistent with the foregoing calculations.

(v) Each Payment Group's share of Incentive Payment B shall be computed on a Pro Rata basis.

(f) Incentive Payment C.

(i) Incentive Payment C shall be available to Settling States that are not eligible for Incentive Payment A for the applicable Payment Date. Settling States may be eligible for both Incentive Payment B and Incentive Payment C.

(ii) The total potential maximum amount for Incentive Payment C for all Settling States combined is \$852,187,500, assuming all Eligible States qualify for the maximum Incentive Payment C on all Payment Dates and ignoring all offsets and reductions (including prepayments) contemplated or permitted by this Agreement.

(iii) Eligibility for Incentive Payment C is determined as follows:

(A) A Settling State's eligibility for Incentive Payment C for a Payment Date shall be determined as of ninety (90) calendar days prior to the Payment Date; provided that the percentage of Incentive Payment C for which a Settling State is eligible as of the Incentive Payment Final Eligibility Date shall cap its eligibility for that Payment Date and all subsequent Payment Dates.

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in Incentive B Eligible Subdivisions is less than eighty-five percent (85%) of the population of Litigating Subdivisions and Non-Litigating Threshold Subdivisions shall not be eligible for any portion of Incentive Payment B.

(B) Each Settling State’s maximum Incentive Payment C for a Payment Date is set forth in Exhibit M-5. The amount of Incentive Payment C for which a Settling State is eligible for a Payment Date shall be a percentage of that State’s maximum Incentive Payment C based on the extent to which (i) Non-Litigating Subdivisions that are Primary Subdivisions with a population over 30,000, Litigating Subdivisions, and Non-Litigating Threshold Subdivisions in the Settling State are Participating Subdivisions or (ii) there is a Case-Specific Resolution against Non-Litigating Subdivisions that are Primary Subdivisions with a population over 30,000, Litigating Subdivisions, and Non-Litigating Threshold Subdivisions in the Settling State, collectively, “Incentive C Eligible Subdivisions.” The percentage of the State’s maximum share of Incentive Payment C that the State is eligible for a Payment Date shall be determined according to the table below:

<b>Percentage of Relevant Subdivision Population that is Incentive C Eligible Population <sup>12</sup></b>	<b>Incentive Payment C Eligibility Percentage</b>
Less than 60%	0%
60% or more but less than 70%	25%
70% or more but less than 75%	35%
75% or more but less than 80%	40%
80% or more but less than 85%	45%
85% or more but less than 90%	55%
90% or more but less than 93%	60%
93% or more but less than 94%	65%
94% or more but less than 95%	75%
95% or more but less than 98%	90%

<sup>12</sup> The “Percentage of Relevant Subdivision Population that is Incentive C Eligible Population” shall be determined by the aggregate population of the Settling State’s Incentive C Eligible Subdivisions divided by the aggregate population of the Settling State’s Non-Litigating Primary Subdivisions with a population over 30,000, Litigating Subdivisions and Non-Litigating Threshold Subdivisions (“*Incentive Payment C Subdivisions*”). None of the population figures shall include Prior Litigating Subdivisions. In calculating the Settling State’s population that resides in Incentive Payment C Subdivisions, (a) the population shall be the sum of the population of all Incentive Payment C Subdivisions in the Settling State, notwithstanding that persons may be included within the population of more than one Incentive Payment C Subdivision, and (b) the population that resides in Incentive C Eligible Subdivisions shall be the sum of the population of the Incentive C Eligible Subdivisions, notwithstanding that persons may be included within the population of more than one Incentive C Eligible Subdivision. An individual Incentive Payment C Subdivision shall not be included more than once in the numerator, and shall not be included more than once in the denominator, of the calculation regardless if it (or any of its officials) is named as multiple plaintiffs in the same lawsuit. For the avoidance of doubt, a Settling State in which the population that resides in Incentive C Eligible Subdivisions is less than sixty percent (60%) of the population of Incentive Payment C Subdivisions shall not be eligible for any portion of Incentive Payment C.



98% or more but less than 100%	95%
100%	100%

(iv) For each Payment Date, the Settlement Administrator shall: (i) identify all Settling States that are eligible for Incentive Payment C pursuant to this Section 4.06(f); (ii) determine the Incentive Payment C eligibility percentage for each such Settling State; (iii) multiply the Incentive Payment C eligibility percentage for each such Settling State by its maximum Incentive Payment C for that Payment Date as set forth in Exhibit M-5. If all Non-Litigating Subdivisions that are Primary Subdivisions with a population of more than 30,000, Litigating Subdivisions and Non-Litigating Threshold Subdivisions in a Settling State are Participating Subdivisions, and that Settling State is otherwise eligible for Incentive Payment C, that Settling State will receive its full allocable share of Incentive Payment C consistent with the foregoing calculations.

(v) Each Payment Group's share of Incentive Payment C shall be computed on a Pro Rata basis.

(g) Incentive Payment D.

(i) Incentive Payment D shall be available to Settling States that meet the criteria described in this Section 4.06(g). However, for so long as any Settling State qualifies for Incentive A, that State automatically qualifies for Incentive Payment D. Incentive Payment D shall be paid starting on the Payment Date 7, except for the Emergence Payment States that shall be eligible to receive the Incentive Payment D on Payment Date 1, provided that, such Emergence Payment State also qualifies for Incentive Payment A for Payment Date 1.

(ii) The total potential maximum amount for Incentive Payment D is \$189,375,000 for all Settling States, assuming all Eligible States qualify for the maximum Incentive Payment D on all Payment Dates and ignoring all offsets and reductions (including prepayments) contemplated or permitted by this Agreement. Each eligible Settling State's Incentive Payment D on a given Payment Date shall equal its maximum Incentive Payment D for such Payment Date as set forth in Exhibit M-5, subject to reduction as described below.

(iii) Each Payment Group's share of Incentive Payment D shall be computed on a Pro Rata basis.

(iv) A Settling State qualifies for a Payment Group's Incentive Payment D on any Payment Date if, by the applicable Incentive Payment D Lookback Date (as defined below) and subject to Section 4.06(g)(vi) and (vii), no Later Litigating Subdivision (as limited below) in that Settling State has filed a lawsuit against a Shareholder Released Party in that Payment Group after the Initial Subdivision Participation Date that has survived a Threshold Motion. Incentive Payment D is the only Incentive Payment that shall be determined on an individual Payment Group basis as different Payment Groups may experience different litigation by Later Litigating Subdivisions.

For purposes of Incentive Payment D, a Later Litigating Subdivision is limited to (i) a Subdivision that is a General Purpose Government and (ii) a Primary Fire District.

Except with respect to Emergence Payment States, Settling State's qualification for Incentive Payment D shall be determined as of sixty (60) calendar days prior to that date (the "Incentive Payment D Lookback Date").

(v) The Settlement Administrator shall determine a Settling State's eligibility for Incentive Payment D as of the applicable Incentive Payment D Lookback Date. Prior to the Incentive Payment D Lookback Date for each Payment Date, the Sackler Parties' Representative may provide the Settlement Administrator and the MDT Advisory Council with notice identifying any Settling State(s) it believes do not qualify for Incentive Payment D and information supporting its belief.

(vi) If a relevant Later Litigating Subdivision's lawsuit in that Settling State survives a Threshold Motion, the Settling State shall lose all eligibility for Incentive Payment D, subject to Section 4.06(g)(vii). However, a Settling State can become re-eligible for future payments of Incentive Payment D if the lawsuit that survived a Threshold Motion is dismissed pursuant to a later motion on grounds included in the Threshold Motion by the relevant Incentive Payment D Lookback Date, in which case the Settling State shall be eligible for Incentive Payment D less any litigation fees and expenses incurred or paid by or on behalf of Shareholder Released Parties in the interim for the relevant litigation, except that if the dismissal motion occurs after the completion of opening statements in such action, the Settling State shall not be eligible for Incentive Payment D.

(vii) For so long as any Settling State qualifies for Incentive Payment A, that State automatically qualifies for Incentive Payment D. However, if a Later Litigating Subdivision in that Settling State has filed a lawsuit against a Shareholder Released Party after the Initial Subdivision Participation Date that has survived a Threshold Motion, then payments in respect of Incentive Payment D from the Payment Group of which such Shareholder Released Party is a member to such Settling State shall be reduced by any litigation fees and expenses incurred or paid by or on behalf of the Shareholder Released Parties in the interim for the relevant litigation.

**Section 4.07 Reserved.**

**Section 4.08 Pre-payment Option**

(a) Each Payment Group shall have the right to prepay all or any portion of its unpaid share of the Annual Remediation Payment and the Annual Fees Payments, as adjusted pursuant to this Agreement, subject to and in accordance with Section 2.02 of the MSA, including any limitations set forth therein.

(b) Each Payment Group shall have the right make advance payments of all or any portion of its unpaid share of the Annual Remediation Payment and the Annual Fees Payments, as adjusted pursuant to this Agreement, subject to and in accordance with Section 2.03 of the MSA or as otherwise permitted by the MSA, including any limitations set forth therein.

**ARTICLE 5.**  
**ALLOCATION AND USE OF SETTLEMENT PAYMENTS**

**Section 5.01 Components of Settlement Fund.** The Settlement Fund shall be funded by the Annual Remediation Payments and Estate Distributions made to the MDT that are ultimately payable to the Governmental Remediation Trust and shall be comprised of a Remediation Accounts Fund, a State Fund, and a Subdivision Fund for each Settling State. The payments made under Article 4 by the MDT into the Settlement Fund shall be initially allocated among those three (3) sub-funds and distributed and used as provided below. Payments placed into the Settlement Fund do not revert back to the Payment Groups.

**Section 5.02 Use of Settlement Payments.**



(a) It is the intent of the Parties that the payments disbursed from the Settlement Fund to Settling States and Participating Subdivisions be for Opioid Remediation, subject to exceptions that must be documented in accordance with Section 5.02(b). In no event may less than ninety-five (95%) of the Payment Groups' amount of Annual Remediation Payments made pursuant to Article 4 over the entirety of all Annual Remediation Payments (but not for any single Payment Date) be spent on Opioid Remediation.

(b) While disfavored by the Parties, a Settling State or a Participating Subdivision set forth on Exhibit G may use monies from the Settlement Fund (that have not been restricted by this Agreement solely to future Opioid Remediation) for purposes that do not qualify as Opioid Remediation. If, at any time, a Settling State or a Participating Subdivision set forth on Exhibit G uses any monies from the Settlement Fund for a purpose that does not qualify as Opioid Remediation, such Settling State or Participating Subdivision set forth on Exhibit G shall identify such amounts and report to the Settlement Administrator and the Sackler Parties' Representative how such funds were used, including if used to pay attorneys' fees, investigation costs, litigation costs, or costs related to the operation and enforcement of this Agreement, respectively. It is the intent of the Parties that the reporting under this Section 5.02(b) shall be available to the public. Such reporting shall be made to the Settlement Administrator with respect to each six-month period ending on June 30 or December 31 of any year in which funds are received from the Settlement Fund. Settling States and Participating Subdivisions shall make each such report within ninety (90) days of the end of the applicable six-month period. The Settlement Administrator shall set up a system to receive and preserve reports from Settling States and Participating Subdivisions that have used monies from the Settlement Fund for purposes that do not qualify as Opioid Remediation. The Settlement Administrator will not require Settling States and Participating Subdivisions without any such uses of money to submit a report, and the Settlement Administrator may treat the failure to submit a report as confirmation that a Settling State or Participating Subdivision had no such uses of money. For the avoidance of doubt, (i) any Annual Remediation Payment amounts not identified under this Section 5.02(b) as used to pay attorneys' fees, investigation costs, or litigation costs shall be included in the Compensatory Restitution Amount for purposes of Section 5.06 and (ii) Participating Subdivisions not listed on Exhibit G may only use monies from the Settlement Fund for purposes that qualify as Opioid Remediation.

**Section 5.03 Allocation of Settlement Fund.** The allocation of the Settlement Fund allows for different approaches to be taken in different states, such as through a State-Subdivision Agreement. Given the uniqueness of Settling States and their Subdivisions, Settling States and their Subdivisions are encouraged to enter into State-Subdivision Agreements in order to direct the allocation of their portion of the Settlement Fund. As set out below, the Settlement Administrator will make an initial allocation to three (3) state-level sub-funds. The Settlement Administrator will then, for each Settling State and its Participating Subdivisions, apply the terms of this Agreement and any relevant State-Subdivision Agreement, Statutory Trust, Allocation Statute, or voluntary redistribution of funds as set out below before disbursing the funds.

(a) Base Payments. The Settlement Administrator will allocate Base Payments under Section 4.05 among the Settling States on a state-specific basis pursuant to Section 4.05. Base Payments for each Settling State will then be allocated fifteen percent (15%) to its State Fund, seventy percent (70%) to its Remediation Accounts Fund, and fifteen percent (15%) to its Subdivision Fund. Amounts may be reallocated and will be distributed as provided in Section 5.04.

(b) Incentive Payments. The Settlement Administrator will treat Incentive Payments under Section 4.06 on a state-specific basis. Incentive Payments for which a Settling State is eligible under Section 4.06 will be allocated fifteen percent (15%) to its State Fund, seventy percent (70%) to its

Remediation Accounts Fund, and fifteen percent (15%) to its Subdivision Fund. Amounts may be reallocated and will be distributed as provided in Section 5.04.

(c) Application of Adjustments. If an offset or reduction under Article 12 applies with respect to a Settling State, the offset or reduction shall be applied proportionally to all amounts that would otherwise be apportioned and distributed to the State Fund, the Remediation Accounts Fund, and the Subdivision Fund for that Settling State.

(d) Estate Distributions. The Settlement Administrator will treat Estate Distributions on a state-specific basis as specified in the [Governmental Remediation Trust Agreement]. Estate Distributions directed to a Settling State will be allocated fifteen percent (15%) to its State Fund, seventy percent (70%) to its Remediation Accounts Fund, and fifteen percent (15%) to its Subdivision Fund. Amounts may be reallocated and will be distributed as provided in Section 5.04.

(e) Settlement Administrator. Prior to the Effective Date, the Sackler Parties' Representative and the States' AG Negotiating Group, the MDL PEC, and the MSGE Group will agree to a detailed mechanism consistent with the foregoing for the Settlement Administrator to follow in allocating, apportioning, and distributing payments.

**Section 5.04 Settlement Fund Reallocation and Distribution.** As set forth below, within a particular Settling State's account, amounts contained in the Settlement Fund sub-funds may be reallocated and distributed per a State-Subdivision Agreement or other means. If the apportionment of amounts is not addressed and controlled under Section 5.04(a) and Section 5.04(b), then the default provisions of Section 5.04(d) apply. It is not necessary that a State-Subdivision Agreement or other means of allocating funds pursuant to Section 5.04(a) and Section 5.04(b) address all of the Settlement Fund sub-funds. For example, a Statutory Trust might only address disbursements from a Settling State's Remediation Accounts Fund.

(a) Distribution by State-Subdivision Agreement. If a Settling State has a State-Subdivision Agreement, amounts apportioned to that Settling State's State Fund, Remediation Accounts Fund, and Subdivision Fund under Section 5.03 shall be reallocated and distributed as provided by that agreement. Any State-Subdivision Agreement entered into after the Preliminary Agreement Date shall be applied only if it requires: (a) that all amounts be used for Opioid Remediation, except as allowed by Section 5.02(b), and (b) that at least seventy percent (70%) of amounts be used solely for future Opioid Remediation.<sup>13</sup> For a State-Subdivision Agreement to be applied to the relevant portion of an Annual Remediation Payment, notice must be provided to the Sackler Parties' Representative and the Settlement Administrator at least sixty (60) calendar days prior to the Payment Date.

(b) Distribution by Allocation Statute. If a Settling State has an Allocation Statute and/or a Statutory Trust that addresses allocation or distribution of amounts apportioned to such Settling State's State Fund, Remediation Accounts Fund, and/or Subdivision Fund and that, to the extent any or all such sub-funds are addressed, requires (1) all amounts to be used for Opioid Remediation, except as allowed by Section 5.02(b), and (2) at least seventy percent (70%) of all amounts to be used solely for future Opioid Remediation then, to the extent allocation or distribution is addressed, the amounts apportioned to that Settling State's State Fund, Remediation Accounts Fund, and Subdivision Fund under Section 5.03 shall be allocated and distributed as addressed and provided by the applicable Allocation Statute or Statutory Trust. For the avoidance of doubt, an Allocation Statute or Statutory Trust need not address all three (3) sub-funds that comprise the Settlement Fund, and if the applicable Allocation Statute or

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<sup>13</sup> Future Opioid Remediation includes amounts paid to satisfy any future demand by another governmental entity to make a required reimbursement in connection with the past care and treatment of a person related to the Alleged Harms.

Statutory Trust does not address distribution of all or some of these three (3) sub-funds, the applicable Allocation Statute or Statutory Trust does not replace the default provisions described in this Article 5 of any such unaddressed fund. For example, if an Allocation Statute or Statutory Trust that meets the requirements of this Section 5.04(b) only addresses funds restricted to remediation, then the default provisions of this Agreement concerning allocation among the three (3) sub-funds comprising the Settlement Fund and the distribution of the State Fund and Subdivision Fund for that Settling State would still apply, while the distribution of the applicable State's Remediation Accounts Fund would be governed by the qualifying Allocation Statute or Statutory Trust.

(c) Voluntary Redistribution. A Settling State may choose to reallocate all or a portion of its State Fund to its Remediation Accounts Fund. A Participating Subdivision included on Exhibit G may choose to reallocate all or a portion of its allocation from the Subdivision Fund to the Settling State's Remediation Accounts Fund or to another Participating Subdivision. The Settlement Administrator is not required to honor a voluntary redistribution for which notice is provided to it less than sixty (60) calendar days prior to the applicable Payment Date.

(d) Distribution in the Absence of a State-Subdivision Agreement, Allocation Statute, or Statutory Trust. If Section 5.04(a) and Section 5.04(b) do not apply, amounts apportioned to that Settling State's State Fund, Remediation Accounts Fund, and Subdivision Fund under Section 5.03 shall be distributed as follows:

(i) Amounts apportioned to that Settling State's State Fund shall be distributed to that Settling State.

(ii) Amounts apportioned to that Settling State's Remediation Accounts Fund shall be distributed consistent with Section 5.05. Each Settling State shall submit to the Settlement Administrator a designation of a lead state agency or other entity to serve as the single point of contact for that Settling State's funding requests from the Remediation Accounts Fund and other communications with the Settlement Administrator. The designation of an individual entity is for administrative purposes only and such designation shall not limit funding to such entity or even require that such entity receive funds from this Agreement. The designated entity shall be the only entity authorized to request funds from the Settlement Administrator to be disbursed from that Settling State's Remediation Accounts Fund. If a Settling State has established a Statutory Trust then that Settling State's single point of contact may direct the Settlement Administrator to release the Settling State's Remediation Accounts Fund to the Statutory Trust.

(iii) Amounts apportioned to that Settling State's Subdivision Fund shall be distributed to Participating Subdivisions in that Settling State included on Exhibit G per the Subdivision Allocation Percentage listed in Exhibit G. Section 7.10 shall govern amounts that would otherwise be distributed to Non-Participating Subdivisions listed in Exhibit G. For the avoidance of doubt and notwithstanding any other provision in this Agreement, no Non-Participating Subdivision will directly receive any amount from the Settlement Fund, regardless of whether such Subdivision is included on Exhibit G.

(iv) Special Districts shall not be allocated funds from the Subdivision Fund, except through a voluntary redistribution allowed by Section 5.04(c) to Special Districts that are Participating Subdivisions. A Settling State may allocate funds from its State Fund or Remediation Accounts Fund for Special Districts that are Participating Subdivisions.

(e) Restrictions on Distribution. No amounts may be distributed from the Subdivision Fund contrary to Article 7, i.e., no amounts may be distributed directly to Non-Participating Subdivisions or to

Later Participating Subdivisions to the extent such a distribution would violate Section 7.05 through Section 7.09. Amounts allocated to the Subdivision Fund that cannot be distributed by virtue of the preceding sentence shall be distributed into the sub-account in the Remediation Accounts Fund for the Settling State in which the Subdivision is located, unless those payments are redirected elsewhere by a State-Subdivision Agreement described in Section 5.04(a) or by an Allocation Statute or a Statutory Trust described in Section 5.04(b).

**Section 5.05 Provisions Regarding the Remediation Accounts Fund.**

(a) State-Subdivision Agreement, Allocation Statute, and Statutory Trust Fund Provisions. A State-Subdivision Agreement, Allocation Statute, or Statutory Trust may govern the operation and use of amounts in that Settling State's Remediation Accounts Fund so long as it complies with the requirements of Section 5.04(a) or Section 5.04(b), as applicable, and all direct payments to Subdivisions comply with Section 7.05 through Section 7.09.

(b) Absence of a State-Subdivision Agreement, Allocation Statute, or Statutory Trust. In the absence of a State-Subdivision Agreement, Allocation Statute, or Statutory Trust that addresses distribution, the Remediation Accounts Fund will be used solely for future Opioid Remediation and the following shall apply with respect to a Settling State:

(i) *Regional Remediation.*

(A) At least fifty percent (50%) of distributions for remediation from a Settling State's Remediation Accounts Fund shall be annually allocated and tracked to the regional level. A Settling State may allow the Advisory Committee established pursuant to Section 5.05(b)(iv) to define its regions and assign regional allocations percentages. Otherwise, the Settling State shall (x) define its initial regions, which shall consist of one (1) or more General Purpose Governments and which shall be designated by the state agency with primary responsibility for substance abuse disorder services employing, to the maximum extent practical, existing regions established in that Settling State for opioid abuse treatment or other public health purposes; (y) assign initial regional allocation percentages to the regions based on the Subdivision Allocation Percentages in Exhibit G and an assumption that all Subdivisions included on Exhibit G will become Participating Subdivisions.

(B) This minimum regional expenditure percentage is calculated on the Settling State's initial Remediation Accounts Fund allocation and does not include any additional amounts a Settling State has directed to its Remediation Accounts Fund from its State Fund, or any other amounts directed to the fund. A Settling State may dedicate more than fifty percent (50%) of its Remediation Accounts Fund to the regional expenditure and may annually adjust the percentage of its Remediation Accounts Fund dedicated to regional expenditures as long as the percentage remains above the minimum amount.

(C) The Settling State (x) has the authority to adjust the definition of the regions, and (y) may annually revise the percentages allocated to each region to reflect the number of General Purpose Governments in each region that are Non-Participating Subdivisions.

(ii) *Subdivision Block Grants.* Certain Subdivisions shall be eligible to receive regional allocation funds in the form of a block grant for future Opioid Remediation. A Participating Subdivision eligible for block grants is a county or parish (or in the case of Settling

States that do not have counties or parishes that function as political subdivisions, a city) that (1) does not contain a Litigating Subdivision or a Later Litigating Subdivision for which it has the authority to end the litigation through a release, bar or other action, (2) either (i) has a population of 400,000 or more or (ii) in the case of California has a population of 750,000 or more and (3) has funded or otherwise managed an established health care or treatment infrastructure (e.g., health department or similar agency). Each Subdivision eligible to receive block grants shall be assigned its own region.

(iii) *Small Settling States.* Notwithstanding the provisions of Section 5.05(b)(i), Settling States with populations under four (4) million that do not have existing regions described in Section 5.05(b)(i) shall not be required to establish regions. However, such a Settling State that contains one (1) or more Subdivisions eligible for block grants under Section 5.05(b)(ii) shall be divided regionally so that each block-grant eligible Subdivision is a region and the remainder of the state is a region.

(iv) *Advisory Committee.* The Settling State shall designate an Opioid Settlement Remediation Advisory Committee (the “Advisory Committee”) to provide input and recommendations regarding remediation spending from that Settling State’s Remediation Accounts Fund. A Settling State may elect to use an existing advisory committee or similar entity (created outside of a State-Subdivision Agreement or Allocation Statute); *provided, however*, the Advisory Committee or similar entity shall meet the following requirements:

(A) Written guidelines that establish the formation and composition of the Advisory Committee, terms of service for members, contingency for removal or resignation of members, a schedule of meetings, and any other administrative details;

(B) Composition that includes at least an equal number of local representatives as state representatives;

(C) A process for receiving input from Subdivisions and other communities regarding how the opioid crisis is affecting their communities, their remediation needs, and proposals for remediation strategies and responses; and

(D) A process by which Advisory Committee recommendations for expenditures for Opioid Remediation will be made to and considered by the appropriate state agencies.

**Section 5.06 Nature of Payment.** The Payment Parties, the Settling States and the Participating Subdivisions each acknowledge and agree that notwithstanding anything to the contrary in this Agreement, including, but not limited to, the scope of the Shareholder Released Claims and such other Claims released pursuant to the Release:

(a) They have entered into this Agreement to avoid the delay, expense, inconvenience, and uncertainty of further litigation;

(b) (i) The Settling States and Participating Subdivisions sought compensatory restitution and remediation for alleged damage or harm caused by the potential violation of a law (within the meaning of 26 U.S.C. § 162(f)(2)(A) and 26 C.F.R. § 1.162-21(e)(4)(i)) as damages for the Alleged Harms allegedly suffered by the Settling States and Participating Subdivisions; (ii) the Compensatory Restitution Amount is less than or equal to the amount, in the aggregate, of the Alleged Harms allegedly suffered by the Settling States and Participating Subdivisions; and (iii) the portion of the Compensatory Restitution



Amount received by each Settling State or Participating Subdivision is less than or equal to the amount of the Alleged Harms allegedly suffered by such Settling State or Participating Subdivision;

(c) The payment of the Compensatory Restitution Amount by or on behalf of the Payment Groups constitutes, and is paid for, compensatory restitution and remediation for alleged damage or harm caused by the potential violation of a law (within the meaning of 26 U.S.C. § 162(f)(2)(A) and 26 C.F.R. § 1.162-21(e)(4)(i)) in order to restore, in whole or in part, the Settling States, Participating Subdivisions, and persons to the same position or condition that they would be in had the Settling States, Participating Subdivisions, and persons not suffered the Alleged Harms, and constitutes compensatory restitution and remediation for alleged damage or harm allegedly caused by the potential violation of a law; and

(d) For the avoidance of doubt: (i) the entire Compensatory Restitution Amount is properly characterized as described in this Section 5.06, (ii) no portion of the Compensatory Restitution Amount represents reimbursement to any Settling State, Participating Subdivision, or other person or entity for the fees or costs of any investigation or litigation, including without limitation attorneys' fees, (iii) no portion of the Total Direct Settlement Amount constitutes the disgorgement of any allegedly ill-gotten gains, and (iv) no portion of the Total Direct Settlement Amount is paid for, is in place of, or is properly characterized as the payment of any fine, penalty, punitive damages, or other punitive assessments.

## **ARTICLE 6. ENFORCEMENT.**

### **Section 6.01 Enforceability.**

- (a) Except as provided in Sections 6.01(b) and 6.01(c), this Agreement is enforceable only by the Settling States and the Payment Parties and/or Sackler Parties' Representative and only to the extent set forth herein; Settling States and Participating Subdivisions shall not have enforcement rights against any Payment Party or Shareholder Released Party with respect to either the terms of this Agreement that apply only to or in other Settling States or any Consent Judgment entered into by another Settling State. Except as provided in Section 6.01(b), Participating Subdivisions shall not have enforcement rights against any Payment Party or Shareholder Released Party with respect to this Agreement or any Consent Judgment; *provided, however*, that each Settling State shall allow Participating Subdivisions in such Settling State to notify it of any perceived violations of this Agreement or the applicable Consent Judgment.
- (b) Participating Subdivisions listed on Exhibit G have enforcement rights as to payment allocations and other matters addressed in Section 6.03(a)(ii) and (iii) and Section 6.04.
- (c) Shareholder Released Parties or Released Parties may enforce Article 10 but, for the avoidance of doubt, Released Parties shall not be entitled to enforce Sections 10.02(a), (b) and (d).
- (d) The obligations of the Payment Parties to make Settlement Payments are set forth in the Master Settlement Agreement and are enforceable by the MDT pursuant to the terms of the Master Settlement Agreement.

**Section 6.02 Jurisdiction.** Each Payment Party and Settling State consents to the jurisdiction of (i) the National Arbitration Panel with respect to any National Dispute matter, as defined in Section 6.06(b), and (ii) for disputes addressed pursuant to Section 6.06(a), the court which enters each Settling State's Consent Judgment or, if no such Consent Judgment was entered, a state or territorial court with jurisdiction located wherever the seat of the relevant state government is located. For the avoidance of doubt, no Payment Party or Shareholder Released Party consents to the jurisdiction of any state or court



pursuant to subsection (ii) of this Section for any purpose other than for the resolution of disputes addressed pursuant to Section 6.06(a).

### **Section 6.03 Specific Terms Dispute Resolution.**

#### **(a) Payment and Allocation Disputes**

(i) The failure of a Payment Group to make full and complete payments of amounts determined pursuant to the terms of this Agreement shall be enforced by the MDT pursuant to the Master Settlement Agreement.

(ii) A dispute concerning amounts to be paid on a Payment Date to a Settling State or the Participating Subdivisions listed on a Settling State's Exhibit G shall be addressed pursuant to Section 6.06. Such disputes include, but are not limited to, the earning of Incentive Payments.

(iii) A dispute concerning the application of intrastate allocation and other provisions in Sections 5.03, 5.04 and 5.05 shall be addressed in state court pursuant to Section 6.06(a).

(b) Disputes Addressed in Master Settlement Agreement. Except for matters addressed this Article 6, any dispute that is addressed by the provisions set forth in the Master Settlement Agreement shall be resolved as provided for therein. Whether a dispute is addressed by the provisions set forth in the Master Settlement Agreement shall be resolved as provided therein.

(c) In the event that the Sackler Parties' Representative believes that the ninety-five percent (95%) threshold established in Section 5.02(a) is not being satisfied, any Party may request that the Sackler Parties' Representative and the MDT Advisory Council meet and confer regarding the use of funds to implement Section 5.02(a). The completion of such meet-and-confer process is a precondition to further action regarding any such dispute. The Sackler Parties' Representative and the MDT Advisory Council shall each use reasonable efforts to complete such meet-and-confer process in a timely manner. Further action concerning Section 5.02(a) shall: (i) be limited to Payment Groups seeking to reduce their Annual Remediation Payments by no more than five percent (5%) of the difference between the actual amount of Opioid Remediation and the ninety-five percent (95%) threshold established in Section 5.02(a); (ii) only reduce Annual Remediation Payments to those Settling States and their Participating Subdivision(s) that are below the ninety-five percent (95%) threshold established in Section 5.02(a); and (iii) not reduce Annual Remediation Payments restricted to future Opioid Remediation.

### **Section 6.04 State-Subdivision Enforcement.**

(a) A Subdivision shall not have enforcement rights against a Settling State in which it is located with respect to this Agreement or any Consent Judgment except that a Participating Subdivision listed on Exhibit G shall have enforcement rights (a) as provided for in a State-Subdivision Agreement, Allocation Statute, or Statutory Trust with respect to intrastate allocation or (b) in the absence of a State-Subdivision Agreement, Allocation Statute, or Statutory Trust, to assert allegations that (i) the Settling State's use of Remediation Accounts Fund monies were not used for purposes similar to or in the nature of those uses contained in Exhibit E; or (ii) a Settling State failed to pay funds directly from the Remediation Accounts Fund to a Participating Subdivision eligible to receive a block grant pursuant to Section 5.05(b)(ii).

(b) A Settling State shall have enforcement rights against a Participating Subdivision located in its territory (a) as provided for in a State-Subdivision Agreement, Allocation Statute, or Statutory Trust; or (b) in the absence of a State-Subdivision Agreement, Allocation Statute, or Statutory Trust, to assert

allegations that the Participating Subdivisions' uses of Remediation Accounts Fund monies were not used for purposes similar to or in the nature of those uses contained in Exhibit E.

(c) As between the Settling States and Participating Subdivisions, the above rights are contractual in nature and nothing herein is intended to limit, restrict, change or alter any other existing rights under law.

**Section 6.05 [Reserved].**

**Section 6.06 Other Terms Regarding Dispute Resolution.**

(a) Except to the extent provided by Section 6.03 or Section 6.06(b), all disputes shall be resolved by either the court that entered the relevant Consent Judgment or, if no such Consent Judgment was entered, a state or territorial court with jurisdiction located wherever the seat of the relevant state government is located.

(i) State court proceedings shall be governed by the rules and procedures of the relevant forum.

(ii) For the avoidance of doubt, disputes to be resolved in state court consist of the following:

(A) disputes concerning whether expenditures qualify as Opioid Remediation;

(B) disputes between a Settling State and its Participating Subdivisions as provided by Section 6.04, except to the extent a State-Subdivision Agreement provides for other dispute resolution mechanisms. For the avoidance of doubt, disputes between a Settling State and any Participating Subdivision shall not be considered National Disputes;

(C) whether this Agreement and relevant Consent Judgment are binding under state law;

(D) the extent of the Attorney General's or other participating entity's authority under state law, including the extent of the authority to release claims;

(E) whether the definition of a Bar, a Case-Specific Resolution, lead state agency as described in Section 5.04(d)(ii), Later Litigating Subdivision, Litigating Subdivision, or Threshold Motion have been met; and

(F) enforcement of the injunctive relief terms in Article 3.

(iii) Any Party may request that the National Arbitration Panel provide an interpretation of any provision of this Agreement that is relevant to the state court determination, and the National Arbitration Panel shall make reasonable best efforts to supply such interpretation within the earlier of thirty (30) calendar days or the time period required by the state court proceedings. Any Party may submit that interpretation to the state court to the extent permitted by, and for such weight provided by, the state court's rules and procedures. If requested by a Party, the National Arbitration Panel shall request that its interpretation be accepted in the form of an amicus curiae brief, and any attorneys' fees and costs for preparing any such filing shall be paid for by the requesting Party.

(b) National Disputes involving a Settling State and/or a Payment Party or Shareholder Released Party or Released Party (in the case of a Released Party, solely with respect to issues relating to the Release of such Released Party) shall be resolved by the National Arbitration Panel.

(i) “National Disputes” are disputes that are not addressed in Section 6.03, and which are exceptions to Section 6.06(a)’s presumption of resolution in state courts because they involve issues of interpretation of the provisions in Article 10 and the Release. For the avoidance of doubt, disputes between a Settling State and any Participating Subdivision shall not be considered National Disputes. National Disputes include, but are not limited to, the following:

(A) the amount of offset attributable to Non-Settling States;

(B) defined terms relating to Article 10 and the Release;

(C) the interpretation and application of any most-favored nation provision in Section 13.04;

(D) questions regarding the performance and/or removal of the Settlement Administrator;

(E) disputes that require a determination of the sufficiency of participation in order to qualify for Incentive Payment A, Incentive Payment B, Incentive Payment C or Incentive Payment D;

(F) disputes involving a Releasor’s compliance with, and the appropriate remedy under, Section 10.02(d)(iii);

(G) disputes requiring the interpretation of Agreement terms that are national in scope or impact, which shall mean disputes requiring the interpretation of Agreement terms that (i) concretely affect four (4) or more Settling States; and (ii) do not turn on unique definitions and interpretations under state law; and

(H) any dispute subject to resolution under Section 6.06(a) but for which all parties to the dispute agree to arbitration before the National Arbitration Panel under the provisions of this Section 6.06(b).

(ii) The National Arbitration Panel shall be comprised of three (3) arbitrators. One (1) arbitrator shall be chosen by the Sackler Parties’ Representative, one (1) arbitrator shall be chosen by the MDT Advisory Council with due input from Participating Subdivisions listed on Exhibit G, and the third arbitrator shall be agreed upon by the first two (2) arbitrators. The membership of the National Arbitration Panel is intended to remain constant throughout the term of this Agreement, but in the event that replacements are required, the retiring arbitrator shall be replaced by the party(s) that selected him/her.

(iii) Each arbitrator shall be impartial and independent regarding any dispute. If any party disputes the independence or impartiality of any arbitrator on the National Arbitration Panel, the party may request the National Arbitration Panel to replace such arbitrator. The National Arbitration Panel shall have the authority to remove an arbitrator on these grounds. The membership of the National Arbitration Panel is intended to remain constant throughout the term of this Agreement, but in the event that an arbitrator removal occurs, the removed arbitrator shall be replaced by the party(s) that selected him/her.

(iv) The National Arbitration Panel shall make reasonable best efforts to decide all matters within one hundred eighty (180) calendar days of filing, and in no event shall it take longer than one (1) year. The National Arbitration shall make reasonable efforts to decide all contractual interpretation issues that may arise in connection with this agreement within sixty (60) calendar days of filing, and in no event shall it take longer than one hundred eighty (180) calendar days of filing.

(v) The National Arbitration Panel shall conduct all proceedings in a reasonably streamlined process consistent with an opportunity for the parties to be heard. Issues shall be resolved without the need for live witnesses where feasible and with a presumption in favor of remote participation to minimize the burdens on the parties.

(vi) The seat of arbitration shall be New York, New York.

(vii) To the extent allowed under state law, a Settling State, a Participating Subdivision that has enforcement rights pursuant to Section 6.01, and (at any party's request) the National Arbitration Panel may certify to an appropriate state court any question of state law. The National Arbitration Panel shall be bound by a final state court determination of such a certified question. The time period for the arbitration shall be tolled during the course of the certification process.

(viii) The arbitrators shall be guided by any authoritative interpretation of state law, including any declaratory judgment or similar relief obtained by a Settling State, a Participating Subdivision that has enforcement rights pursuant to Section 6.01, or a Payment Party, Shareholder Released Party, or Released Party on a state law issue.

(ix) The decisions of the National Arbitration Panel shall be binding on Settling States, Participating Subdivisions, Payment Parties, the Sackler Parties' Representative, the Settlement Administrator, and, as applicable, Released Parties. In any proceeding before the National Arbitration Panel involving a dispute between a Settling State and Payment Party or the Sackler Parties' Representative whose resolution could prejudice the rights of a Participating Subdivision(s) in that Settling State, such Participating Subdivision(s) shall be allowed to file a statement of view in the proceeding.

(x) Nothing herein shall be construed so as to limit or otherwise restrict a Settling State from seeking injunctive or other equitable relief in state court to protect the health, safety, or welfare of its citizens.

(xi) Each party shall bear its own costs in any arbitration or court proceeding arising under this Article 6. The costs for the arbitrators on the National Arbitration Panel shall be divided and paid equally by the disputing sides for each individual dispute, e.g., a dispute between Payment Groups and/or the Sackler Parties' Representative and Settling States/Participating Subdivisions shall be split fifty percent (50%) by the relevant Payment Parties and fifty percent (50%) by the Settling States/Participating Subdivisions that are parties to the dispute; a dispute between a Settling State and a Participating Subdivision shall be split fifty percent (50%) by the Settling State that is party to the dispute and fifty percent (50%) by any Participating Subdivisions that are parties to the dispute.

(c) Prior to initiating an action to enforce pursuant to this Section 6.06, the complaining party must:

(i) Provide written notice to the MDT Advisory Council and/or the Sackler Parties' Representative of its complaint, including the provision of the Consent Judgment and/or Agreement that the practice appears to violate, as well as the basis for its interpretation of the disputed provision. The MDT Advisory Council shall establish a reasonable process and timeline for obtaining additional information from the involved parties; *provided, however*, that the date the MDT Advisory Council establishes for obtaining additional information from the parties shall not be more than forty-five (45) calendar days following the notice. The MDT Advisory Council may advise the involved parties of its views on the complaint and/or seek to resolve the complaint informally.

(ii) Wait to commence any enforcement action until thirty (30) calendar days after the date that the MDT Advisory Council establishes for obtaining additional information from the involved parties.

(iii) If the parties to a dispute cannot agree on the proper forum for resolution of the dispute under the provisions of Section 6.06(a) or Section 6.06(b), the MDT Advisory Council will determine the forum where the dispute will be initiated within twenty-eight (28) calendar days of receiving notification of the dispute relating to the proper forum. The forum identified by such committee shall be the sole forum for litigating the issue of which forum will hear the substantive dispute, and the MDT Advisory Council's identification of such forum in the first instance shall not be entitled to deference by the forum selected.

**Section 6.07 Consent to Be Bound by MSA Arbitration Clauses.** Subject to the introductory language in this Agreement relating to enforcement and conflict(s) between this Agreement, the Master Settlement Agreement, the Plan and/or the Confirmation Order, the Parties and each of the Participating Subdivisions acknowledge and agree that the terms and subject matter set forth in Section 11.13 of the MSA shall be binding upon and enforceable against each such Settling States and Participating Subdivisions.

## **ARTICLE 7. PARTICIPATION BY SUBDIVISIONS.**

**Section 7.01 Notice.** No later than fifteen (15) calendar days after the Preliminary Agreement Date, the Implementation Administrator shall send individual written notice (which may be delivered via e-mail or other electronic means and may be combined with distribution of the Subdivision Settlement Participation Form) of the opportunity to participate in this Agreement and the requirements of participation to all Subdivisions in the Settling States that are (1) Litigating Subdivisions or (2) Non-Litigating Subdivisions listed on Exhibit G.<sup>14</sup> To the extent a Special District is entitled to an allocation for a direct payment through its inclusion in Exhibit G pursuant to a State-Subdivision Agreement, Allocation Statute, Statutory Trust, or voluntary redistribution, the Implementation Administrator, with the cooperation of the Settling States shall also send individual written notice (which may be delivered via e-mail or other electronic means) of the opportunity to participate in this Agreement and the requirements of participation to such Special Districts. Unless otherwise agreed by the Parties (which includes the update requirements in the definitions of "Litigating Subdivision" and "Non-Litigating Threshold Subdivision"), the version of Exhibit G used for notice shall be the one in place as of the Preliminary Agreement Date. Notice (which may be delivered via e-mail or other electronic means) shall also be provided simultaneously to counsel of record for Litigating Subdivisions and known counsel for Non-Litigating Subdivisions listed on Exhibit G.

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<sup>14</sup> Because the Shareholder Released Parties have settled with Oklahoma, but not with Oklahoma Subdivisions, the Implementation Administrator shall send individual written notice of the opportunity to participate in this Agreement and the requirements of participation to all Oklahoma Subdivisions. For purposes of this Section 7, references to a "Subdivision in a Settling State" shall include Subdivisions in Oklahoma.



The Settling States, with the cooperation of the Sackler Parties' Representative, may also provide general notice reasonably calculated to alert Non-Litigating Subdivisions in the Settling States to this Agreement, the opportunity to participate in it, and the requirements for participation. Such notice may include publication and other standard forms of notification, as well as notice to state and county organizations such as the National Association of Counties and the National League of Cities. The notice will include that the deadline for becoming an Initial Participating Subdivision is the Initial Subdivision Participation Date. Nothing contained herein shall preclude a Settling State from providing further notice to or otherwise contacting any of its Subdivisions about becoming a Participating Subdivision, including beginning any of the activities described in this paragraph prior to the Preliminary Agreement Date. The Sackler Parties' Representative shall have reasonable access to the Implementation Administrator and any of its records and analyses regarding the progress of the Subdivision solicitation as such records and analyses are produced.

**Section 7.02 Requirements for Becoming a Participating Subdivision—Non-Litigating Subdivisions.** A Non-Litigating Subdivision in a Settling State may become a Participating Subdivision by returning an executed Subdivision Settlement Participation Form to the Implementation Administrator or Settlement Administrator (which may be executed and returned by electronic means established by the Implementation Administrator or Settlement Administrator) specifying (1) that the Subdivision agrees to the terms of this Agreement pertaining to Subdivisions, (2) that the Subdivision releases all Shareholder Released Claims against all Shareholder Released Parties and such other Claims released pursuant to the Release against Released Parties, subject to the terms of this Agreement and provided that any such dismissal may be subject to the pursuit by the MDT of a Release Remedy (as defined in the Master Settlement Agreement) under Master Settlement Agreement Section 9.02(a)(ii)(B) with respect to a Payment Party, (3) that the Subdivision agrees to use monies it receives, if any, from the Settlement Fund pursuant to the applicable requirements of Article 5; *provided, however*, that Non-Litigating Subdivisions may only use monies originating from the Settlement Fund for purposes that qualify as Opioid Remediation, and (4) that the Subdivision submits to the jurisdiction of the court where the applicable Consent Judgment is filed for purposes limited to that court's role under this Agreement.<sup>15</sup> The required Subdivision Settlement Participation Form is attached as Exhibit K.

**Section 7.03 Requirements for Becoming a Participating Subdivision—Litigating Subdivisions/Later Litigating Subdivisions.** A Litigating Subdivision or Later Litigating Subdivision in a Settling State may become a Participating Subdivision by returning an executed Subdivision Settlement Participation Form to the Implementation Administrator or Settlement Administrator (which may be executed and returned by electronic means established by the Implementation Administrator or Settlement Administrator) and upon dismissal with prejudice of its lawsuit following the Effective Date, provided that any such dismissal may be subject to the pursuit by the MDT of a Release Remedy (as defined in the Master Settlement Agreement) under Master Settlement Agreement Section 9.02(a)(ii)(B) with respect to a Payment Party. The required Subdivision Settlement Participation Form is attached as Exhibit K. A Settling State may require each Litigating Subdivision in that Settling State to specify on the Subdivision Settlement Participation Form whether its counsel has waived any contingency fee contract with that Participating Subdivision and whether, if eligible, it intends to seek fees pursuant to Exhibit R. The Settlement Administrator shall provide quarterly reports of this information to the parties to this Agreement, with such report being organized by Settling State.

**Section 7.04 Initial Participating Subdivisions.** A Subdivision qualifies as an Initial Participating Subdivision if it meets the applicable requirements for becoming a Participating Subdivision set forth in Section 7.02 or Section 7.03 by the Initial Subdivision Participation Date. All Subdivision Settlement Participation Forms shall be held in escrow by the Implementation Administrator until the

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<sup>15</sup> Note to Draft: The form of Subdivision Settlement Participation Form attached as Exhibit K to include all of the foregoing items.



Effective Date. If, for any reason, the Agreement does not become effective, all obligations created by such forms and releases in them shall be void *ab initio* and all Subdivision Settlement Participation Forms shall be returned to counsel for Litigating Subdivisions or to the Subdivisions not represented by counsel or destroyed to the extent that such destruction is not prohibited by then existing document preservation obligation. The holding of Subdivision Settlement Participation Forms in escrow shall only be for the purpose of addressing the contingency that the Agreement does not become effective and the forms shall not be held in escrow by the Implementation Administrator for any other purpose.

**Section 7.05 Later Participating Subdivisions.** A Subdivision that is not an Initial Participating Subdivision may become a Later Participating Subdivision by meeting the applicable requirements for becoming a Participating Subdivision set forth in Section 7.02 or Section 7.03 after the Initial Subdivision Participation Date and by agreeing to be subject to the terms of a State-Subdivision Agreement (if any) or any other structure adopted or applicable pursuant to Section 5.04 or Section 5.05. The following provisions govern what a Later Participating Subdivision can receive (but do not apply to Initial Participating Subdivisions):

(a) A Later Participating Subdivision shall not receive any share of any Annual Remediation Payment due before it became a Participating Subdivision.

(b) A Later Participating Subdivision that becomes a Participating Subdivision more than six months after the Effective Date, shall receive seventy-five percent (75%) of the share of future Base Payments or Incentive Payments that it would have received had it become a Later Participating Subdivision prior to that date (unless the Later Participating Subdivision is subject to Section 7.05(c) or Section 7.05(d)).

(c) A Later Participating Subdivision that, after the Initial Subdivision Participation Date, maintains a lawsuit for a Shareholder Released Claim(s) against a Shareholder Released Party and has judgment entered against it on every such Shareholder Released Claim before it became a Participating Subdivision (other than a consensual dismissal with prejudice) shall receive fifty percent (50%) of the share of future Base Payments or Incentive Payments that it would have received had it become a Later Participating Subdivision prior to such judgment; *provided, however*, that if the Subdivision appeals the judgment and the judgment is affirmed with finality before the Subdivision becomes a Participating Subdivision, the Subdivision shall not receive any share of any Base Payment or Incentive Payments.

(d) A Later Participating Subdivision that becomes a Participating Subdivision while a Bar has been in effect for thirty (30) days or more shall receive twenty-five percent (25%) of the share of future Base Payments or Incentive Payments that it would have received had it become a Later Participating Subdivision without such Bar being in effect.

(e) The reductions set out in Section 7.05(a)-(d) may be waived by agreement between the Sackler Parties' Representative and the MDT Advisory Council.

**Section 7.06 Prior Settling Subdivisions.** A Prior Settling Subdivision cannot be a Participating Subdivision. However, subject to approval by the Subdivision's Settling State, the MDT Advisory Council and the Sackler Parties' Representative, a Prior Settling Subdivision can become a Participating Subdivision or a Later Participating Subdivision if the payments it receives for Opioid Remediation from the separate agreement do not exceed amounts it would have received in Annual Remediation Payments if it had been an Initial Participating Subdivision.

**Section 7.07 No Increase in Payments.** Except for any effect on Incentive Payments, amounts to be received by Later Participating Subdivisions shall not increase the payments due from the Payment Parties.

**Section 7.08 Ineligible Subdivisions.** Prior Litigating Subdivisions whose claims against the Shareholder Released Parties have already been fully resolved and dismissed with prejudice cannot be Participating Subdivisions, unless the Sackler Parties' Representative consents to their participation. Subdivisions located in Non-Settling States cannot be Participating Subdivisions.

**Section 7.09 Non-Participating Subdivisions.** Non-Participating Subdivisions shall not directly receive any portion of any Annual Remediation Payment, including from the State Fund and direct distributions from the Remediation Accounts Fund; however, a Settling State may choose to fund future Opioid Remediation that indirectly benefits Non-Participating Subdivisions.

**Section 7.10 Unpaid Allocations to Later Participating Subdivisions and Non-Participating Subdivisions.** Any Base Payment and Incentive Payments allocated pursuant to Section 5.04 to a Later Participating Subdivision or Non-Participating Subdivision that cannot be paid pursuant to this Article 7, including the amounts that remain unpaid after the reductions required by Section 7.05(b) through Section 7.05(d), will be allocated to the Remediation Accounts Fund for the Settling State in which the Subdivision is located, unless those payments are redirected elsewhere by a State-Subdivision Agreement or by a Statutory Trust.

## **ARTICLE 8.**

### **CONDITION TO EFFECTIVENESS OF AGREEMENT AND FILING OF CONSENT JUDGMENT**

**Section 8.01 Determination to Proceed with Settlement – Settling States.** No later than fifteen (15) calendar days after the Initial Subdivision Participation Date, the Settling States, acting through the States' AG Negotiating Group, shall deliver a Subdivision Participation Threshold Notice to the Sackler Parties' Representative, the MSA PEC and the MSGE Group stating whether or not they elect to proceed with the Agreement and, if proceeding, listing all Settling States. If the Settling States elect not to proceed, this Agreement will have no further effect, and all releases (including those contained in Subdivision Settlement Participation Forms) and other commitments or obligations contained herein or in Subdivision Settlement Participation Forms will be void. Within seven (7) calendar days of the Settling States informing the Sackler Parties' Representative that there is sufficient participation to proceed pursuant to this Section 8.01, the Settling States will deliver all signatures and Releases required by the Agreement to be provided by the Settling States to the Sackler Parties' Representative.

**Section 8.02 Determination to Proceed with Settlement – Sackler Parties' Representative.** If the Settling States elect to proceed, the Sackler Parties' Representative will then have fifteen (15) calendar days to determine whether there is sufficient Eligible State participation, sufficient Subdivision participation, and sufficient resolution of the Cause of Action of the Litigating Subdivisions and the Non-Litigating Threshold Subdivisions in the Settling States (through participation under Article 7, Case-Specific Resolution(s) and Bar(s)) to proceed with this Agreement. The determination shall be communicated by the delivery of the Sackler (Subdivision) Participation Notice to the States' AG Negotiating Group, the MDL PEC, and the MSGE Group, which determination and communication shall be made, subject to any other agreements with any mediator parties, in the sole discretion of the Sackler Parties' Representative and may be based on any criteria or factors deemed relevant by the Sackler Parties' Representative.

**Section 8.03 Reference Date.** If the Sackler (Subdivision) Participation Notice communicates the Sackler Parties' Representative's decision to proceed, the Reference Date shall occur on the date of such communication and subject to Section 8.05, the obligations in the Subdivision Settlement Participation Forms will be effective and binding as of the Effective Date subject to the terms of this Agreement. If the Sackler (Subdivision) Participation Notice communicates the Sackler Parties' Representative's decision to not proceed, this Agreement will have no further effect and all releases (including those contained in Subdivision Settlement Participation Forms) and other commitments or obligations contained herein or in Subdivision Settlement Participation Forms will be void. Following the Reference Date, Subdivisions that elected to become Participating Subdivisions shall cease litigation activity against the Shareholder Released Parties and Released Parties, including by jointly seeking stays or, where appropriate, severance of claim against the Shareholder Released Parties or Released Parties, where feasible, and otherwise to minimize such activity by means of agreed deadline extensions and agreed postponement of depositions, document productions, and motion practice if a motion to stay or sever is not feasible or is denied, provided, however, that nothing herein shall require any Participating Subdivision to take any action in connection with this Section 8.03 or otherwise that would prejudice such Subdivision's ability to recommence or continue such litigation in the event the Effective Date does not occur or, if with respect to a particular Payment Party and pursuant to the Master Settlement Agreement, the MDT pursues the Release Remedy (as defined in the Master Settlement Agreement) under Master Settlement Agreement Section 9.02(a)(ii)(B) with respect to such Payment Party.

**Section 8.04 Consent Judgments.** The Settling States will proceed to file the Consent Judgments after the Effective Date.

**Section 8.05 Condition to Effectiveness of this Agreement.** The Parties agree and acknowledge that this Agreement shall not become effective unless the conditions in Article 10 of the Master Settlement Agreement have been satisfied or waived by the Sackler Parties' Representative and the MDT in accordance with the terms of the Master Settlement Agreement (with the consent of the parties referenced therein, to the extent required to give effect to such satisfaction or waiver). If the conditions in Article 10 of the Master Settlement Agreement are not satisfied or waived by the Sackler Parties' Representative and the MDT (with the consent of the parties referenced therein, to the extent required to give effect to such satisfaction or waiver) pursuant to the terms of the Master Settlement Agreement on the Settlement Effective Date, or the Master Settlement Agreement is terminated, this Agreement will have no further effect and all releases (including the Releases and those contained in Subdivision Settlement Participation Forms) and other commitments or obligations contained herein or in Subdivision Settlement Participation Forms will be void.

## **ARTICLE 9. ANNUAL FEE PAYMENTS**

**Section 9.01 Local Government Costs and Expenses Fund<sup>16</sup>.** The agreed terms concerning the Local Government Costs and Expenses Fund incurred on behalf of Participating Subdivisions are set forth in Exhibit R and incorporated herein by reference. The schedule for the maximum amounts allocable to the Payment Groups on each Payment Date for Local Government Costs and Expenses Fund payments pursuant to this Agreement is set forth in Exhibit M-3 before accounting for any prepayments.<sup>17</sup> Each Payment Group's share of each Payment Date's Local Government Costs and Expenses Fund shall be calculated pursuant to Exhibit M-X. For the avoidance of doubt, the payments to the Local Government

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<sup>16</sup> NTD: States discussing moving "Exhibit R" out of GESA and into MSA or Plan.

<sup>17</sup> Note to Draft: Sacklers must sign off on Exhibit R before this Agreement can be finalized.

Costs and Expenses Fund provided by this Section 9.01 do not include amounts designated pursuant to Section 5.9(a) of the Plan as attorneys' fees and costs based on Estate Distributions.

**Section 9.02 State Direct Expenses.** The agreed terms concerning allocation of the State Direct Expenses are set forth in Exhibit S and are incorporated herein by reference. State Direct Expenses shall not be paid to Non-Settling States. The schedule for the maximum amounts allocable to the Payment Groups on each Payment Date for State Direct Expenses payments is set forth in Exhibit M-3 before accounting for any prepayments. A Payment Group's payment obligation on any Payment Date shall be reduced by the portion of State Direct Expenses attributable to any Non-Settling State for that Payment Date as set out in Exhibit M-X. Each Payment Group's share of each Payment Date's State Direct Expenses shall also be calculated pursuant to Exhibit M-X.

**Section 9.03 Payment and Disbursement.** The Annual Fee Payment for each Payment Date shall be calculated by the Settlement Administrator pursuant to this Article 9 and made to the MDT pursuant to the Master Settlement Agreement. Disbursements for Subdivision and State attorneys' fees and expenses are made pursuant to Section 5.9 of the Plan. For the avoidance of doubt, except as provided in Section 9.04, the terms in this agreement concerning the Local Government Costs and Expenses Fund and the State Direct Expenses concern payment obligations and do not address the process for the disbursement of those funds, which is covered by the Plan. To the extent Annual Fee Payment obligations are greater than the fee disbursements required by the Plan on any Payment Date, any such excess shall be allocated ratably as additional Base Payment funds to States with scheduled Base Payments for that Payment Date.

**Section 9.04 Excess Annual Fee Payment Amounts.**

(a) Pursuant to Section 5.9 of the Plan, there is a cap on disbursements for the Local Government Cost and Expense Fund and a cap on disbursements for the State Expenses Fund. Should the cap for the Local Government Cost and Expense Fund be reached prior to the completion of the Local Government Costs and Expenses Fund payment obligations pursuant to Section 9.01 of this Agreement, the remaining Local Government Costs and Expenses Fund obligations pursuant to Section 9.01 of this Agreement shall be directed by the MDT to the Settlement Fund and be allocated ratably as additional Base Payment funds to States with scheduled Base Payments for that Payment Date. Similarly, should the cap for the State Expenses Fund be reached prior to the completion of the State Direct Expenses payment obligations pursuant to Section 9.02 of this Agreement, the remaining State Direct Expenses payments shall be directed by the MDT to the Settlement Fund and be allocated as additional Base Payment funds for that Payment Date. The Settlement Administrator shall keep the Settling States and the Sackler Parties' Representative reasonably informed about when the caps described in this Section 9.04 will be met.

**ARTICLE 10.  
RELEASE**

**Section 10.01 Delivery of Release.** Each Settling State and Participating Subdivision shall, on behalf of itself and its applicable Releasors, deliver a Release, pursuant to this Agreement, which Releases shall be effective upon the occurrence of the Effective Date, provided that such Releases may be subject to the pursuit by the MDT of a Release Remedy (as defined in the Master Settlement Agreement) under Master Settlement Agreement Section 9.02(a)(ii)(B) with respect to a Payment Party. For the avoidance of doubt, the delivery of the Consent Judgments following the Effective Date shall have no impact on the effectiveness of the Releases.

**Section 10.02 Claim-Over and Non-Party Settlement.**

(a) It is the intent of the Parties that:

(i) Shareholder Released Parties and Released Parties should not seek contribution or indemnification (other than pursuant to an insurance contract) from other parties for their payment obligations under this Agreement;

(ii) the payments made under the Master Settlement Agreement shall be the sole payments made by the Shareholder Released Parties to the Releasors involving, arising out of, or related to Shareholder Released Claims (or conduct that would give rise to a Shareholder Released Claim if engaged in by a Shareholder Released Party);

(iii) A Cause of Action by Releasors against non-Parties should not result in additional payments by Shareholder Released Parties, whether through contribution, indemnification or any other means; and

(iv) the Agreement meets the requirements of the Uniform Contribution Among Joint Tortfeasors Act and any similar state law or doctrine that reduces or discharges a Shareholder Released Party's liability to any other parties.

The provisions of this Section 10.02 are intended to be implemented consistent with these principles. This Agreement and the releases and dismissals provided for herein are made in good faith.

(b) No Shareholder Released Party 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, health care practitioner; provided that a Shareholder Released Party shall be relieved of this prohibition with respect to any entity that asserts a Claim-Over against it. For the avoidance of doubt, nothing herein shall prohibit a Shareholder Released Party or Released Party from recovering amounts owed pursuant to insurance contracts.

(c) To the extent that, on or after the Effective Date, any Releasor negotiates and enters into a Non-Party Settlement, 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), unless prohibited from doing so under applicable law, in the Non-Party Settlement a prohibition on contribution or indemnity of any kind against the Shareholder Released Parties and Released Parties substantially equivalent to that required from the Shareholder Released Parties in Section 10.02(b), or a release from such Non-Shareholder Released Party in favor of the Shareholder Released Parties and Released Parties (in a form equivalent to the releases contained in this Agreement, including the Release) of any Claim-Over. Each Releasor acknowledges and agrees that it shall take reasonable steps to enforce such agreement related to indemnification and contribution, and any other agreement related to indemnification and contribution from a prior opioid settlement, in each case as applicable, for the benefit of the Shareholder Released Parties and the Released Parties. Such agreement is a material term of this Agreement.

(d) In the event that any Releasor obtains a judgment with respect to Non-Party Covered Conduct against a Non-Shareholder Released Party that does not contain a prohibition like that described in Section 10.02(c) or any Releasor files a Non-Party Covered Conduct Claim against a Non-Shareholder Released Party in bankruptcy or a Releasor is prevented for any reason from obtaining a prohibition/release in a Non-Party Settlement as provided in Section 10.02(c), and such Non-Shareholder Released Party asserts a Claim-Over against a Shareholder Released Party, the Shareholder Released Party shall be relieved of the prohibition in Section 10.02(b) with respect to that Non-Shareholder



Released Party and that Releasor and the Sackler Parties' Representative shall take the following actions to ensure that the Shareholder Released Parties do not pay more with respect to Covered Conduct to Releasors or to Non-Shareholder Released Parties than the amounts owed under this Settlement Agreement by Payment Groups:

(i) The Sackler Parties' Representative shall notify that Releasor of the Claim-Over within sixty (60) calendar days of when it becomes aware of the assertion of the Claim-Over or sixty (60) calendar days of the Effective Date of this Settlement Agreement, whichever is later;

(ii) The Sackler Parties' Representative and that Releasor shall meet and confer concerning the means to hold Shareholder Released Parties harmless and ensure that they are not required to pay more with respect to Covered Conduct than the amounts owed by the Payment Groups under this Agreement;

(iii) That Releasor and the Sackler Parties' Representative shall take steps sufficient and permissible under the law of the state of the Releasor to hold Shareholder Released Parties harmless from the Claim-Over and ensure Shareholder Released Parties are not required to pay more with respect to Covered Conduct than the amounts owed by the Payment Groups under this Agreement. Such steps may include, where permissible:

(A) Filing of motions to dismiss or such other appropriate motion by the Sackler Parties' Representative or Shareholder Released Parties and supported by Releasors, in response to any claim filed in litigation or arbitration;

(B) Reduction of that Releasors' Claim and any judgment it has obtained or may obtain against such Non-Shareholder Released Party by whatever amount or percentage is necessary to extinguish such Claim-Over under applicable law, up to the amount that Releasor has obtained, may obtain, or has authority to control from such Non-Shareholder Released Party;

(C) Placement into escrow of funds paid by the Non-Shareholder Released Parties such that those funds are available to satisfy the Claim-Over;

(D) Return of monies paid by Payment Groups to that Releasor under this Settlement Agreement to permit satisfaction of a judgment against or settlement with the Non-Shareholder Released Party to satisfy the Claim-Over;

(E) Payment of monies to Shareholder Released Parties by that Releasor to ensure they are held harmless from such Claim-Over, up to the amount that Releasor has obtained, may obtain, or has authority to control from such Non-Shareholder Released Party;

(F) Credits to Payment Groups under this Agreement to reduce the overall amounts to be paid under the Agreement such that they are held harmless from the Claim-Over; and

(G) Such other actions as that Releasor and Payment Parties, the Sackler Parties' Representative may devise to hold Shareholder Released Parties harmless from the Claim-Over.



(iv) The actions taken pursuant to paragraph (iii) must, in combination, ensure that Payment Groups are not required to pay more with respect to Covered Conduct than the amounts owed by them under this Agreement.

(v) In the event of any dispute over the sufficiency of the actions taken pursuant to paragraph (iii), that Releasor and the Sackler Parties' Representative may seek review by the National Arbitration Panel, provided that, if the parties agree, such dispute may be heard by the state court where the relevant Consent Judgment was filed.

(vi) The National Arbitration Panel shall have authority to require Releasors to implement a remedy that includes one or more of the actions specified in paragraph ((iii)) sufficient to hold Shareholder Released Parties fully harmless in accordance with this Section 10.02. In the event that the Panel's actions do not result in Shareholder Released Parties being held fully harmless in accordance with this Section 10.02, the Shareholder Released Parties shall have a claim for breach of this Agreement by Releasors, with the remedy being payment of sufficient funds to hold the Shareholder Released Parties harmless from the Claim-Over. For the avoidance of doubt, the prior sentence does not limit or eliminate any other remedy that the Shareholder Released Parties or Payment Parties may have.

(e) To the extent that the Claim-Over is based on a contractual indemnity, the obligations under Section 10.02(d) shall extend solely to a Non-Party Covered Conduct Claim against a clinic, hospital or other purchaser, distributor or dispenser of Products, a manufacturer that sold Products, a consultant, and/or a pharmacy benefit manager or other third-party payor. The Sackler Parties' Representative shall notify the Settling States, to the extent permitted by applicable law, in the event that any of these types of Non-Shareholder Released Party asserts a Claim-Over arising out of contractual indemnity against it.

**Section 10.03 General Release.** In connection with the releases provided for in this Agreement (including the Release), each Settling State (for itself and its Releasors) and Participating Subdivision (for itself and its Releasors) expressly waives, releases, and forever discharges any and all provisions, rights, and benefits conferred by any law of any state or territory of the United States or other jurisdiction, or principle of common law, which is similar, comparable, or equivalent to § 1542 of the California Civil Code, which reads:

**A GENERAL RELEASE DOES NOT EXTEND TO A CAUSE OF ACTION THAT THE CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE AND THAT IF KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY.**

A Releasor may hereafter discover facts other than or different from those which it knows, believes, or assumes to be true with respect to the Shareholder Released Claims and such other Claims released pursuant to the Release, but each Settling State (for itself and its Releasors) and Participating Subdivision hereby expressly waives and fully, finally, and forever settles, releases and discharges, upon the Effective Date, any and all Shareholder Released Claims and such other Claims released pursuant to the Release that may exist as of such date but which Releasors do not know or suspect to exist, whether through ignorance, oversight, error, negligence or through no fault whatsoever, and which, if known, would materially affect the Settling States' decision to enter into this Agreement or the Participating Subdivisions' decision to participate in this Agreement.

**Section 10.04 Assigned Interest Waiver.** To the extent that any Settling State has any direct or indirect interest in any rights of a third-party that is a debtor under the Bankruptcy Code as a result of a claim arising out of Covered Conduct by way of assignment or otherwise, including as a result of being the beneficiary of a trust or other distribution entity, to assert claims against a Shareholder Released Party or Released Party (whether derivatively or otherwise), under any legal or equitable theory, including for indemnification, contribution, or subrogation, the Settling State waives the right to assert any such claim, or to receive a distribution or any benefit on account of such claim and such claim, distribution, or benefit shall be deemed assigned to such Shareholder Released Party or Released Party, as applicable.

**Section 10.05 Res Judicata.** Nothing in this Agreement shall be deemed to reduce the scope of the res judicata or claim preclusive effect of this Agreement, and/or any Consent Judgment or other judgment entered on this Agreement, gives rise to under applicable law.

**Section 10.06 Representation and Warranty.** The signatories hereto on behalf of their respective Settling States expressly represent and warrant that they have (or have obtained, or will obtain no later than the date set forth in Section 8.01) the authority to settle and release, to the maximum extent of the Settling State's power, all Shareholder Released Claims and such other Claims released pursuant to the Release of (1) their respective Settling States, (2) all past and present executive departments, state agencies, divisions, boards, commissions and instrumentalities with the regulatory authority to enforce state and federal controlled substances acts, and (3) any of their respective Settling State's past and present executive departments, agencies, divisions, boards, commissions, and instrumentalities that have the authority to bring a Shareholder Released Claim or Released Claim. 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 Settling State's Governor. Also for the purposes of clause (3) of this Section 10.06, a release from a Settling State's Governor as set forth in Exhibit V is sufficient to demonstrate that the appropriate releases have been obtained.

**Section 10.07 Effectiveness.** The releases set forth in this Agreement (including the Release) shall not be impacted in any way by any dispute that exists, has existed, or may later exist between or among the 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 Settlement Fund or any portion thereof, or by the enactment of future laws, or by any seizure of the Settlement Fund or any portion thereof.

**Section 10.08 Cooperation.** Releasors (1) will not encourage any person or entity to bring or maintain any Shareholder Released Claim against any Shareholder Released Party or any other Claims released pursuant to the Release against any Released Parties and (2) will reasonably cooperate with and not oppose any effort by a Shareholder Released Party or Released Party, as applicable, to secure the prompt dismissal of any and all Shareholder Released Claims or any other Claims released pursuant to the Release against any Release Parties, including suits brought by non-Releasors based on Shareholder Released Claims or any other Claims released pursuant to the Release against any Released Parties. Applicable Releasors will meet and confer and make reasonable efforts to resolve any action that is filed by a Subdivision against a Shareholder Released Party or Released Party on or after the date the Preliminary Agreement Date. This provision shall not require a Settling State to make any monetary payment or adjustment to allocation or incur other obligation.

**Section 10.09 Non-Released Claims.** Notwithstanding the foregoing or anything herein or in any definition of Released Claims to the contrary (either in this Agreement or in the Plan), neither this Agreement nor the Release shall waive, release or limit any Excluded Claims.

**ARTICLE 11.  
LATER LITIGATING SUBDIVISIONS**

**Section 11.01 Shareholder Released Claims against Shareholder Released Parties.** If a Later Litigating Subdivision in a Settling State maintains a lawsuit for a Shareholder Released Claim against a Shareholder Released Party after the Effective Date the Shareholder Released Party shall take ordinary and reasonable measures to defend the action, including filing a Threshold Motion with respect to the Shareholder Released Claim. The Shareholder Released Party shall further notify the Settling State and Settlement Administrator immediately upon notice of a Later Litigating Subdivision bringing a lawsuit for a Shareholder Released Claim and shall not oppose a Settling State's submission in support of the Threshold Motion. The Shareholder Released Parties shall give the relevant Settling State a reasonable opportunity to extinguish the Shareholder Released Claims without any payment or any other obligations being imposed upon any Shareholder Released Parties (apart from the Total Direct Settlement Amount payable by the Payment Groups under the Agreement or the Injunctive Relief Terms incurred by it). The relevant Settling State and Shareholder Released Party shall confer and use reasonable efforts to promptly resolve the lawsuit so that it is dismissed with prejudice. Nothing in this subsection creates an obligation for a Settling State to make a monetary payment or incur any other obligation to an entity filing a lawsuit.

**Section 11.02 No Support for Litigating Subdivisions.** The Settling States will not encourage, facilitate, or assist in any manner whatsoever Subdivision litigation for Covered Conduct against any Shareholder Released Party or Released Party in any State, regardless of whether those claims were filed against the Shareholder Released Party or Released Party, as applicable, prior to, on, or after the Effective Date.

**ARTICLE 12.  
OTHER REDUCTIONS/OFFSETS.**

**Section 12.01 Settlement Class Resolution Opt Outs.** If a Settling State is eligible for Incentive Payment A on the basis of a Settlement Class Resolution, and a Primary Subdivision that opted out of the Settlement Class Resolution maintains a lawsuit asserting a Shareholder Released Claim against a Shareholder Released Party, the following shall apply. If the lawsuit asserting a Shareholder Released Claim either survives a Threshold Motion or has an unresolved Threshold Motion fewer than sixty (60) calendar days prior to the scheduled start of a trial involving a Shareholder Released Claim, and is resolved with finality on terms requiring payment by the Shareholder Released Party, each Payment Group shall receive a dollar-for-dollar offset for the amount it paid against its obligation to make remaining Incentive Payment A payments that would be apportioned to that Settling State and to its Subdivisions.

**Section 12.02 Revoked Bar, Settlement Class Resolution, or Case-Specific Resolution.**

(a) If a Payment Group made any Annual Remediation Payments that included any Incentive Payments earned as a result of the existence of a Bar, Settlement Class Resolution, or Case-Specific Resolution in a Settling State, and there is subsequently a Revocation Event with respect to that Bar, Settlement Class Resolution, or Case-Specific Resolution after the determination of the amount of such Annual Remediation Payment, the Payment Parties shall receive a dollar-for-dollar offset against the portion of their remaining Annual Remediation Payments that would be allocated to that Settling State and its Participating Subdivisions. This offset will be calculated for each Payment Group as the dollar amount difference between (1) the total amount of Incentive Payments paid by the Payment Group by virtue of the Bar, Settlement Class Resolution, or Case-Specific Resolution subject to the Revocation Event and (2) the total amount of Incentive Payments that would have been due from the Payment Group during that time had the Bar, Settlement Class Resolution, or Case-Specific Resolution subject to the Revocation Event not been in effect. The amount of incentive payments that would have been due,

referenced in clause (2) above, will be calculated one hundred eighty (180) calendar days after the Revocation Event and the offset will be applied to the next payment that would be allocated to that Settling State and its Participating Subdivisions; for purposes of calculating the amount of Incentive Payments that would have been due, any relevant Subdivision shall be included as a Participating Subdivision if: (x) its Shareholder Released Claims are extinguished by any subsequent Bar, Settlement Class Resolution, or Case-Specific Resolution in effect as of the date of such calculation, or (y) it becomes a Participating Subdivision (in addition to all other Participating Subdivisions) prior to the date of such calculation.

(b) Without limiting the foregoing, if a Payment Group made a payment under Incentive Payment A solely on the basis of a Bar or Settlement Class Resolution in a Settling State and that Bar or Settlement Class Resolution is subsequently subject to a Revocation Event or that Settling State shall not be eligible for Incentive Payment A thereafter, unless the Settling State requalifies for Incentive Payment A through any method pursuant to Article 4, in which case the Settling State shall be eligible for Incentive Payment A less any litigation fees and costs incurred by the Payment Group in the interim as a result of the Revocation Event, except that, if the re-imposition occurs after the completion of opening statements in a trial involving a Shareholder Released Claim, the Settling State shall not be eligible for Incentive Payment A (unless this exception is waived by the Sackler Parties' Representative).

### **ARTICLE 13. MISCELLANEOUS**

**Section 13.01 Population of General Purpose Governments.** The population figures for General Purpose Governments shall be the published U.S. Census Bureau's population estimates for July 1, 2019, released May 2020. These population figures shall remain unchanged during the term of this Agreement.

**Section 13.02 Population of Special Districts.** For any purpose in this Agreement in which the population of a Special District is used other than Section 4.06(d) and Section 4.06(g): (a) Health Districts' and Hospital Districts' population will be measured at twenty-five percent (25%) of discharges; and (b) all other Special Districts' (including Fire Districts' and Library Districts') population will be measured at ten percent (10%) of the population served.<sup>18</sup> For the avoidance of doubt, this means that California healthcare districts will be measured at ten percent (10%) of their membership. The Sackler Parties' Representative and the States' AG Negotiating Group shall meet and confer in order to agree on data sources for purposes of this Section prior to the Preliminary Agreement Date.

**Section 13.03 Population Associated with Sheriffs.** For any purpose in this Agreement in which the population associated with a lawsuit by a sheriff is used, the population will be measured at twenty percent (20%) of the capacity of the jail(s) operated by the sheriff.

#### **Section 13.04 Most-Favored Nation Provisions**

(a) No Settling State or Participating Subdivision shall enter into a side settlement or other agreement with one or more Shareholder Released Parties concerning a Cause of Action addressed in this Agreement that provides compensation or other terms that are in addition to what the Settling State or Participating Subdivision receives pursuant to this Agreement and the Master Settlement Agreement.

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<sup>18</sup> The estimates for counties and parishes were accessed at <https://www.census.gov/data/datasets/time-series/demo/popest/2010s-counties-total.html>. The estimates for cities and towns can currently be found at <https://www.census.gov/data/datasets/time-series/demo/popest/2010s-total-cities-and-towns.html>.

(b) For so long as funds remain in the Special Operating Reserve that can be used by a settling Payment Group, all proposed settlement agreements between that Payment Group and non-federal governmental entities or the private claimants, or decisions not to appeal an appealable judgment, must be submitted to the MDT Advisory Council for consent (such consent not to be unreasonably withheld or delayed), as set forth below:

(i) For settlements involving a State or private party settlements, at least five (5) of the members of the MDT Advisory Council are required to consent;

(ii) For settlement involving a Subdivision, the Settling State in which the Subdivision is located shall participate in the MDT Advisory Council's discussions and shall have a vote on whether to approve the settlement as if it were a member of the MDT Advisory Council.

(iii) Upon approval, such settlement payments shall be deemed Litigation Costs.

(c) The MDT Advisory Council may consider any and all factors that it determines are relevant when providing its consent, including the amount of Litigation Costs (including defense costs). spent on litigation by the Payment Parties prior to any proposed settlement. This section shall not prohibit the Sackler Parties from taking the position in any arbitration (or any other proceeding) that the consideration of any particular factor by the MDT Advisory Council is unreasonable, and nothing shall prohibit the MDT Advisory Council from taking the position in any arbitration (or any other proceeding) that the consideration of any particular factor is reasonable.

(d) If a Payment Party or Payment Parties within a Payment Group (a "Separately Settling Payment Group") enters into a settlement agreement with any Non-Settling State that resolves a Cause of Action similar in scope to those released by a Settling State under this Agreement on overall payment terms that are more favorable to the Non-Settling State on a net present value basis (calculated with a 7.5% discount rate, discounted back to the date of the first payment) than the overall payment terms the Non-Settling State would have received under this Agreement based on the same level of participation, the Settling States, individually or collectively, may seek review, pursuant to this Section 13.04(d), of the overall payment terms of this Agreement solely concerning that Separately Settling Payment Group and the Non-Settling State agreement. This review and potential revision of payment terms allows such Settling State(s) to obtain overall payment terms at least as favorable as those secured by the Non-Settling State, solely with respect to the Separately Settling Payment Group. "Overall payment terms" refers to the consideration of, among other things, all payment terms of the Separately Settling Payment Group under the two agreements, taken together, including but not limited to the amount of payments, the timing of payments, the amount of payments that are being made to counsel of the Non-Settling State (as opposed to the Non-Settling State itself) and conditions or contingencies on payments. Any changes to a Separately Settling Payment Group's overall payment terms shall not adversely affect any other Payment Group.

(i) For any settlement involving Shareholder Released Claims entered into with a Non-Settling State, the Separately Settling Payment Group shall provide the MDT Advisory Council (with a copy to the Sackler Parties' Representative) with the settlement agreement or relevant consent judgment within thirty (30) calendar days of the settlement's consummation. The MDT Advisory Council shall promptly distribute a copy to all Settling States.

(ii) In the event that one or more Settling State(s) believes that the overall payment terms of an agreement by a Separately Settling Payment Group with a Non-Settling State are more favorable to the Non-Settling State as set forth in Section 13.04(d), the Settling State(s) and the Separately Settling Payment Group shall engage in the following process:



(A) Within sixty (60) calendar days of the date on which the MDT Advisory Council provides a settlement agreement or consent judgment to Settling States, the Settling State(s) shall provide notice to the Separately Settling Payment Group (with a copy to the Sackler Parties' Representative) of its intent to seek revision of this Agreement to provide payment terms that are, on an overall basis, as favorable as those obtained by the Non-Settling State as described above. To the extent allowed by law, such notice shall be confidential and not disclosed publicly and shall provide, in detail, the basis for the Settling State(s)'s belief that it is entitled to a revision of the Agreement.

(B) The Separately Settling Payment Group shall, within thirty (30) calendar days, provide a response to the Settling State(s) (with a copy to the Sackler Parties' Representative), explaining its position, in detail, as to whether the Settling State(s) are entitled to more favorable overall payment terms than those provided for in this Agreement.

(C) In the event the Settling State(s) and the Separately Settling Payment Group do not reach agreement as to the application of this Section 13.04(d), the Settling State(s) may, at the sole cost of the Settling State(s) and the Separately Settling Payment Group, petition the National Arbitration Panel to seek a ruling from the Panel as to the applicability of this Section 13.04(d), provided that the Settling State(s) may seek such review only if at least five (5) Settling States co-sign the petition. The Panel shall consider submissions and argument by the parties pursuant to the procedures set forth in Section 6.06(b).

(D) The Settling State and the Separately Settling Payment Group shall be bound by the determination of the National Arbitration Panel of the overall payment terms of this Agreement and the Non-Settling State agreement so that such Settling State(s) may obtain, with respect to the Separately Settling Payment Group, overall payment terms at least as favorable as those obtained by such Non-Settling State. A copy of the Panel's decision shall be promptly shared with the Sackler Parties' Representative and the MDT Advisory Council.

(E) In the event that the National Arbitration Panel determines that, following a settlement between a Separately Settling Payment Group and a Non-Settling State, the Separately Settling Payment Group delivered overall payment terms more favorable to the Non-Settling State than the Settling States, and the Separately Settling Payment Group fails to deliver consideration to the Settling States at least as favorable as the overall payment terms delivered to the Non-Settling State (as determined by the National Arbitration Panel) within thirty (30) calendar days of the National Arbitration Panels determination on this issue, the Settling States shall be permitted to exercise all remedies against the Separately Settling Payment Group, and the failure of the Separately Settling Payment Group to deliver such consideration to the Settling States shall be considered a "Specified Breach" under the MSA.

(F) In the event that the MDT Advisory Council does not consent to a particular settlement between a Separately Settling Payment Group and a Non-Settling State pursuant to Section 13.04(b), and the National Arbitration Panel determines that the MDT Advisory Council's withholding of consent was reasonable, and the Separately Settling Payment Group nevertheless consummates such settlement, such action by the Separately Settling Payment Group shall be considered a "Specified Breach" under the MSA and the Settling States shall be permitted to exercise all remedies against the Separately Settling Payment Group.



(e) If a Separately Settling Payment Group enters into a settlement agreement with any Non-Participating Subdivision in a Settling State that resolves a Cause of Action similar in scope to those released by a that State's Participating Subdivisions under this Agreement on overall payment terms that are more favorable to the Non-Participating Subdivision on a net present value basis (calculated with a 7.5% discount rate, discounted back to the date of the first payment) than the overall payment terms the Non-Participating Subdivision would have received under this Agreement (without adjusting for any difference in Incentive Payments that would have occurred if it had been a Participating Subdivision), the Settling State in which such Subdivision is located, on behalf of its Participating Subdivisions, may seek review, pursuant to this Section 13.04(e), of the overall payment terms of this Agreement solely concerning that Separately Settling Payment Group and the Non-Participating Subdivision agreement. This review and potential revision of payment terms allows such Settling State to obtain overall payment terms for its Participating Subdivisions that are at least as favorable as those secured by the Non-Participating Subdivision, solely with respect to the Separately Settling Payment Group. "Overall payment terms" refers to the consideration of, among other things, all payment terms of the Separately Settling Payment Group under the two agreements, taken together, including but not limited to the amount of payments, the timing of payments, the amount of payments that are being made to counsel of the Non-Participating Subdivision (as opposed to amounts being made to fee funds available to counsel of Participating Subdivisions) and conditions or contingencies on payments. Any changes to a Separately Settling Payment Group's overall payment terms shall not adversely affect any other Payment Group or affect the payment terms of Participating Subdivisions in any other Settling State.

(i) For any settlement involving Shareholder Released Claims entered into with a Non-Participating Subdivision, the Separately Settling Payment Group shall provide the MDT Advisory Council and the Setting State in which the Subdivision is located (with a copy to the Sackler Parties' Representative) with the settlement agreement or relevant consent judgment within thirty (30) calendar days of the settlement's consummation.

(ii) In the event that Setting State in which the Subdivision is located believes that the overall payment terms of an agreement by a Separately Settling Payment Group with the Non-Participating Subdivision are more favorable to the Non-Participating Subdivision as set forth in Section 13.04(e), the Settling State and the Separately Settling Payment Group shall engage in the following process:

(A) Within sixty (60) calendar days of the date on which the Setting State in which the Subdivision is located is provided the settlement agreement or consent judgment, the Settling State shall provide notice to the Separately Settling Payment Group (with a copy to the Sackler Parties' Representative) of its intent to seek revision of this Agreement to provide payment terms that are, on an overall basis, as favorable to its Participating Subdivisions as those obtained by the Non-Participating Subdivision as described above. To the extent allowed by law, such notice shall be confidential and not disclosed publicly and shall provide, in detail, the basis for the Settling State's belief that it is entitled to a revision of the Agreement.

(B) The Separately Settling Payment Group shall, within thirty (30) calendar days, provide a response to the Settling State (with a copy to the Sackler Parties' Representative), explaining its position, in detail, as to whether the Settling State's Participating Subdivisions are entitled to more favorable overall payment terms than those provided for in this Agreement.

(C) In the event the Settling State and the Separately Settling Payment Group do not reach agreement as to the application of this Section 13.04(e), the Settling State(s)

may, at the sole cost of the Settling State and the Separately Settling Payment Group, petition the National Arbitration Panel to seek a ruling from the Panel as to the applicability of this Section 13.04(e). The Panel shall consider submissions and argument by the parties pursuant to the procedures set forth in Section 6.06(b).

(D) The Settling State (including its Participating Subdivisions) and the Separately Settling Payment Group shall be bound by the determination of the National Arbitration Panel of the overall payment terms of this Agreement and the Non-Participating Subdivision agreement so that such Settling State's Participating Subdivisions may obtain, with respect to the Separately Settling Payment Group, overall payment terms at least as favorable as those obtained by such Non-Settling State. A copy of the Panel's decision shall be promptly shared with the Sackler Parties' Representative and the MDT Advisory Council.

(E) In the event that the National Arbitration Panel determines that, following a settlement between a Separately Settling Payment Group and a Non-Participating Subdivision that was not the subject of a waiver by the MDT Advisory Council of this Section 13.04, the Separately Settling Payment Group delivered overall payment terms more favorable to the Non-Participating Subdivision than the Participating Subdivisions and Settling States, as applicable, and the Separately Settling Payment Group fails to deliver consideration to the Participating Subdivisions and Settling States, as applicable, at least as favorable as the overall payment terms delivered to the Non-Participating Subdivision (as determined by the National Arbitration Panel) within thirty (30) calendar days of the National Arbitration Panels determination on this issue, the Settling States and Participating Subdivisions shall be permitted to exercise all remedies against the Separately Settling Payment Group, and the failure of the Separately Settling Payment Group to deliver such consideration to the Settling States and Participating Subdivisions shall be considered a "Specified Breach" under the MSA.

(F) In the event that the MDT Advisory Council does not consent to a particular settlement between a Separately Settling Payment Group and a Non-Participating Subdivision pursuant to Section 13.04(b), and the National Arbitration Panel determines that the MDT Advisory Council's withholding of consent was reasonable, and the Separately Settling Payment Group nevertheless consummates such settlement, such action by the Separately Settling Payment Group shall be considered a "Specified Breach" under the MSA and the Settling State where the Non-Participating Subdivision is located shall be permitted to exercise all remedies against the Separately Settling Payment Group.

(f) Exceptions.

(i) Section 13.04(d) through Section 13.04(e) do not apply to, and there is no ability of any Settling State or Participating Subdivision to seek or obtain revision of this Agreement based on, any agreement with a Shareholder Released Party (a) that is entered into with a Non-Settling State or Non-Participating Subdivision after the earlier of (i) the close of expert discovery or (ii) a date ninety (90) calendar days prior to the scheduled start date of a trial (including an administrative proceeding) between the Shareholder Released Party and the Non-Settling State (or Non-Participating Subdivision), provided that, where, in order to complete a settlement, the Non-Settling State (or Non-Participating Subdivision) and the Shareholder Released Party jointly request an adjournment of the scheduled start date of a trial within ninety (90) days of that date, this exception will apply as if the trial date had not been adjourned; or (b) that is entered into with a Non-Settling State (or Non-Participating Subdivision) that has obtained any court order or judicial determination

that grants judgment (in whole or in part) against any Shareholder Released Party in the Non-Settling State's (or Non-Participating Subdivision's) case following an adjudication where (x) the relevant Shareholder Released Party did not consent to the entry of such order or judgment; and (y) the relevant Shareholder Released Party contested to the granting of such award and the entry of such order. The National Arbitration Panel shall have no power to review agreements that satisfy any of the conditions described in this paragraph.

(ii) This Section 13.04 does not apply to, and there is no ability of any Settling State or Participating Subdivision to seek or obtain revision of this Agreement based on, any agreement between a Shareholder Released Party and federally recognized tribes.

(iii) Sections 13.04(d) and (e) will not apply to any agreement entered into more than eighteen (18) months after the Effective Date.

(iv) This Section 13.04 may be waived by the MDT Advisory Council, with a vote to do so by at least five (5) of the MDT Advisory Council members. For waivers concerning an agreement with a Non-Participating Subdivision, the Settling State in which the Subdivision is located shall participate in the MDT Advisory Council's discussions and shall have a vote on whether to approve the waiver.

**Section 13.05 No Admission.** No Payment Party, other Shareholder Released Party, or Released Party admits liability or wrongdoing. Neither this Agreement nor the Consent Judgments shall be considered, construed or represented to be (1) an admission, concession or evidence of liability or wrongdoing or (2) a waiver or any limitation of any defense otherwise available to any Shareholder Released Party or Released Party.

### **Section 13.06 Tax Cooperation and Reporting**

(a) Subject to the limitations set forth herein, upon the reasonable written request by the Sackler Parties' Representative or PRA LP to the Designated State, the Designated State agrees to cooperate in good faith with the Sackler Party Representative or PRA LP, as the case may be, to timely provide such further information and documents in its possession or reasonably available to it or to the Settling States, and use reasonable efforts to timely execute and deliver such further documents in its possession or in the possession of the Settling States as may be reasonably necessary for Payment Parties or PRA LP to establish the statements set forth in Section 5.06 to the reasonable satisfaction of their tax advisors and their independent financial auditors, including as contemplated by Section 162(f) of the Internal Revenue Code of 1986, as amended, and 26 C.F.R. § 1.162-21(b)(3)(ii) and any subsequently proposed or finalized relevant regulations or administrative guidance, or that are reasonably necessary with respect to any tax claim, dispute, investigation, audit, examination, contest, litigation, or other proceeding with the Internal Revenue Service or other governmental authority relating to such matters ("Tax Matters"). All requests must reasonably detail the purpose for requesting the documents or other information at that time.

(b) The Settling States agree to timely and reasonably cooperate with the Designated State in connection with any reasonable requests made hereunder. Such cooperation shall be limited to (x) the retention and provision (upon reasonable written request by the Sackler Parties' Representative or PRA LP) of records and information which are reasonably relevant to any such Tax Matters, and which are in the possession of the Settling States or reasonably available to them, and (y) making employees and other personnel reasonably available on a mutually convenient basis to timely provide additional information reasonably requested and explain any material provided hereunder to the extent such cooperation does not materially and adversely affect the cooperating party. The Sackler Parties' Representative shall use

reasonable efforts to make requests under this Section 13.06 no more frequently than quarterly, other than in connection with circumstances in which a more timely response is required to respond to a request from a taxing authority.

(c) Nothing in this Section 13.06 shall require the Designated State, any Settling State or any Participating Subdivision to (i) provide any information or document that has been filed with the Bankruptcy Court or otherwise made publicly available by the public posting of such information or document; (ii) retain information or records other than in accordance with any applicable retention policy except with respect to reasonable written requests by the Sackler Parties' Representative made to the Designated State; (iii) provide information or documents that have been previously provided to the Sackler Parties' Representative; (iv) search and/or produce e-mail or physical records, except to the extent reasonably necessary to identify information or documents relevant to any reasonable request made hereunder; (v) provide information or documents that would result in a violation of applicable law; (vi) provide information or documents that are privileged; (vii) bear any out-of-pocket costs or expenses; or (viii) provide information or documents that would result in a breach of a confidentiality agreement or obligation. In each such case where the Designated State, a Settling State or a Participating Subdivision does not provide a document or other information solely pursuant to the preceding sentence, the Designated State, Settling State or Participating Subdivision shall inform the Sackler Parties' Representative, to the extent legally permissible, of the basis on which information was not provided. Other than with respect to Section 5.02(b), and notwithstanding anything else herein to the contrary, the Settling States and Participating Subdivisions shall have no obligation to trace funds received pursuant to this Agreement or the Master Settlement Agreement; and no Settling State or Participating Subdivision shall have any obligation or responsibility for any other Settling State or Participating Subdivision under this Section 13.06.

(d) Pursuant to 26 C.F.R. § 1.6050X-1(a) and (b), the Designated State, on behalf of all Settling States and Participating Subdivisions shall designate one of its officers or employees to act as the "appropriate official" within the meaning of 26 C.F.R. § 1.6050X- 1(f)(1)(ii)(B) (the "Appropriate Official"). The Designated State shall use reasonable best efforts to direct and ensure that the Appropriate Official timely (a) files (i) at the time this Agreement becomes binding on the Parties, an IRS Form 1098-F in the form attached as Exhibit U with respect to PRA LP and the Payment Parties and (ii) any legally required forms, returns or amended returns with any applicable governmental authority, or any returns reasonably requested by PRA LP or a Payment Party, and (b) provides the Sackler Parties' Representative a copy of (i) the IRS Form 1098-F filed with respect to PRA LP or such Payment Party and (ii) any legally required written statement pursuant to any applicable law and any other document referred to in clause (a)(ii) above. Any such forms, returns, or statements shall be prepared and filed in a manner fully consistent with Section 5.06 and as set forth in Section 13.06(e).

(e) Any form, return, amended return, or written statement filed or provided pursuant to Section 13.06(d), and any similar document, shall be prepared and filed in a manner consistent with reporting on IRS Form 1098-F. If the Designated State or Appropriate Official shall be required to file any form, return, amended return, or written statement contemplated by this Section 13.06 other than an IRS Form 1098-F in the form attached as Exhibit U, the Designated State shall use reasonable best efforts to direct and ensure that the Appropriate Official provides to the Sackler Parties' Representative a draft of such form, return, amended return, or written statement in respect of the Payment Parties or PRA LP no later than sixty (60) calendar days prior to the due date thereof, and shall accept and reflect any reasonable revisions from or on behalf of the Sackler Parties' Representative on the return, amended return, or written statement in respect of the Payment Parties or PRA LP.

(f) For the avoidance of doubt, neither the Payment Parties, the Designated State, nor the Settling States make any warranty or representation to any Payment Party, Settling State, or Releasor as

to the tax consequences of the payment of the Compensatory Restitution Amount (or any portion thereof), and nothing in this Agreement shall impose on the Settling States any liability with respect to any tax or related obligation of the Shareholder Released Parties, or obligation to indemnify, defend, or otherwise hold harmless any Shareholder Released Party for any tax or other obligations.

**Section 13.07 Third-Party Beneficiaries.** Except as expressly provided in this Agreement or the Master Settlement Agreement, no portion of this Agreement shall provide any rights to, or be enforceable by, any person or entity that is not the MDT, a Participating Subdivision (to the extent expressly set forth herein), a Settling State, the Sackler Parties' Representative, Shareholder Released Party, or a Released Party. The Settling States may not assign or otherwise convey any right to enforce any provision of this Agreement.

**Section 13.08 Calculation.** Any figure or percentage referred to in this Agreement shall be carried to seven decimal places.

**Section 13.09 Construction.** None of the Parties and no Participating Subdivision shall be considered to be the drafter of this Agreement or of any of its provisions 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 of this Agreement. The headings of the provisions of this Agreement are not binding and are for reference only and do not limit, expand, or otherwise affect the contents or meaning of this Agreement.

**Section 13.10 Cooperation and Best Efforts.** Each Party and each Participating Subdivision agrees to use its best efforts and to cooperate with the other Parties and Participating Subdivisions to cause this Agreement and the Consent Judgments to become effective, to obtain all necessary approvals, consents, and authorizations, if any, and to execute all documents and to take such other action as may be appropriate in connection herewith. Consistent with the foregoing, each Party and each Participating Subdivision agrees that it will not, directly or indirectly, assist or encourage any challenge to this Agreement or any Consent Judgment by any other person, and will support the integrity and enforcement of the terms of this Agreement, the Master Settlement Agreement and the Consent Judgments. Each Party and each Participating Subdivision further agrees to use its good faith efforts and to cooperate with the other Parties and Participating Subdivisions to meet the deadlines set forth in this Agreement in a timely manner and without requiring extensions.

**Section 13.11 Entire Agreement.** This Agreement, including its exhibits and any other attachments, and together with the Master Settlement Agreement, embodies the entire agreement and understanding between and among the Parties and Participating Subdivisions relating to the subject matter hereof and supersedes (1) all prior agreements and understandings relating to such subject matter, whether written or oral and (2) all purportedly contemporaneous oral agreements and understandings relating to such subject matter.

**Section 13.12 Execution.** The Consent Judgments may be executed in counterparts and by different signatories on separate counterparts, each of which shall be deemed an original, but all of which shall together be one and the same Consent Judgment. One or more counterparts of the Consent Judgments may be delivered by facsimile or electronic transmission with the intent that it or they shall constitute an original counterpart thereof. One or more counterparts of the Consent Judgments may be signed by electronic signature. The Payment Parties and MDT may execute their counterpart signature pages to this Agreement in a similar manner (e.g., on separate counterparts and by means of .pdf electronic transmission).

**Section 13.13 Good Faith and Voluntary Entry.** Each Party warrants and represents that it negotiated the terms of this Agreement in good faith. Each of the Parties and Participating Subdivisions warrants and represents that it freely and voluntarily entered into this Agreement without any degree of



duress or compulsion. The Parties and Participating Subdivisions state that no promise of any kind or nature whatsoever (other than the written terms of this Agreement and the other Agreements listed or referenced in Section 13.11) was made to them to induce them to enter into this Agreement.

**Section 13.14 Legal Obligations.** Nothing in this Agreement shall be construed as relieving Payment Parties of the obligation to comply with all state and federal laws, regulations or rules, nor shall any of the provisions herein be deemed to be permission to engage in any acts or practices prohibited by such laws, regulations, or rules. Except with respect to the Injunctive Relief Terms, in the event of a conflict between this Agreement and any requirement or requirements of federal, state, or local laws, such that a Payment Party cannot comply with this Agreement without violating such a requirement or requirements, the Payment Party shall document such conflicts and notify the Attorney(s) General of the relevant Settling State(s) that it intends to comply with the requirement or requirements to the extent necessary to eliminate the conflict. With respect to the Injunctive Relief Terms, in the event of such a conflict, the procedures set forth in the Injunctive Relief Terms will be followed.

**Section 13.15 No Prevailing Party.** The Parties and Participating Subdivisions each agree that they are not the prevailing party in this action, for purposes of any claim for fees, costs, or expenses as prevailing parties arising under common law or under the terms of any statute, because the Parties and Participating Subdivisions have reached a good faith settlement.

**Section 13.16 Waive Challenge.** The Parties and Participating Subdivisions each further waive any right to challenge or contest the validity of this Agreement on any ground, including, without limitation, that any term is unconstitutional or is preempted by, or in conflict with, any current or future law. Nothing in the previous sentence shall modify, or be construed to conflict with, Section 13.14.

**Section 13.17 Non-Admissibility.** The settlement negotiations resulting in this Agreement have been undertaken by the Parties and by certain representatives of the Participating Subdivisions in good faith and for settlement purposes only, and no evidence of negotiations or discussions underlying this Agreement shall be offered or received in evidence in any action or proceeding for any purpose. This Agreement shall not be offered or received in evidence in any action or proceeding for any purpose other than in an action or proceeding arising under or relating to this Agreement.

**Section 13.18 Notices.** All notices or other communications under this Agreement shall be in writing (including, but not limited to, electronic communications) and shall be given to the recipients indicated in Exhibit B.

Any Party, the MDL PEC, or the MSGE Group may change or add the contact information of the persons designated to receive notice on its behalf by notice given (effective upon the giving of such notice) as provided in this Section 13.18.

**Section 13.19 No Waiver.** The waiver of any rights conferred hereunder shall be effective only if made by written instrument executed by the waiving Party or Parties. The waiver by any Party of any breach of this Agreement shall not be deemed to be or construed as a waiver of any other breach, whether prior, subsequent, or contemporaneous, nor shall such waiver be deemed to be or construed as a waiver by any other Party.

**Section 13.20 Preservation of Privilege.** Nothing contained in this Agreement or any Consent Judgment, and no act required to be performed pursuant to this Agreement or any Consent Judgment, is intended to constitute, cause, or effect any waiver (in whole or in part) of any attorney-client privilege, work product protection, or common interest/joint defense privilege, and each Party and Participating Subdivision agrees that it shall not make or cause to be made in any forum any assertion to the contrary.



**Section 13.21 Successors.** This Agreement shall be binding upon, and inure to the benefit of, the Payment Parties and their respective successors and assigns. To the extent a party to the Master Settlement Agreement may assign rights or obligations thereunder, or may be added or removed as a party thereto, such party may assign rights or obligations, or may be added or removed as a party, to this Agreement.<sup>19</sup>

**Section 13.22 Modification, Amendment, Alteration.** Between [●]<sup>20</sup> and the Effective Date, in the event the States' AG Negotiating Group, MDL PEC, the MSGE Group, or the Sackler Parties' Representative concludes that corrections are required to this Agreement, the States' AG Negotiating Group, MDL PEC, the MSGE Group, and the Sackler Parties' Representative shall meet and confer and make such amendments as they agree are appropriate. After the Effective Date, any modification, amendment, or alteration of this Agreement by the Parties shall be binding only if evidenced in writing signed by the Sackler Parties' Representative, along with the signature of at least two-thirds of those then serving as Attorney General of the Settling States along with a representation from each Attorney General that either: (1) the advisory committee or similar entity established or recognized by that Settling State (either pursuant to Section 5.05(b)(iv), by a State-Subdivision Agreement, or by statute) voted in favor of the modification, amendment or alteration of this Agreement including at least one member appointed by the Participating Subdivisions listed on Exhibit G; or (2) in Settling States without any advisory committee, that 50.1% (by population) of the Participating Subdivisions listed on Exhibit G expressed approval of the modification, amendment, or alteration of this Agreement in a writing.

**Section 13.23 Termination.**

(a) Unless otherwise agreed to by each of the Sackler Parties' Representative and the Settling States, this Agreement and all of its terms (except Section 13.17) and any other non-admissibility provisions, which shall continue in full force and effect) shall be canceled and terminated, and the Agreement and all orders issued by the courts in the Settling States pursuant to the Agreement shall become null and void and of no effect if the Master Settlement Agreement terminates.

(b) Unless the Sackler Parties' Representative and the MDT Advisory Council agree otherwise, this Agreement, with the exception of the Injunctive Relief Terms that have their own provisions on duration as set forth in Article 8 of the MSA, shall terminate as to all Parties as of Payment Date 16, provided that the Payment Parties have performed their respective payment obligations under the Agreement as of that date. Notwithstanding any other provision in this Section 13.23(b) or in this Agreement, all releases under this Agreement, including under the Release, will remain effective despite any termination under this Section 13.23(b).

(c) Nothing in this Section 13.23 shall affect the rights of the parties to terminate this Agreement on the terms and subject to the conditions set forth elsewhere in this Agreement or under the Master Settlement Agreement.

**Section 13.24 Governing Law.** Except as (1) otherwise provided in this Agreement or (2) as necessary, in the sole judgment of the National Arbitration Panel, to promote uniformity of interpretation for matters within the scope of the National Arbitration Panel's authority, this Agreement shall be governed by and interpreted in accordance with the respective laws of the Settling State, without regard to the conflict of law rules of such Settling State, that is seeking to enforce the Agreement against the Payment Parties or against which a Payment Party of the Sackler Parties' Representative is seeking enforcement.

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<sup>20</sup> NTD: This will be the date referenced in the introductory language of Section 2.01.

**Section 13.25 [Reserved]**

**Section 13.26 Sackler Parties' Representative.**

(a) Designation. Subject to the terms and conditions of this Section 13.26, the Sackler Parties' Representative is hereby designated as the representative of the Payment Parties with respect to the matters set forth in this Agreement, and solely to the extent set forth therein, and the other documents or agreements contemplated hereby or thereby to be performed by the Payment Parties.

(b) Authority. By the approval of this Agreement, each of the Payment Parties hereby irrevocably constitutes and appoints the Sackler Parties' Representative as the representative, agent, proxy and attorney-in-fact for each of the Payment Parties for all purposes authorized under this Agreement, including the full power and authority on behalf of the Payment Parties to (i) take all other actions to be taken by or on behalf of each Payment Party (or the Payment Parties collectively) in connection herewith and (ii) do each and every act and exercise any and all rights which each Payment Party (or the Payment Parties collectively) is permitted or required to do or exercise under this Agreement or any other agreement contemplated hereby. Each of the Payment Parties agrees that such agency and proxy are coupled with an interest, are therefore irrevocable without the written consent of the Sackler Parties' Representative and shall survive the bankruptcy, dissolution, liquidation, death or incapacity of any Payment Party. All decisions and actions by the Sackler Parties' Representative (to the extent authorized by this Agreement) shall be binding upon each of the Payment Parties, and no Payment Party shall have the right to object, dissent, protest or otherwise contest the same.

(c) Reliance. Each Payment Party agrees that the other Parties shall be entitled to rely on any action taken by the Sackler Parties' Representative on behalf of such Payment Party and its Payment Group (an "Authorized Action"), and that each Authorized Action shall be binding on each Payment Party and Payment Group as fully as if such Payment Party and Payment Group had taken such Authorized Action.

(d) Limitation of Liability. Each Sackler Party (including but not limited to each Payment Party) acknowledges and agrees that the Sackler Parties' Representative shall have no liability to, and shall not be responsible for any costs or expenses, judgments, fines, losses, claims, damages or liabilities of, any Party or to or of any of their respective officers, directors, employees, affiliates and/or agents in connection with any actions taken or omitted to be taken by the Sackler Parties' Representative under or in respect of this Agreement, except to the extent resulting from fraud or willful misconduct by the Sackler Parties' Representative.

(e) Survival. All of the immunities and powers granted to the Sackler Parties' Representative hereunder shall survive the termination of this Agreement.

**EXHIBIT M-1: PAYMENT SCHEDULE**

*[See Attached.]*

**EXHIBIT M-2: SCHEDULE OF MAXIMUM PAYMENTS**

*[See Attached.]*

**EXHIBIT M-3: ANNUAL FEES PAYMENT SCHEDULE**

*[See Attached.]*

**EXHIBIT M-4: MAXIMUM REMEDIATION PAYMENTS BY PAYMENT GROUP**

*[See Attached.]*



**EXHIBIT M-5: MAXIMUM REMEDIATION PAYMENTS BY STATE**

*[See Attached.]*

Exhibit M-X  
**Payment Calculations**<sup>21</sup>

For each Payment Date, the following procedure will be used to calculate the Base Payments, Incentive Payments, Local Government Costs and Expenses and State Direct Expenses for each Payment Group other than A-Side Payment Group 8.

(a) For a given Payment Date and Payment Group, the following calculations shall be made to determine such Payment Group's Annual Remediation Payment:

(i) Base Payments. The Base Payment is determined by computing

(A) *the sum of* Base Payment Amounts, as set forth in Exhibit M-5, of all Settling States; *multiplied by*

(B) the Base Payment Amount of the Payment Group, as set forth in Exhibit M-2; *divided by*

(C) the sum of the Base Payment Amounts of all Payment Groups, as set forth in Exhibit M-2; *less*

(D) solely in the case of an A-Side Payment Group, an amount equal to 1/7th of the difference between (x) the Base Payment Amount for A-Side Payment Group 8, as set forth in Exhibit M-2, and (y) the amount determined by applying steps (A) – (C) for Base Payments to A-Side Payment Group 8.<sup>22</sup>

(ii) Incentive Payment A. The Incentive Payment A is determined by computing

(A) *the sum of* amounts, determined for each Settling State eligible to receive Incentive Payment A, equal to (1) the Incentive Payment A Amount for each such Settling State, as set forth in Exhibit M-5, *plus* (2) the Incentive Payment A Catch-up Payment, if any, of such Settling State; *multiplied by*

(B) the Incentive Payment A Amount of the Payment Group, as set forth in Exhibit M-2; *divided by*

(C) the sum of the Incentive Payment A Amounts of all Payment Groups, as set forth in Exhibit M-2, *less*

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<sup>21</sup> Oklahoma shall be considered a Settling State solely for the purposes of calculations made under this Exhibit M-X and for no other purpose.

<sup>22</sup> For the avoidance of doubt, any reduction from step (D) shall count as Retained Payments for the applicable A-Side Payment Group.

(D) any applicable state-specific offset or reduction for such Settling State and such Payment Group as determined pursuant to Section 12.01 or Section 12.02(b).

(iii) Incentive Payment B: Incentive Payment B is determined by computing

(A) *the sum of* amounts, determined for each Settling State eligible to receive Incentive Payment B, equal to (1) the Incentive Payment B Amount for each such Settling State, as set forth in Exhibit M-5, *multiplied* by (2) the applicable Incentive Payment B eligibility percentage for such Settling State pursuant to Section 4.06(e), *less* (3) any applicable state-specific offset or reduction for such Settling State as determined pursuant to Section 12.02(a); *multiplied by*

(B) the Incentive Payment B Amount of the Payment Group, as set forth in Exhibit M-2; *divided by*

(C) the sum of the Incentive Payment B Amounts of all Payment Group, as set forth in Exhibit M-2.

(iv) Incentive Payment C: Incentive Payment C is determined by computing

(A) *the sum of* amounts, determined for each Settling State eligible to receive Incentive Payment C, equal to (1) the Incentive Payment C Amount for such Settling State, as set forth in Exhibit M-5, *multiplied* by (2) the applicable Incentive Payment C eligibility percentage for such Settling State pursuant to Section 4.06(f), *less* (3) any applicable state-specific offset or reduction of such Settling State as determined by Section 12.02(a); *multiplied by*

(B) the Incentive Payment C Amount of the Payment Group, as set forth in Exhibit M-2; *divided by*

(C) the sum of the Incentive Payment C Amounts of all Payment Groups, as set forth in Exhibit M-2.

(v) Incentive Payment D. Incentive Payment D is determined by computing *the sum of* amounts, determined for each Settling State eligible for Incentive Payment D with respect to such Payment Group, equal to

(A) the Incentive Payment D Amount for such Settling State, as set forth in Exhibit M-5; *multiplied by*

(B) the Incentive Payment D Amount of the Payment Group, as set forth in Exhibit M-2; *divided by*

(C) *the sum of* the Incentive Payment D Amounts of all Payment Groups for the given Payment Date, as set forth in Exhibit M-2; *less*

(D) any deductions from Incentive Payment D described in Section 4.06(g) applicable to the Payment Group and such Settling State not previously applied.

(b) For a given Payment Date (starting with Payment Date 2) and Payment Group, the following calculations shall be made:

(i) Local Government Costs and Expenses Fund. Local Government Costs and Expenses Fund obligation is determined by computing

(A) the Payment Group's maximum Local Government Costs and Expenses payment, as set forth in Exhibit M-2; *multiplied by*

(B) *the sum of* the maximum Annual Remediation Payment amounts for all Settling States as set forth on Exhibit M-5 on such Payment Date; *divided by*

(C) *the sum of* the maximum Annual Remediation Payment amounts for all Settling States and Non-Settling States, if any, as set forth on Exhibit M-5 on such Payment Date; *less*

(D) solely in the case of an A-Side Payment Group, an amount equal to 1/7th of the difference between (x) the Local Government Costs and Expenses Payment for A-Side Payment Group 8, as set forth in Exhibit M-2, and (y) the amount determined by applying steps (A) – (C) for Local Government Costs and Expenses Fund to A-Side Payment Group 8;<sup>23</sup> *provided that*

(E) once the Local Government Costs and Expenses Fund has received, from all sources (other than as explicitly set forth in the Plan), \$370 million in the aggregate, any portion of this amount in excess of this limit shall be allocated ratably as additional Base Payment funds to States with scheduled Base Payments for that Payment Date.

(ii) State Direct Expenses. The State Direct Expenses obligation is determined by computing

(A) the Payment Group's maximum State Direct Expenses, as set forth in Exhibit M-2; *multiplied by*

(B) *the sum of* the maximum Annual Remediation Payment amounts for all Settling States as set forth on Exhibit M-5 on such Payment Date; *divided by*

(C) *the sum of* the maximum Annual Remediation Payment amounts for all Settling States and Non-Settling States, if any, as set forth on Exhibit M-5 on such Payment Date; *less*

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<sup>23</sup> For the avoidance of doubt, any reduction from step (D) shall count as Retained Payments for the applicable A-Side Payment Group.

(D) solely in the case of an A-Side Payment Group, an amount equal to 1/7th of the difference between (x) the State Direct Expenses for A-Side Payment Group 8, as set forth in Exhibit M-2, and (y) the amount determined by applying steps (A) – (C) for State Direct Expenses to A-Side Payment Group 8;<sup>24</sup> *provided that*

(E) once the State Direct Expenses has received, from all sources (other than as explicitly set forth in the Plan), \$200 million in the aggregate, any portion of this amount in excess of this limit shall be allocated ratably as additional Base Payment funds to States with scheduled Base Payments for that Payment Date.

(iii) Any amounts paid to the Annual Fees Payment which would cause the Local Government Costs and Expenses Fund to receive more than 8.5% of the Total Direct Settlement Amount, or cause the State Direct Expenses Fund to receive more than 4.5% of the Total Direct Settlement shall be allocated ratably as additional Base Payment funds to States with scheduled Base Payments for that Payment Date.

(c) For the avoidance of doubt, no Annual Remediation Payments or other amounts shall be paid to (or on account of) Non-Settling States. The Annual Remediation Payment for a Payment Date shall not include any payment in respect of the Annual Remediation Payment for any Non-Settling State.

For A-Side Payment Group 8, the Base Payments, Local Government Costs and Expenses and State Direct Expenses will be determined by reference to that Payment Group's maximum scheduled amounts in Exhibit M-2 and without any reduction. A-Side Payment Group 8 has no portion of the Incentive Payments, as reflected in Exhibit M-2. For the avoidance of doubt, any Local Government Costs and Expenses and State Direct Expenses payable by A-Side Payment Group 8 will count towards the caps on disbursement pursuant to Section 5.9 of the Plan.

The following defined terms are used in this Exhibit M-X:

"Base Payment Amount" means either (as the context requires): (i) the amount of the Base Payment for a Settling State and Payment Date, as set forth in Exhibit M-5 or (ii) the amount of the Base Payment for a Payment Group and Payment Date, as set forth in Exhibit M-2.

"Incentive Payment A Amount" means either (as the context requires): (i) the amount of the Incentive Payment A for a Settling State and Payment Date, as set forth on Exhibit M-5 or (ii) the amount of the Incentive Payment A for a Payment Group and Payment Date, as set forth on Exhibit M-2.

"Incentive Payment B Amount" means either (as the context requires): (i) the amount of the Incentive Payment B for a Settling State and Payment Date, as set forth on Exhibit M-5 or

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<sup>24</sup> For the avoidance of doubt, any reduction from step (D) shall count as Retained Payments for the applicable A-Side Payment Group.

(ii) the amount of the Incentive Payment B for a Payment Group and Payment Date, as set forth on Exhibit M-2.

“Incentive Payment C Amount” means either (as the context requires): (i) the amount of the Incentive Payment C for a Settling State and Payment Date, as set forth on Exhibit M-5 or (ii) the amount of the Incentive Payment C for a Payment Group and Payment Date, as set forth on Exhibit M-2.

“Incentive Payment D Amount” means either (as the context requires): (i) the amount of the Incentive Payment D for a Settling State and Payment Date, as set forth on Exhibit M-5 or (ii) the amount of the Incentive Payment D for a Payment Group and Payment Date, as set forth on Exhibit M-2.